

Notes on the jurisdiction of a Circuit Judge; on the main duties of a judge sitting in the Chancery Division and in the Queen's Bench Division; and notes of the jurisdiction of the Queen's Bench Division and Chancery Division.

The following information has been supplied by the Ministry of Justice:

Jurisdiction of a Circuit Judge

County Courts

1. The jurisdiction of the county courts is entirely statutory and covers almost the whole field of civil and family law. The general jurisdiction in civil law is mostly concurrent with that of the High Court.
2. A number of statutes confer exclusive jurisdiction on the county courts. These cover important areas of work of the county courts, for example virtually all cases under the Consumer Credit Act, actions by mortgage lenders for possession and actions by landlords and local authorities under the Rent Acts and the Housing Acts 1985 and 1988.
3. In addition to the general jurisdiction, about 80% of county courts have jurisdiction in insolvency. A few Circuit Judges also exercise specialist jurisdictions under, for example, the Race Relations Act 1976.
4. In family law the jurisdiction is similarly divided either by statute or practice direction. In some matters, such as adoption, the county courts have concurrent jurisdiction with the High Court. In other matters, county courts have exclusive jurisdiction, e.g. virtually all divorce proceedings.
5. The county courts share jurisdiction with the High Court and the Family Proceedings Court in applications under the Children Act 1989, the work being dealt with at the appropriate level pursuant to allocations directions. In the county courts where such applications relate to public law cases such as care and supervision orders, they are heard by nominated Circuit Judges sitting at Care Centres and directions in such matters are dealt with by nominated District Judges or nominated Circuit Judges sitting at the Care Centres.

Deputy High Court Judge

Recorders sitting in the High Court under section 9(1) of the Supreme Court Act 1981 are entitled to exercise the same jurisdiction as a High Court Judge save that they are not able to sit in the Court of Appeal. In practice they will hear civil cases at the first instance.

Office of the High Court Judge

Main duties of a judge sitting in the Chancery Division

The main activities of a Judge of the Chancery Division are as follows:

A. Preparing for trial and case management

- Reading and assimilating case papers before a hearing, or the trial, commences.

- The court is required to further the overriding objective of the new case management procedures by actively managing cases. Active case management includes:
 - ◆ encouraging the parties to co-operate with each other in the conduct of the proceedings;
 - ◆ identifying the issues at an early stage;
 - ◆ deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others;
 - ◆ deciding the order in which issues are to be resolved;
 - ◆ encouraging the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure;
 - ◆ helping the parties to settle the whole or part of the case;
 - ◆ fixing timetables or otherwise controlling the progress of the case;
 - ◆ considering whether the likely benefits of taking any particular step justify the cost of taking it;
 - ◆ dealing with as many aspects of the case as it can on the same occasion;
 - ◆ dealing with the case without the parties needing to attend at court;
 - ◆ making use of technology; and
 - ◆ giving directions to ensure that the trial of a case proceeds quickly and efficiently.

B. Presiding over court proceedings

- Controlling (in accordance with the relevant law and practice) the manner in which cases are conducted.
- Ensuring that parties are on an equal footing, and that, whether represented or not, they are enabled to have their cases presented, and have them considered, as fully and fairly as possible.
- Promoting in each case the most expeditious dispatch of business compatible with the interests of justice.
- Dealing with the case in ways which are proportionate:
 - to the amount of money involved;
 - to the importance of the case;
 - to the complexity of the issues; and
 - to the financial position of each party - and allotting to the case an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.
- Maintaining the authority and dignity of the Court.
- Taking an accurate note of the relevant parts of the evidence.
- Deciding issues of law and procedure which may arise during a case.

C. Judgment

- Deciding actions by finding facts, applying the relevant law to them and giving a reasoned judgment (which may be reserved, if necessary).
- Determining appeals contested applications and other issues by consideration of the papers and evidence presented at any hearing and

where appropriate making findings of fact, applying the relevant law and giving a reasoned judgment.

- Assessing and awarding damages and costs, deciding the amount and manner of payment, making possession orders and punishing for contempt or breach of court orders.
- Supervising the wording of the judgments and orders of the Court.

D. Appeals

- Hearing appeals from Masters, Bankruptcy Registrars and District Judges.
- Hearing appeals from other lower courts and tribunals.

E. Other work

Other duties include, for example:

- Determining applications for permission to appeal.

Other responsibilities

F. Keeping abreast of legal developments

- High Court Judges need to keep abreast of legal developments. This entails a substantial amount of reading not directly connected with the cases which they are trying.
- High Court Judges attend Judicial Studies Board refresher seminars and similar events.

G. Other judicial and public duties

- Judges of the Chancery Division are appointed as members of a panel of chairmen of the Competition Appeal Tribunal.
- Two Judges of the Chancery Division serve as Chancery Supervising Judges, exercising administrative responsibility for Chancery work outside London.
- High Court Judges may, if so requested by the Lord Chancellor, sit in the Court of Appeal (Civil Division) as additional Judges of that Court.
- High Court Judges may from time to time serve on committees, inquiries and other bodies where the services of a senior member of the judiciary are required (e.g. the Parole Board, Judicial Studies Board, etc). The Chairman of the Law Commission has always been a High Court Judge who is seconded to the Commission for the period of his or her term of office.

Main duties of a judge sitting in the Queen's Bench Division

The main activities of a Judge of the Queen's Bench Division are as follows:

A. Preparing for trial and case management

- Reading and assimilating case papers before a hearing, or the trial, commences.
- The court is required to further the overriding objective of the new case management procedures by actively managing cases. Active case management includes:
 - ◆ Encouraging the parties to co-operate with each other in the conduct of the proceedings
 - ◆ Identifying the issues at an early stage

- ◆ Deciding promptly which issues need full investigation and trial and accordingly disposing summarily of the others
- ◆ Deciding the order in which issues are to be resolved
- ◆ Encouraging the parties to use an alternative dispute resolution procedure if the court considers that appropriate and facilitating the use of such procedure
- ◆ Helping the parties to settle the whole or part of the case
- ◆ Fixing timetables or otherwise controlling the progress of the case
- ◆ Considering whether the likely benefits of taking any particular step justify the cost of taking it
- ◆ Dealing with as many aspects of the case as possible on the same occasion
- ◆ Dealing with the case without the parties needing to attend at court
- ◆ Making use of technology
- ◆ Giving directions to ensure that the trial of a case proceeds quickly and efficiently

In the Crown Court:

- Conducting preliminary hearings to identify and to determine procedural issues
- Determining bail applications
- Playing an active role in determining the way in which the case is to be handled and, as appropriate, managing its progress from committal to sentence

B. Presiding over court proceedings

- Controlling (in accordance with the relevant law and practice) the manner in which cases are conducted; ensuring that parties are on an equal footing, and that, whether represented or not, they are enabled to have their cases presented, and have them considered, as fully and fairly as possible
- Promoting in each case the most expeditious dispatch of business which is compatible with the interests of justice
- Dealing with the case in ways which are proportionate -
 - to the amount of money involved
 - to the importance of the case
 - to the complexity of the issues, and
 - to the financial position of each party and allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.
- Maintaining the authority and dignity of the Court.
- Taking an accurate note of the relevant parts of the evidence.
- Deciding issues of law and procedure which may arise during a case.
- Summing up to and directing a jury.

C. Sentencing

In the Crown Court:

- Sentencing convicted defendants according to the law and the circumstances of the case.

D. Judgment

In the High Court:

- deciding actions by finding facts, applying the relevant law to them and giving a reasoned judgment (which may be reserved, if necessary);
- determining contested applications and other issues by consideration of the papers and evidence presented at any hearing and making findings of fact, applying the relevant law and, where appropriate, giving a reasoned judgment;
- assessing and awarding damages and costs, deciding the amount and manner of payment, making possession orders and punishing for contempt or breach of court orders; and
- supervising the wording of the judgments and orders of the Court.

E. Appeals and Applications

In the High Court:

- hearing some appeals from Circuit Judges and appeals from Masters and District Judges;
- in Administrative Court cases, hearing applications for judicial review, appeals from lower courts by case stated, and appeals from tribunals;

In the Court of Appeal (Criminal Division):

- determining applications for leave to appeal as the single Judge or as a member of the full court; and
- determining appeals as a member of the full court.

F. Other work

Other duties include, for example:

In the High Court:

- determining applications for permission to appeal.

Other Responsibilities

G. Keeping abreast of legal developments

- High Court Judges need to keep abreast of legal developments. This entails a substantial amount of reading not directly connected with the cases which they are trying.
- High Court Judges attend Judicial Studies Board refresher seminars and similar events.

H. Other judicial and public duties

- Some High Court Judges sit from time to time in the Employment Appeal Tribunal (and one High Court Judge serves as President of the Tribunal).
- High Court Judges may, if so requested by the Lord Chancellor, sit in the Court of Appeal (Civil Division) as additional Judges of that Court.
- Under s.72(1)(3) of the Courts and Legal Services Act 1990, some High Court Judges are appointed by the Lord Chief Justice (with the agreement of the Lord Chancellor) to serve as Presiding Judges. The responsibilities of

Presiding Judges include the exercise of broad supervision over the running of the courts on the Circuit to which they are assigned, the deployment of High Court and Circuit Judges in the Circuit and attending to the well-being of the Circuit judiciary.

- High Court Judges may from time to time serve on committees, inquiries and other bodies where the services of a senior member of the judiciary are required (e.g. the Parole Board, Judicial Studies Board, etc). The Chairman of the Law Commission has always been a High Court Judge who is seconded to the Commission for the period of his or her term of office.

Jurisdiction

The structure and jurisdiction of the High Court are governed broadly by the provisions of the Supreme Court Act 1981. There are three High Court Divisions - the Queen's Bench Division, the Chancery Division and the Family Division. It should be noted, however, that the jurisdiction of the High Court is indivisible in law and belongs to all Divisions alike. Irrespective of the Division to which they are assigned, all Judges of the High Court possess equal power, authority and jurisdiction.

Chancery Division

- i) The work of the Chancery Division of the High Court mainly involves contentious litigation relating to commercial or financial matters such as property development, takeover bids, company fraud and banking, and intellectual property cases involving patents, copyright, trademarks, confidential information and "passing off". The Division also exercises important jurisdiction in relation to bankruptcy and companies issues, as well as numerous other special jurisdictions. There have been assigned to the Chancery Division, for example, all competition cases whether arising under Articles 81 or 82 EU Treaty, the Competition Act 1998 or Enterprise Act 2002, applications to the Court under the Financial Services Act 1986 and company directors' disqualification legislation; appeals under the Insolvency Act 1986; and a wide variety of matters under the Companies Acts including consideration of whether the accounts of a company comply with the provisions of the Acts.
- ii) The more traditional jurisdiction of the Chancery Division in respect of property matters (such as the administration of estates, partnership, the redemption and foreclosure of mortgages, the sale and distribution of the proceeds of property subject to liens and purchases, trusts, the ratification and cancellation of deeds, the specific performance of contracts of sale and lease of real estates and contentious probate) now forms only a relatively small part of the work of the Division.
- iii) The appellate jurisdiction of the Chancery Division (which includes all bankruptcy appeals from the county courts and from the High Court Registrars under the Insolvency Act 1986) is normally exercised by a single Judge.
- iv) Patents cases in the Chancery Division may be heard by Judges of the Patents Court who are High Court Judges specifically nominated by the Lord Chancellor for this work. Other intellectual property cases may be heard by any Judge of the Chancery Division.

Queen's Bench Division

The Queen's Bench Division has the most diverse work of the three Divisions of the High Court. Its jurisdiction is exercised over the whole field of civil law not covered by the other two Divisions, but in practice the work is divided into the following categories:-

- i) Admiralty and Commercial cases. Most Admiralty cases concern collision of ships or damage to cargo, whilst the work of the Commercial Court is largely concerned with contracts related to ships, insurance, carriage of cargo and the construction and performance of mercantile contracts. The Commercial Court also determines cases involving banking, international credit, contracts relating to aircraft, the purchase and sale of commodities and the practice of arbitration and questions arising from arbitrators. Admiralty and Commercial cases are heard by High Court Judges specifically nominated by the Lord Chancellor, mainly in London.
- ii) Administrative Court List cases (Administrative Law, especially judicial review, and Criminal Law): Appeals by way of case stated etc from inferior tribunals (in particular Magistrates' Courts) and supervisory jurisdiction over inferior Courts, Tribunals, Ministers, Bodies and others exercising Public Law functions. These cases are heard in London by single Judges nominated by the Lord Chief Justice or by a Divisional Court consisting of a Lord Justice and one or two High Court Judges, depending upon the degree of public importance. The Queen's Bench Divisional Court also exercises jurisdiction in respect of Habeas Corpus, committal for contempt committed in an inferior court or elsewhere (but not in connection with proceedings in the High Court) and appeals and applications under various statutory provisions including those on planning matters under the Town and Country Planning Acts.
- iii) Civil cases involving a jury (there is a right of trial by jury for fraud, libel, slander, malicious prosecution or false imprisonment cases. In all other cases the judge has discretion to allow trial by jury, but it is only used exceptionally. In jury trials the jury decides the amount of damages to be awarded) (e.g. defamation and wrongful arrest), civil cases not involving a jury, and interlocutory proceedings and appeals from Masters and District Judges. These cases are heard both in London and in High Court Centres outside London.