

Magistrates' courts' and Crown Court expenditure, 1999–2009

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Introduction

Criminal cases in England and Wales have been dealt with by a system mainly comprising magistrates' courts and the Crown Court.

Virtually all criminal court cases start in a magistrates' court. The less serious offences are handled entirely in magistrates' courts, with over 90 per cent of all cases being dealt with in this way. The more serious offences are passed on to the Crown Court, either for sentencing after the defendant has been found guilty in a magistrates' court, or for full trial with a judge and jury.
(Ministry of Justice (MoJ), 2009b, p.136)

Aims

In relation to the two connected parts of the court system, the briefing will:

- report patterns of expenditure, staffing and caseload for the period 1998/1999 to 2008/2009
- set these patterns in the context of key organisational changes affecting the administration of justice over that period
- outline the implications of the findings for reviews of spending on the criminal courts

It will not be possible on the basis of the available data to draw firm conclusions about the general 'value for money' of the courts' expenditure, much of which remained unpublished at the time of writing. More importantly the cost of justice is far from the only factor in an assessment of its value. What is spent on the courts should match the requirements of a policy concerning the scope

and role of a justice system in providing open and fair decision-making about cases. The data reported here begin to frame some of the questions that need to be addressed at a time when all public expenditure is undergoing unprecedented scrutiny.

The report forms part of a series of briefings about expenditure on the criminal justice system over the past ten years published by the Centre for Crime and Justice Studies.

Background

To set the background to the analysis of expenditure, several preliminary considerations should be examined. These include:

- the reorganisation of the courts' management and the creation of Her Majesty's Courts Service (HMCS)
- the specific methodological focus of the study on courts' expenditure as distinct from 'system' costs
- the relative size of court budgets in criminal justice system expenditure
- the policy focus in recent years on increasing the effectiveness of the courts and of the system more generally in handling cases

Reorganisation of the courts' management

The period of the study witnessed significant reorganisation of court administration.

In 1995, the Court Service was formed as an executive agency of the Lord Chancellor's Department (LCD). The Court Service provided administrative support to the Supreme Court of England and Wales (comprising the Court of Appeal and the High Court of Justice, including the Probate Service), the Crown Court, county courts and several tribunals. Prior to 2005, the magistrates' courts were administered locally through 42 local Magistrates' Courts Committees. In 2003, the LCD became the Department for Constitutional Affairs (DCA), headed by a Secretary of State who retained the office of Lord Chancellor. Following the Auld review

in 2001, in April 2005, Her Majesty's Courts Service (HMCS), a single agency combining the Magistrates' Courts Service and Court Service, came into being.

For reasons connected with the reorganisation, the presentation of expenditure data in our report is discontinuous. It was possible to use data collated by the Chartered Institute of Public Finance and Accountancy (CIPFA) on magistrates' courts for 1998/1999 to 2003/2004. It was not possible to find expenditure data relating to the Crown Court prior to the creation of HMCS. Data on criminal court expenditure in the period since the creation of HMCS was obtainable through a Freedom of Information Act request.

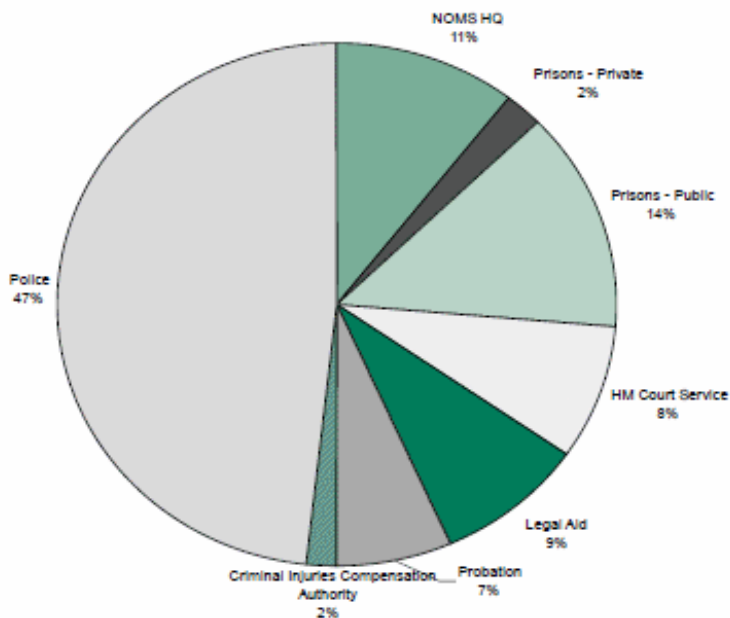
'System' costs of proceedings

The briefing focuses on the costs of the courts themselves, although it is acknowledged that cost elements associated with other agencies (Police Service, Crown Prosecution Service, Legal Aid, Probation Service, etc.) contribute to the total costs linked to court proceedings. Bringing together the costs of other criminal justice elements raises measured expenditure above that of the courts themselves. For example, in 1997/1998, using such cost elements, the cost of a court proceeding (excluding sentencing) in the magistrates' courts was estimated to be £550, compared with £8,600 in the Crown Court (Harries, 1999; Barclay and Taveres, 1999, p.73). By measuring other cost elements, a more realistic measure of the system costs is produced. However, the systems approach is different from counting the costs of the separate agencies, which has been a major aim of this series of briefings. In the following sections, it is the expenditure on the criminal courts themselves that is analysed.

Court budgets relative to other criminal justice budgets

The relative size of the courts budget is known to be small compared with the size of the budget allocated to police, prisons and probation. It is also less than other expenses associated with the courts, such as legal aid. The sums allocated to HM Courts Service have been calculated to represent just 8 per cent of the budget for the criminal justice system, as shown in figure 1 produced for the House of Commons Justice Committee.

FIGURE 1: DISTRIBUTION OF CRIMINAL JUSTICE SPENDING IN ENGLAND AND WALES, 2007–2008, COMPILED FROM OFFICIAL REPORTS



Source of figure: House of Commons Justice Committee, 2009b

The Police Service was found to be the recipient of almost half the budget allocations (47 per cent); the National Offender Management Service Headquarters (NOMS HQ), together with prisons and probation, accounted for almost a third (32 per cent). By contrast, the 8 per cent allocated for the whole of the court system (both civil and criminal) was outstripped even by the budget for legal aid (at 9 per cent). In the following chapters it will be possible to present more precise measures of expenditure in order to show the relative costs of the criminal courts.

Delivering simple, speedy, summary justice

In 2006 the government launched an initiative entitled *Delivering Simple, Speedy, Summary Justice*, setting out plans to improve the speed and effectiveness of the court system. Lord Falconer, the

Secretary of State for Constitutional Affairs and Lord Chancellor, summarised the vision as follows:

Our vision is to deliver a criminal justice system that is:

Simple: dealing with some specific cases transparently by way of warning, caution or some other effective remedy to prevent re-offending without the court process.

Speedy: those cases that need the court process will be dealt with fairly but as quickly as possible.

Summary: a much more proportionate approach still involving due process – for example dealing with appropriate cases the day after charge or during the same week (which would be a change in the way that cases are currently dealt with in the magistrates' court).

(Department for Constitutional Affairs, 2006, p.ii)

The proposals were intended to bring changes in both magistrates' courts and the Crown Court, with the aim of:

- *improving the speed and effectiveness of the magistrates' courts;*
- *improving performance in the Crown Court;*
- *focusing on the management of very high cost cases in the Crown Court;*
- *implementing measures to improve the compliance and enforcement of court orders;*
- *extending the community justice approach to ten new areas; and*
- *moving more low-level offences out of the magistrates' courts.*

(Department for Constitutional Affairs, 2006, p.2)

As far as the magistrates' courts were concerned, the key principles were:

- *Improved preparation from arrest to first hearing (whilst crucially ensuring that pre-court preparation is proportionate to the matter at issue);*
- *Defence are prepared and ready for the first hearing;*
- *Ensuring a plea is entered at first hearing, with a guilty plea being sentenced at that hearing wherever possible, or in the event of a not guilty plea, the majority of cases should be listed for trial within 6 weeks; and*
- *A commitment to ensure cases are progressed out of court between first hearing and trial – to ensure that trials are ready to go ahead on time.*

(Department for Constitutional Affairs, 2007)

In tandem with alterations in the procedural management of the courts there was an increased policy focus on a rising legal aid budget, leading to proposals to change procurement policy in the interests of cost control.

While we cannot comment directly here on the debates about the cost of legal aid (see Wall, 1996; Carter, 2006; Bridges and Cape, 2008), it was evident that a set of connected policy changes was aimed at increasing the system's productivity with a clear bearing on future costs.

Notes on data

Expenditure data in the figures and tables are presented in real terms as £m rounded to two decimal places. Details of the real-terms calculations are provided in the appendix. Actual spending data are given in their original form in the appendix. Percentage changes have been rounded to the nearest whole figures.

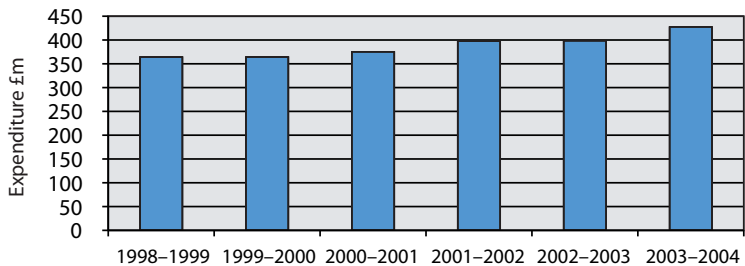
Chapter one: Spending

This section deals with the changes in real-terms expenditure in the magistrates' courts from 1998/1999 to 2003/2004. In addition, it analyses changes in real-terms expenditure in both magistrates' courts and the Crown Court from 2005/2006 to 2008/2009. It should be noted that data on actual expenditure in 2004/2005 were not obtainable.

Magistrates' courts' expenditure, 1998/1999 to 2003/2004

Figures 2 and 3 show the expenditure trend in real terms from 1998/1999 to 2003/2004.¹ These figures are based on table 1 in the appendix, from which the percentage changes can be derived.

FIGURE 2: MAGISTRATES' COURTS' TOTAL EXPENDITURE, REAL TERMS, 1998/1999 TO 2003/2004, £M



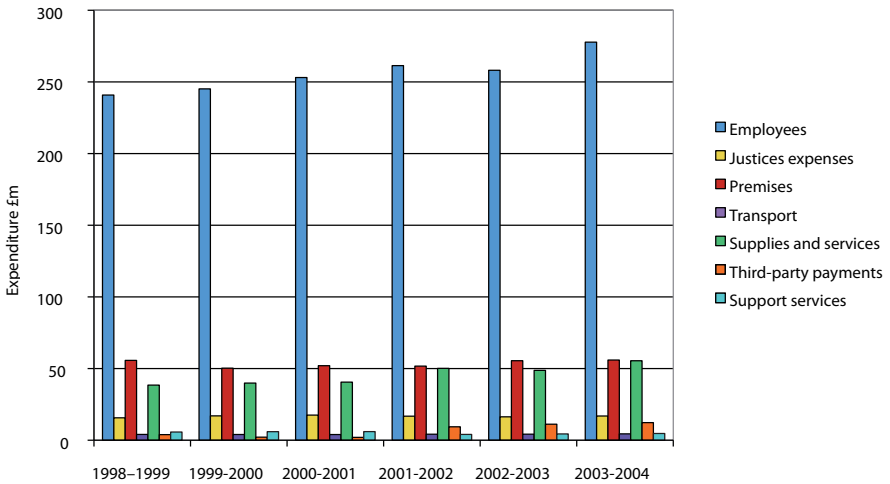
Source: CIPFA, 2000-2004

¹ For actual expenditure, see table 2 in the appendix.

The total rise in real-terms expenditure was 17 per cent. Annual changes in expenditure varied between 0 and 7 per cent per year, with the smallest rise in 2002/2003 and the largest rise in 2003/2004 (both at the end of the period).

Figure 3 sets out the component parts of the expenditure.

FIGURE 3: MAGISTRATES' COURTS' EXPENDITURE BY CATEGORY, REAL TERMS, 1998/1999 TO 2003/2004, £M



Source: CIPFA, 2000-2004

Note: For explanation of expenditure categories, see appendix.

The largest slice of total expenditure, ranging from 65 to 68 per cent over the period, was spent on employees. That sum rose by 15 per cent.

By contrast, there was a drop of 18 per cent in expenditure on support services and there was no net change in expenditure on premises. Rises in expenditure for certain categories were relatively modest (justices expenses – 8 per cent; transport – 10 per cent).

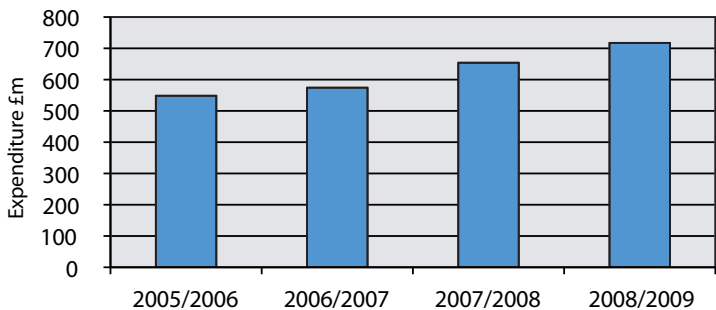
There were large percentage rises in some other categories (third-party payments – 215 per cent; supplies and services – 44 per cent). However, these were relatively small proportions of the total expenditure.

Magistrates' courts' expenditure, 2005/2006 to 2008/2009

Figures 4 and 5, based on table 4 in the appendix, show the expenditure trend in real terms.² Here the categories requested from the MoJ were simplified in order to ensure that the main profile of spending became clear.

Total expenditure in real terms stood at £548.40m in 2005/2006 and rose to £717.43m in 2008/2009. Annual rises in expenditure varied between 5 and 14 per cent per year, amounting to a rise of 31 per cent from 2005/2006 to 2008/2009.

FIGURE 4: MAGISTRATES' COURTS' TOTAL EXPENDITURE, REAL TERMS, 2005/2006 TO 2008/2009, £M



Source: HMCS response to Freedom of Information request, 18 May 2010

That rise in expenditure almost doubled the 17 per cent rise in the previous years analysed.

² For actual expenditure, see table 5 in the appendix.

Employee expenditure represented 45 per cent of total expenditure in 2005/2006. By 2008/2009 it had fallen to 31 per cent of the total. In real terms, it had declined by 8 per cent, from £244.38m to £224.61m. However, according to information from the MoJ, these sums do not include payments to agency staff or regional and central support salaries.³ Judicial expenses were reduced by 37 per cent, from £1.12m to £0.71m.⁴ However, additional information from the MoJ revealed that fees and salary costs for district judges and payments to magistrates had not been included in either the employee or judicial expenses categories above; these costs had therefore been included in 'other expenditure', along with some central and regionally allocated costs.⁵ The additional figures revealed that these district judges' costs fell very slightly in real terms from £ 23.31m in 2005/2006 to £22.97m in 2008/2009 -a drop of 1 per cent. Such magistrates' payments rose in real terms from £16.98m in 2005/2006 to £17.95 m. in 2008/2009 -a rise of 6 per cent.⁶

These district judges' costs formed 8 per cent of 'other expenditure' in 2005/06 and 5 per cent of 'other expenditure' in 2008/2009. Such magistrates' costs amounted to 6 per cent of 'other expenditure' in 2005/2006 and 4 per cent of 'other expenditure' in 2008/2009.

Indeed, the category of 'other' revenue expenditure rose by 57 per cent, from £276.38m to £433.14m. According to information from the MoJ, the increase in other revenue expenditure was largely accounted for by increases in fixed elements of costs, such as depreciation, accommodation costs, etc. It was explained that the increase in 2009 included costs attached to shared services and the case management project, Libra, that had not been included in earlier years but were allocated to this year's accounts.⁷ Capital

³ Source: personal communication 12.07.10

⁴ Owing to their relatively small amounts judicial expenses have been excluded from Figure 5

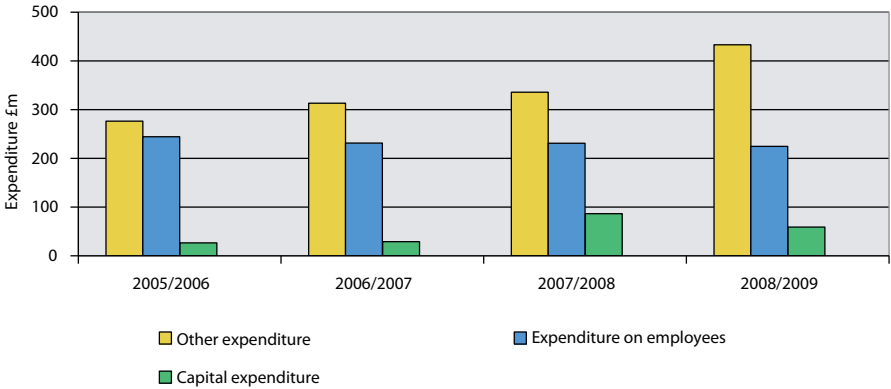
⁵ Source: personal communication 27.07.10

⁶ For actual expenditure, see tables 6a and b in the appendix.

⁷ Source: personal communication 12.07.10. At the time of writing some details about such items remain to be clarified

expenditure more than doubled, increasing from £26.53m to £58.97m in real terms.

FIGURE 5: MAGISTRATES' COURTS' EXPENDITURE BY CATEGORY, REAL TERMS, 2005/2006 TO 2008/2009, £M



Source: HMCS response to Freedom of Information request, 18 May 2010

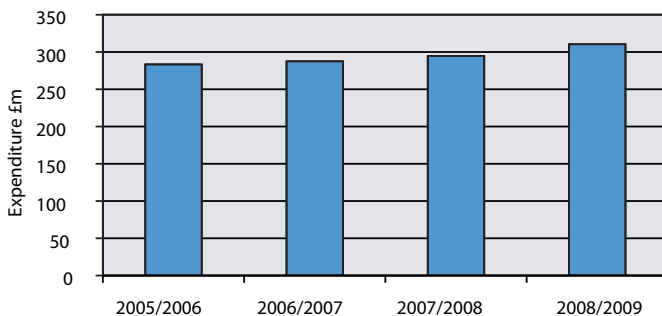
Crown Court expenditure, 2005/2006 to 2008/2009

Figures 6 and 7, based on table 7 in the appendix, show the expenditure trend in real terms.⁸ The categories requested from the MoJ followed the same pattern as for the magistrates' courts.

⁸ For actual expenditure, see table 8 in the appendix.

Total expenditure in real terms rose from £283.41m in 2005/2006 to £310.46m in 2008/2009. Annual rises in expenditure ranged between 1 and 5 per cent per year, amounting to an increase of 10 per cent from 2005/2006 to 2008/2009.

FIGURE 6: CROWN COURT TOTAL EXPENDITURE, REAL TERMS, 2005/2006 TO 2008/2009, £M



Source: HMCS response to Freedom of Information request, 18 May 2010

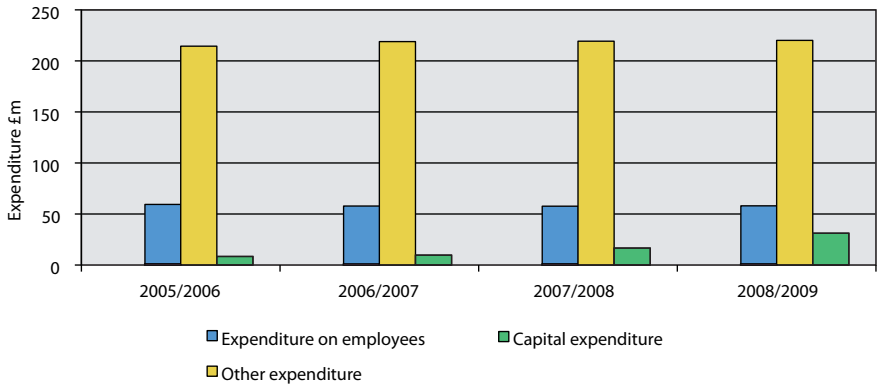
Employee expenditure represented 21 per cent of total expenditure in 2005/2006 compared with 19 per cent in 2008/2009. In real terms it had declined by 2 per cent, from £59.39m to £58.01m. Judicial expenses also declined by 3 per cent, from £1.2m to £1.17m.⁹ Other revenue expenditure rose gently by 3 per cent, from £214.42m to £220.10m.

Capital expenditure leapt sharply, increasing well over three times, from £8.4m to £31.19m in real terms.¹⁰

⁹ Owing to their relatively small amounts judicial expenses have been excluded from figure 7

¹⁰ For a detailed breakdown of Crown Court resource costs in 2007/2008, using a method of assessing system costs, see NAO 2009 and the table reproduced in the appendix as table 11.

FIGURE 7: CROWN COURT EXPENDITURE BY CATEGORY, REAL TERMS, 2005/2006 TO 2008/2009, £M



Source: HMCS response to Freedom of Information request, 18 May 2010

Comments

Total expenditure rose during the two periods in real terms. The magistrates' courts figure rose by 17 per cent in the first period and by 31 per cent in the second. The Crown Court total increased by 10 per cent in the second period.

Employee expenses for the magistrates' courts rose by 15 per cent in the first period and then declined by 8 per cent, whereas the Crown Court figure for the second period declined by 2 per cent.

Judicial expenses for the magistrates' courts increased by 8 per cent in the first period and then fell sharply by 37 per cent, whereas the Crown Court figure for the second period declined by only 3 per cent.

In the second period, payments to magistrates rose by 6 per cent while fees and salary costs for district judges declined slightly.

Other revenue expenditure in the second period increased greatly for the magistrates' courts, by 57 per cent, but rose only slightly for the Crown Court, by just 3 per cent.

Capital expenditure increased very substantially in the period from 2005/2006 to 2008/2009, with the largest rise in the recent Crown Court figure.

The earlier period of magistrates' court data contained more detailed expenditure categories: third-party payments and supplies and services showed substantial increases, while justices expenses and transport rose less significantly and support services fell.

If we look for official explanations of recent trends, comments in HMCS annual reports attribute changes in costs after 2006/2007 to so-called 'change projects' and to estate maintenance:

The major increase in costs other than non-cash costs was due to change projects. In 2007/08 HMCS incurred costs of £76.8m and capital expenditure of £7.3m on making the business more customer focused, streamlined and accessible.

(HMCS, 2008, p.34)

These major projects in 2007/2008 were described as the Libra case management project, the Criminal Justice: Simple, Speedy, Summary (CJSSS) initiative, and the Service Upgrade Project (SUPS) aimed at modernising HMCS IT systems:

During 2007–08 we doubled the amount of expenditure on maintaining the estate, but there still remains a substantial backlog to be addressed in future years.

(HMCS, 2008, p.21)

In its annual report 2008/2009, the MoJ explained a recent increase in HMCS spending as follows:

The increase in expenditure between 2006/07 and 2007/08 is due to additional change programme funding and increased provisions in relation to the magistrates' courts pension transfer deficit.

(MoJ, 2009a, p.101)

According to the MoJ annual report, HMCS as a whole delivered efficiency savings of £82m in 2008/2009:

HMCS is delivering efficiency savings and reducing the scope of Court Service planned initiatives in the following broad areas:

- Crime & Enforcement savings from IT upgrade projects and innovation in the courts;*
 - Civil & Family savings generated by delaying the roll-out of digital audio recording (DAR) and Libra development;*
 - change programmes include consolidating administrative functions into back offices and improving electronic links with other agencies and local authorities;*
 - procurement savings generated by renegotiating and rationalising of a range of contracts;*
 - HQ administration savings by reducing HQ Budgets;*
 - libraries' savings through a reduction in expenditure.*
- (Ministry of Justice, 2009a, p.67)

Chapter two: Staffing and case numbers

Staffing

This section will examine the number of staff working in the different courts, focusing on the periods for which expenditure data have been available. Table 1 reveals that the number of staff working in magistrates' courts in the period from 1998/1999 to 2003/2004 rose slightly by 3 per cent.

TABLE 1: STAFF WORKING IN MAGISTRATES' COURTS, 1998/1999 TO 2003/2004

	1998/ 1999	1999/ 2000	2000/ 2001	2001/ 2002	2002/ 2003	2003/ 2004	1998/1999 to 2003/2004 % change
Total	10,249	10,403	9,776	10,110	10,716	10,549	+ 3

Source: CIPFA, 2000, 2001 and 2004

Note: Where the annual reports differ, the latest figures have been included.

Table 2 shows a contrasting trend after the commencement of HMCS.

TABLE 2: STAFF WORKING IN MAGISTRATES' COURTS AND THE CROWN COURT, 2005/2006 TO 2008/2009

	2005/2006	2006/2007	2007/2008	2008/2009	2005/2006 to 2008/2009 % change
Magistrates' courts	7,830	7,435	6,965	6,742	- 14
Crown Court	2,540	2,304	2,385	2,390	- 6
Total	10,370	9,739	9,350	9,132	- 12

Source: HMCS, 2007; HMCS, 2009

Note: Staff numbers represent the average number of full-time equivalent (FTE) persons. Where the annual reports differ, the latest figures have been included.

Staff numbers in the two criminal court settings combined have declined over these past three years by 12 per cent. The magistrates' courts have lost 1,088 staff, equivalent to 14 per cent of their staffing complement, and the Crown Court has lost 150 staff or 6 per cent.

Comment

Since the introduction of HMCS and the implementation of measures to increase productivity and develop out-of-court penalties, staffing of the criminal courts has fallen, and the most marked reduction has been in the magistrates' court staff numbers, by 14 per cent. The regimes connected with out-of-court penalties have been precisely aimed at removing cases from being heard in the magistrates' courts and it is unlikely to be a coincidence that staffing has fallen in those courts.

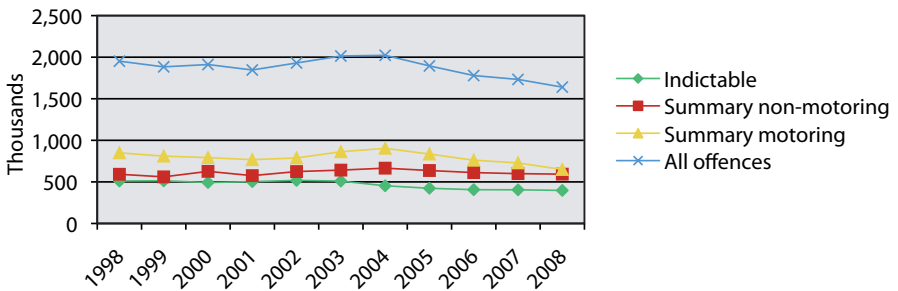
Volume of cases

This section focuses on the numbers entering the system in both types of criminal court. It should be pointed out that these are not the sole indicators of workload since some cases lead to complex trials that consume disproportionate resources. However, they do indicate the changing level of initial demands made on the system. Official criminal and court statistics have been the source of the

data presented in figures 8 and 9, based on tables 9 and 10 in the appendix.

It appears that, since 1998, the initial caseloads in the magistrates' courts have been reduced: there has been a 16 per cent fall in the number of defendants proceeded against in the magistrates' courts (from 1,951,900 to 1,640,000). The steepest decline in magistrates' court caseloads (a fall of 24 per cent) has been in summary motoring offences; other summary offences have held steady. Indictable offences fell by a substantial 22 per cent.¹¹

FIGURE 8: DEFENDANTS PROCEEDED AGAINST AT MAGISTRATES' COURTS BY TYPE OF OFFENCE, 1998-2008



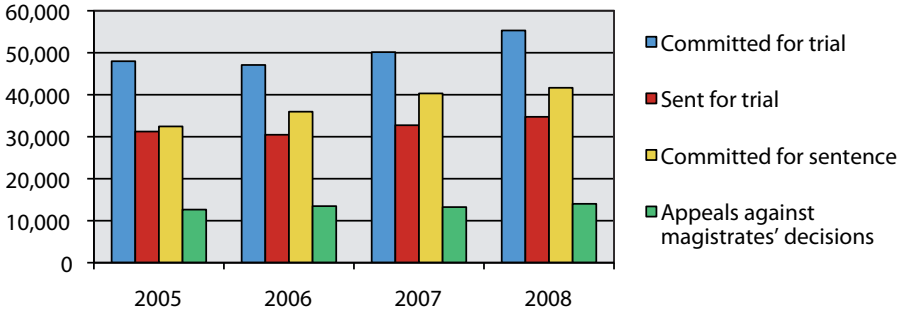
Source: MoJ, 2010a

During the period between 2005 and 2008, there is evidence that the volume of work in the Crown Court has been increasing. Change in the cases received can be measured by examining the trends in four categories: cases committed by magistrates for trial in the Crown Court; those serious cases sent directly to the Crown Court for trial; those committed for sentence; and appeals against magistrates' court decisions. As shown in figure 9, such 'receipts' rose between 2005 and 2008. Table 10 in the appendix indicates that there was a 17 per cent rise in all such 'receipts' between 2005

¹¹ Summary offences are normally heard in magistrates' courts, whereas indictable offences are classified for hearing in magistrates' courts or the Crown Court (see MoJ 2010a).

and 2008. In addition, that table shows the extent of increases in 'disposals' and 'cases outstanding' at the end of the year.

FIGURE 9: RECEIPTS TO CROWN COURT, 2005-2008



Source: MoJ, 2009a

Note: the calendar year data in this source contrasts with financial year data in HMCS annual reports.

Comments

For the magistrates' courts the initial volume of work appears to have fallen since 1998 – an indication perhaps of the impact of the new out-of-court penalties as well as the effect of stricter prosecution standards. In the Crown Court, the volume of work has risen since 2005. The broader changes in the system of justice form an important backcloth to the figures for court caseloads: only 53 per cent (732,900) of the total number of offences brought to justice in 2008 were convictions in the courts (MoJ, 2010a, p.67).

Chapter three: Implications

Questions to be resolved

As the reviews of court efficiency and legal aid have shown, the cost of justice in the courts has remained a source of anxiety or complaint, if not the scorn expressed by critics such as Charles Dickens in past centuries. By contrast, as our briefings on police, prisons and probation have confirmed, the growing costs of other parts of criminal justice system in recent years have escaped scrutiny and controversy, until the prospect of swingeing expenditure cuts placed question marks against the budgets of every public sector agency.

The findings of the study indicate that initial proceedings in the magistrates' courts are in decline, possibly as a result of more efficient prosecution decisions and the large increases in out-of-court penalties. In the Crown Court, however, cases received by the court have been increasing in recent years.

At the same time, expenditure has been rising in both wings of the criminal court system, especially in the magistrates' courts, while staffing has been decreasing. Despite some evidence of 'efficiency savings', the cost savings made possible through creating a large and centralised HMCS have not seemed to bring changes to the level of total expenditure.

The question now looming before the public and the taxpayers is, literally, what price justice? In other words, it is in the public interest to consider whether the actual level of cost rises in recent years is acceptable, on the optimistic assumption that some of this rise is the price of sustaining the benefits of open justice in

court settings. More crucially, would cuts in spending represent significant savings on rising costs – or would they be difficult to justify without appearing to threaten the extent and quality of justice?

The evidence presented in this briefing represents a first attempt to frame these questions in an objective manner. It helps to clarify the extent to which expenditure has kept pace with staffing and caseload – one factor in a judgment about the reasonableness of the expenditure rises.

What the briefing has not done is assess the cost or value of the activities that together make up the business of the courts and allow them to deliver something that deserves the name 'justice'. However, we are aware that changes in the criminal justice system that do affect the courts' workload have been taking place and such changes have implications for an assessment of the justice delivered to the public. It is beyond the scope of this briefing to do more than outline the important questions about the size of the court workload that follow from the rise in 'out-of-court' disposals.

Magistrates' courts' justice

The marked decline in the business of magistrates' courts raises questions about the future of magistrates' courts' justice itself.

The growth in fixed penalty notices and conditional cautions issued by the police and the Crown Prosecution Service (CPS) respectively has attracted considerable attention, foreshadowing a major transformation in the business and functions of the criminal courts (Morgan, 2009).

The House of Commons Justice Committee, after drawing together evidence and views about conditional cautions issued by the CPS, remarked on the extent of the changes that were reducing the work of the court system:

*However, **the growth in the number of out-of-court disposals represents a fundamental change to our concept of a criminal justice system** and raises a number of concerns about consistency and transparency in the application of*

punishment. Different patterns of fines may simply reflect local priorities and be argued to be a feature of community engagement. However, we believe the use of these disposals requires systematic scrutiny, and we recommend that as a first step they should be the subject of a multi-inspectorate review. The Attorney General should assemble a comprehensive map of the offences and relevant penalties in operation across England and Wales to assist this scrutiny.

(House of Commons Justice Committee, 2009a, p.26) (our emphasis)

The Justice Committee's comments illustrate the point that justice in the fullest sense does not come cheap: reducing expenditure in one part of the criminal justice system can simply mean that 'scrutiny' moves to another part, and if new changes are made to address such concerns then additional unforeseen costs will be incurred.

Future spending on justice

The court services had been expected to make efficiency savings in coming years. In its spending review, the previous Labour government set out plans for reductions in HMCS budgets from 2008–2009 until 2010–2011. Planned expenditure (at nominal values not adjusted for inflation) was due to fall from £1,059m in 2008/2009 to £992m in 2009/2010 and then would see only a slight rise to £996m in 2010/2011 (NAO, 2009, p.14).

In this context, the possible consequences of making savings may impact on perceptions of what is a just and proportionate procedure. For example, there were concerns echoed by the Lord Chief Justice Lord Judge about the shifting of cases involving violence to out-of-court decision-making. He added: 'I am bound to say that I have real concerns about HMCS' ability to cope with the budget under which it is expected to operate' (Whitehead, 2010).

With the arrival of a new coalition government, an even more intense spotlight has fallen on expenditure across the public sector. Given the coalition government's renewed scrutiny of spending, will the court sector be forced to retreat even further under new funding pressures? Might any further changes be considered to

bring greater or less 'justice'? These are the inevitable questions that are being raised as new policies begin to emerge.

On 23 June 2010, a consultation was launched on proposals to close 103 Magistrates' courts and 54 county courts, described by the new government as 'underused and inadequate' in England and Wales. It was expected that 'running cost savings of around £15.3m per year could be achieved along with a saving of £21.5m on maintenance costs that could be avoided' (MoJ press release, 'Consultations on local courts published', 23 June 2010).

Kenneth Clarke, the Lord Chancellor and Secretary of State for Justice, explained that, in addition to cost reduction, modernisation of the delivery of justice was an aim of the proposals:

In reaching decisions on closures I will ensure that we keep courts in the most strategically important locations, communities continue to have access to courts within a reasonable travelling distance, that cases are heard in courts with suitable facilities and that there is an overall reduction in cost.

He went on:

The consultation seeks the views of all with an interest in local justice arrangements. I will take all views expressed into account before making any decision on which courts ought to be closed and when. I also invite views on how the courts service could be modernised to improve the justice system as well as reduce its costs.

(The Lord Chancellor and Secretary of State for Justice, Mr Kenneth Clarke, written ministerial statement, 23 June 2010)

It will be important to see the extent to which the consultations reveal evidence about the impact of the changes, not simply on court costs but on the costs to witnesses, defendants, and other stakeholders.

If expenditure in the magistrates' courts were to be substantially cut there could be an operational pressure to rationalise business

even further by seeking managerial solutions. For example, it would be possible to do even more to divert cases into 'out-of-court' justice or accelerate them to the Crown Court, in effect leaving magistrates' courts increasingly 'high and dry'.

The recent Structural Reform Plan sketches a modernisation agenda using technology and alternative dispute resolution (MoJ, 2010b). While the rationale of the proposals appears to be about modernising justice, as well as improving resource use, there is scarcely sufficient sign as yet of the full inquiry into the scope of magistrates' justice that might justify such drastic closures.

The magistrates' courts have been regarded as fundamental to the system of justice by sustaining a tradition of lay decision-making at the centre of the system. If their role is to be cut back as a result of spending changes, the importance of lay decisions will be relegated below its traditional standing. This is not to say that the magistrates' courts should simply be regarded as untouchable, or that changes should not be debated. It is all the more important at a time of public sector expenditure cuts to call for debate about fundamental public interest principles in a modern society, and the meaning and purpose of lay involvement in justice is a clear case in point. What we should avoid is allowing major changes to occur under the grinding ratchet of 'efficiency' savings.

The reality is that operational court costs are not by themselves the critical public costs of the system. Court operations are to some extent drivers of other costs; for example, legal aid and criminal compensation cost large amounts. Sentencing decisions impose costs on other sectors of the criminal justice system, such as prisons, but reducing the cost of court operations does not mean simply reducing other costs if there are independent drivers of those costs, such as fees and charges in the legal sector, etc. Moreover, as our spending briefings have demonstrated, the high costs of policing, prisons and probation have risen markedly in the past ten years, putting the relatively low costs of the courts into a very different perspective.

What as a society we wish to spend on the courts is therefore very much dependent on how far we believe in the value of open and

fair justice and, more importantly, on how far the present courts credibly perform that function. On these questions, expenditure analysis can only present some key facts for policy consideration before, in due course, the jury of public opinion makes up its own mind.

Appendix

TABLE 1: MAGISTRATES' COURTS' EXPENDITURE, REAL TERMS, 1998-1999 TO 2003-2004, £M

EXPENDITURE	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	% change 1998/1999- 2003/2004
Employees	240.84	245.14	253.06	261.38	258.13	277.75	+ 15
Justices expenses	15.63	16.99	17.53	16.77	16.32	16.90	+ 8
Premises	55.70	50.27	52.00	51.71	55.48	55.95	0
Transport	4.05	4.00	3.97	4.20	4.22	4.44	+ 10
Supplies and services	38.45	39.87	40.53	50.12	48.74	55.45	+ 44
Third-party payments	3.90	2.14	1.99	9.37	11.17	12.28	+ 215
Support services	5.72	5.96	6.02	4.05	4.38	4.70	- 18
TOTAL EXPENDITURE	364.30	364.37	375.10	397.59	398.45	427.46	+17
Total expenditure annual % change	-	0	+3	+6	0	+7	
Proportion of expenditure on employees (%)	66	67	68	66	65	65	

Source: CIPFA, 2000-2004

TABLE 2: MAGISTRATES' COURTS EXPENDITURE, ACTUALS, 1998-1999 TO 2003-2004, £

EXPENDITURE	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004
Employees	214,853,817	222,997,867	233,224,480	246,268,170	251,050,551	277,751,592
Justices expenses	13,945,694	15,457,359	16,155,385	15,804,106	15,875,941	16,898,042
Premises	49,692,905	45,727,531	47,924,668	48,716,334	53,958,693	55,950,141
Transport	3,608,825	3,635,848	3,655,257	3,953,934	4,101,959	4,436,352
Supplies and services	34,304,424	36,266,850	37,353,248	47,225,453	47,405,721	55,449,556
Third-party payments	3,482,770	1,943,229	1,838,558	8,827,124	10,868,551	12,279,995
Support services	5,104,184	5,424,367	5,546,696	3,817,094	4,264,251	4,696,960
TOTAL EXPENDITURE	324,992,619	331,453,051	345,698,292	374,612,215	387,525,667	427,462,638

Source: CIPFA, 2000-2004

Magistrates' courts' expenditure notes (1998–1999 to 2003–2004)

The definitions of magistrates' courts' expenditure categories given below are quoted from the original CIPFA sources as follows.

Column number

10 and 41 Employees includes salaries, etc. and other employees expenses including agency staff, relocation, interview, training and advertising expenses.

11 and 42 Justices Expenses includes subsistence, loss of earnings, travel, training and costs of Lord Chancellor's Advisory Committee staff.

12 and 43 Premises – Expenses directly related to the running of premises and land, including repairs and alterations, energy costs, rents, rates, water services, cleaning, domestic supplies and payments to other authorities for accommodation used by the service.

13 and 44 Transport – All costs associated with the provision, hire or use of transport, including travelling costs.

14 and 45 Supplies & Services includes expenditure on equipment, furniture and materials; catering, clothing, uniforms and laundry; printing, stationery and general office expenses; communications and computing; subsistence; grants and subscriptions; and Fixed Penalty Recharges.

15 and 46 Third Party Payments – Payments made to an external provider, or an internal service delivery unit which is operating independently, in return for the provision of a service, except for services which can be directly attributed to a type of expenditure, for example building repairs, cleaning or catering where the payment is recorded under the standard grouping for that type of expenditure.

15 and 47 Support Services – Charges for services, provided by the Paying Authority, which support the provision of services

*to the public, for example: accountants, architects, couriers, internal audit, payroll, personnel, typists etc.
(CIPFA, 2000, p.8)*

Subjective Analysis of Expenditure and Income

Every effort should be made to allocate any contingency monies to the expenditure headings you consider to be the most appropriate.

1 Employees – Include salaries, wages, employer's national insurance and current service pension costs, and other employees expenses including agency staff, relocation, interview, training and advertising expenses.

2 Justices Expenses – All Justices expenses including subsistence, loss of earnings, travel, training, and costs of Lord Chancellor's Advisory Committee staff.

3 Premises – Expenses directly related to the running of premises and land, including repairs and alterations, energy costs, rents, rates, water services, cleaning and domestic supplies.

4 Transport – All costs associated with the provision, hire or use of transport, including travelling costs (except Justices travelling costs which should be included in Question 2).

5 Supplies & Services – Include expenditure on equipment, furniture and materials; catering, clothing, uniforms and laundry, printing, stationery and general office expenses; communications and computing; subsistence; grants and subscriptions; and Fixed Penalty Recharges.

6 Third Party Payments – Payments made to an external provider, or an internal service delivery unit which is operating independently, in return for the provision of a service. Where the service being paid for relates to a type of expenditure, for example, building repairs, cleaning or catering, then the

payment should be recorded under the appropriate standard grouping for that type of expenditure.

7 Support Services – Charges for services, provided by the Paying Authority, which support the provision of services to the public, for example: accountants, architects, couriers, internal audit, payroll, personnel, typists etc.

(CIPFA, 2004, p.35)

TABLE 3: REAL-TERMS CALCULATIONS: GDP DEFLATORS AT MARKET PRICES, AND MONEY GDP

Outturn data are the latest national accounts figures from ONS – last updated 31 March 2010

Forecast data are consistent with the Budget Report 2010

Financial year	GDP deflators 2008/2009 ref year	GDP deflators 2003/2004 ref year
1998–1999	78.464	89.2092547
1999–2000	80.009	90.9658348
2000–2001	81.060	92.160764
2001–2002	82.871	94.2197715
2002–2003	85.544	97.2588255
2003–2004	87.955	100
2004–2005	90.400	
2005–2006	92.087	
2006–2007	94.811	
2007–2008	97.547	
2008–2009	100.000	

**TABLE 4: MAGISTRATES' COURTS' EXPENDITURE, REAL TERMS,
2005/2006 TO 2008/2009, £M**

	2005/2006	2006/2007	2007/2008	2008/2009	% change 2005/2006– 2008/2009
Revenue expenditure	521.88	545.21	567.51	658.46	+26
of which:					
Expenditure on employees	244.38	231.40	231.04	224.61	-8
Judicial expenses	1.12	0.59	0.71	0.71	-37
Other expenditure	276.38	313.21	335.77	433.14	+57
Capital expenditure	26.53	29.02	86.48	58.97	+122
Total expenditure (revenue + capital)	548.40	574.22	653.99	717.43	+31
Total expenditure annual % change	-	+5	+14	+10	
Proportion of expenditure on employees (%)	45	40	35	31	

Source : HMCS response to Freedom of Information request, 18 May 2010

**TABLE 5: MAGISTRATES' COURTS' EXPENDITURE, ACTUALS,
 2005/2006 TO 2008/2009, £**

	2005/2006	2006/2007	2007/2008	2008/2009
Magistrates' courts				
Revenue expenditure	480,579,600	516,914,792	553,592,078	658,462,608
of which:				
Expenditure on employees	225,038,113	219,394,774	225,368,582	224,611,183
Judicial expenses	1,035,136	559,081	691,183	706,915
Other expenditure	254,506,351	296,960,937	327,532,313	433,144,509
Capital expenditure	24,428,273	27,512,017	84,360,145	58,967,968
Total expenditure (revenue + capital)	505,007,873	544,426,809	637,952,223	717,430,575

Source: HMCS response to Freedom of Information request, 18 May 2010

**TABLE 6A: 'OTHER EXPENDITURE' ON DISTRICT JUDGES, 2005/2006 TO
 2008/2009,
 ACTUALS, £000**

	2005/2006	2006/2007	2007/2008	2008/2009
District judges' salaries	12,481	14,143	13,946	14,001
District judges' employers' national insurance	1,336	1,507	1,555	1,540
District judges' employers' superannuation	3,651	4,349	4,484	4,501
District judges' remuneration	17,467	19,999	19,985	20,043
Fee paid judiciary	2,668	1,875	1,970	1,849
Central and regional allocations	1,327	623	726	1,075
Total	21,463	22,498	22,681	22,967

TABLE 6B: 'OTHER EXPENDITURE' ON MAGISTRATES, 2005/2006 TO 2008/2009, ACTUALS, £000

	2005/2006	2006/2007	2007/2008	2008/2009
Magistrates' travel & subsistence	9,423	9,758	9,613	10,698
Magistrates' employed -loss of earnings	6,134	2,408	1,748	1,834
Magistrates' self employed -loss of earnings	81	4,773	5,271	5,419
Total	15,638	16,939	16,632	17,950

Source : HMCS additional information, 27.07.10

TABLE 7: CROWN COURT EXPENDITURE, REAL TERMS, 2005/2006 TO 2008/2009, £M

	2005/2006	2006/2007	2007/2008	2008/2009	% change 2005/2006-2008/2009
Revenue expenditure	275.01	277.85	278.15	279.27	+2
of which:					
Expenditure on employees	59.39	57.80	57.65	58.01	-2
Judicial expenses	1.20	1.14	1.20	1.17	-3
Other expenditure	214.42	218.91	219.30	220.10	+3
Capital expenditure	8.40	9.71	16.63	31.19	+271
Total expenditure (revenue + capital)	283.41	287.56	294.78	310.46	+10
Total expenditure annual % change		+1	+3	+5	
Proportion of expenditure on employees (%)	21	20	20	19	

**TABLE 8: CROWN COURT EXPENDITURE, ACTUALS,
 2005/2006 TO 2008/2009, £**

	2005/2006	2006/2007	2007/2008	2008/2009
Crown Court				
Revenue expenditure	253,246,492	263,431,538	271,324,714	279,274,598
of which:				
Expenditure on employees	54,686,652	54,804,454	56,236,173	58,008,337
Judicial expenses	1,107,850	1,080,700	1,168,692	1,170,961
Other expenditure	197,451,990	207,546,383	213,919,849	220,095,299
Capital expenditure	7,735,079	9,205,112	16,219,534	31,189,032
Total expenditure (revenue + capital)	260,981,571	272,636,650	287,544,248	310,463,630

Source: HMCS response to Freedom of Information request, 18 May 2010

TABLE 9: DEFENDANTS PROCEEDED AGAINST AT MAGISTRATES' COURTS BY TYPE OF OFFENCE, ADJUSTED FOR SHORTFALLS IN DATA, 1998– 2008¹

England and Wales		1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	% change
Number proceeded against with allowance for shortfall (thousands)		510.5	513.2	492.6	503.4	517.9	510	453.3	423.4	406.2	404.9	397.5	-22
Indictable		510.5	513.2	492.6	503.4	517.9	510	453.3	423.4	406.2	404.9	397.5	-22
Summary non-motoring		591.8	560.5	626.7	575.4	624.2	641.8	665.3	637	612	599.3	593.3	0
Summary motoring		849.6	809.8	792.2	767.3	788.2	862.4	904	834.7	761.1	728.4	649.2	-24
All offences		1951.9	1883.6	1911.6	1846.1	1930.4	2014.2	2022.6	1895	1779.3	1732.5	1640	-16

Source: MoJ, 2010a, table 5.1

¹ Excludes prosecution's data for Cardiff Magistrates' court for April, July and August 2008

TABLE 10: CROWN COURT RECEIPTS, DISPOSALS² AND OUTSTANDING CASES³ IN ENGLAND AND WALES, BY CASE TYPE, 2005–2008

Year	Number of cases								
	Committed for trial			Sent for trial			Committed for sentence		
	Receipts	Disposals	Cases outstanding	Receipts	Disposals	Cases outstanding	Receipts	Disposals	Cases outstanding
2005	47,980	47,239	18,054	31,234	29,756	15,192	32,452	31,475	5,223
2006	47,088	47,032	18,456	30,469	30,407	15,397	35,964	35,943	5,055
2007	50,143	49,823	18,870	32,738	33,063	15,117	40,311	39,385	5,497
2008	55,302	53,654	20,553	34,738	34,081	15,759	41,656	41,337	5,270
% change 2005–2008	+15	+14	+14	+11	+15	+4	+28	+31	+1

Year	Number of cases					
	Appeals against Magistrates' decisions			Total		
	Receipts	Disposals	Cases outstanding	Receipts	Disposals	Cases outstanding
2005	12,647	12,629	2,446	124,313	121,099	40,915
2006	13,470	13,133	2,838	126,991	126,515	41,746
2007	13,242	13,226	2,854	136,434	135,497	42,338
2008	14,019	14,008	2,8731	45,715	143,080	44,455
% change 2005–2008	+11	+11	+17	+17	+18	+9

Source: MoJ, 2009a, table 6.1. Data extracted from HM Courts Service CREST system

Notes: ¹ Receipts include committals direct from the Magistrates' court, bench warrants executed (trial and sentence only) and cases transferred in, less cases transferred out

² Disposals are total cases dealt with

³ Outstanding cases at the end of the period

A comprehensive analysis of recent resource costs for the Crown Court has been provided by National Audit Office (2009), *HM Courts Service Administration of the Crown Court*, report by the Comptroller and Auditor General, HC290, Session 2008–2009, 6 March 2009.

The report estimated total costs at £382m in 2007/2008. Part of that figure was accounted for by the apportionment of HMCS costs for shared services, as well as depreciation.

TABLE 11: HM COURTS SERVICE RESOURCE COSTS FOR THE CROWN COURT, 2007–2008

Cost	description	£m	Percentage of total³
Judiciary	Includes salaries, fees, social security and employer's pension costs	102	27
Accommodation ¹	Maintenance, rates, cleaning and utilities	59	15
Crown Court staff	Includes salaries, social security and employer's pension costs	58	15
Depreciation	Charge to reflect the wearing out, consumption or other reduction in the useful life of a fixed asset	42	11
Jury costs	Includes travel, refreshment allowance and compensation for loss of earnings	40	10
Area, regional and central support costs ²	Apportionment to the Crown Court of the staff, accommodation and other costs of HM Courts Service's areas, regions and headquarters	38	10
Shared service costs	Apportionment to the Crown Court of the cost of shared services provided by the MoJ, including IT, procurement, human resources and payroll	23	6
Other costs		20	5
Total		382	100

Source: National Audit Office presentation of HM Courts Service data, NAO, 2009, figure 5, p. 15

Notes

¹ Accommodation costs include the cost of resource expenditure on maintenance but not the cost of capital maintenance, such as replacing a roof that increases the value of the property.

² Costs include central, regional and area management costs and some IT costs.

³ Values have been rounded, and as a result individual entries in the fourth column do not sum exactly to the column total.

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