

THE UNITED KINGDOM

There is an **adversarial** system and **jury** system in the United Kingdom.

The Supreme Court consists of the Court of Appeal, the High Court and the Crown Court. A person convicted at a magistrates' court may appeal to the Crown Court, while a person convicted at the Crown Court may appeal to the Court of Appeal and finally to the House of Lords.

Appeals on points of law and proceedings arising in the magistrates' courts are dealt with by the Queen's Bench, Divisional Court of the High Court. It has very limited jurisdiction in such matters arising in the Crown Court.

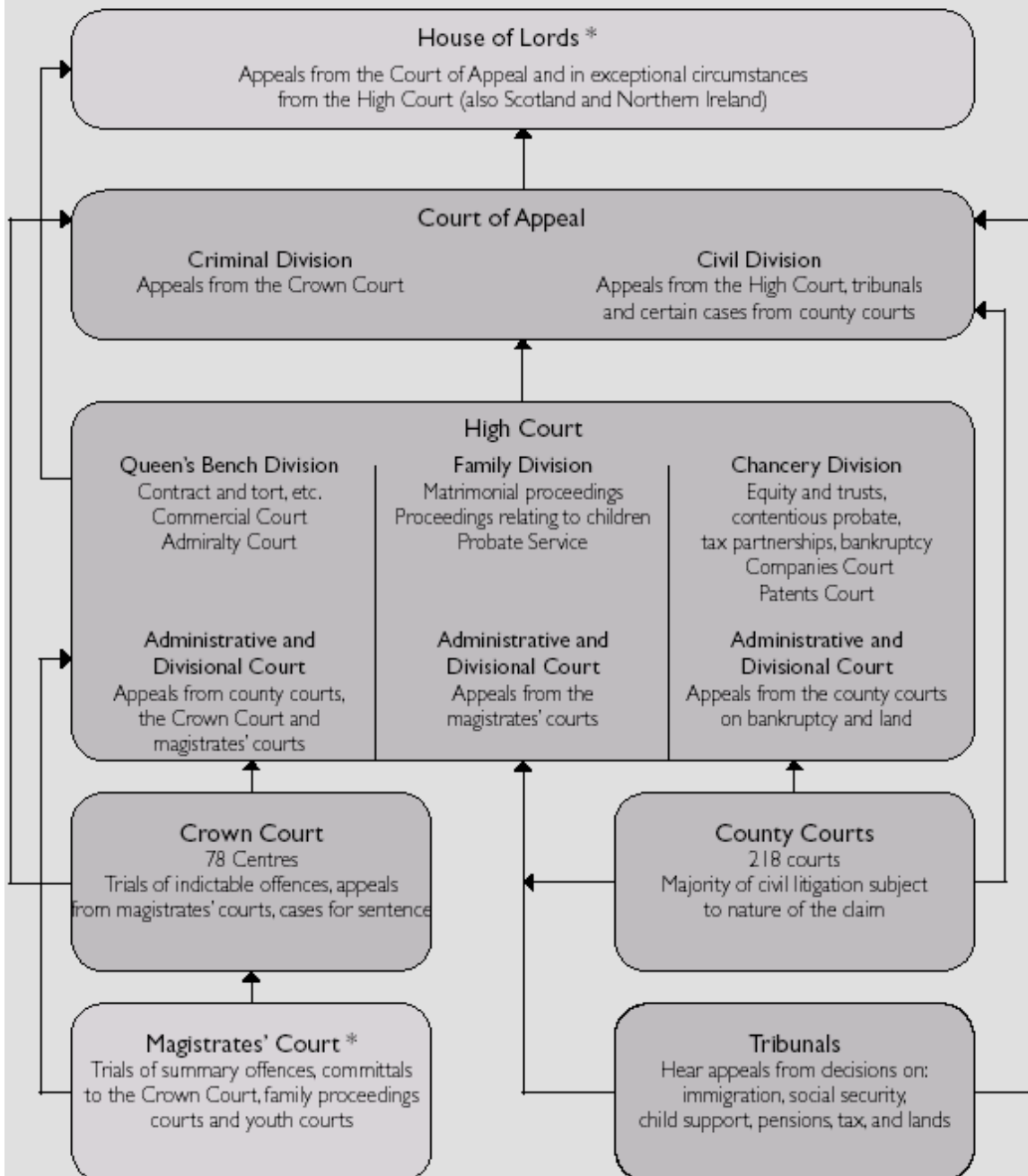
The highest court in the land is the House of Lords. This court is composed of the Lords of Appeal, who are lawyers of eminence generally appointed from amongst the judges of the Court of Appeal. They deal with points of law of general public importance brought before them on appeal from the Supreme Court.

As can be seen from the table below, civil and criminal jurisdictions are separated. Whereas the traditional civil vacations have been left largely unaltered, in criminal trial courts the policy of the government has been to attempt to keep these courts open throughout the year subject to weekends and public holidays. ¹

¹ From a telephonic interview with Mr Budger, of the Lord Chancellor's Division, United Kingdom.

The Court Structure in England and Wales

The Court Service carries out the administrative and support tasks for: the Court of Appeal; the High Court; the Crown Court; the county courts; the Probate Service; and certain tribunals. The structure of the courts in England and Wales is set out below.



* Although the House of Lords and the Magistrates' Courts, form part of the structure within England and Wales, the Court Service does not administer them. This diagram is, of necessity, much simplified and should not be taken as a comprehensive statement on the jurisdiction of any specific court.

The **Crown Court**, which hears all the serious criminal trials, was created by the Courts Act of 1971. This latter Act abolished the previous criminal system of Assizes and the courts of Quarter Session.

The Courts Act, 1971 provided that:

“The places at which the Crown Court sits and the days and times at which the Crown Court sits at any place shall be determined in accordance with directions given by or on behalf of the Lord Chancellor.”²

The Crown Courts³ are manned by circuit judges and, from time to time, by High Court Judges, and sit throughout the year.

The Circuit Court Judges, who do the majority of the work, are required to sit for a minimum of **210 days** of the year, and their leave period is staggered.

The High Court Judges also sit in Crown Courts, where circumstances demand it.⁴ These (High Court) Judges have a commitment of only **189 days** per year, and are entitled to certain formal vacations⁵.

² This provision is now repealed; however, s.78(3) of the Supreme Court Act, 1981 preserves it, in exactly the same terms. Neither Act makes reference to vacation times.

³ The creation of the Crown Court was first mooted by the Royal Commission on Assizes and Quarter Sessions, 1966 – 1969, chaired by Lord Beeching as a result of the difficulties created, *inter alia*, by the system of Assizes and the limited time the judges were available to hear cases. See Beeching Report, 1969 on next page.

⁴ For purposes of trial in the Crown Court, offences are divided into four classes of seriousness, according to directions given by the Lord Chief Justice, with the concurrence of the Lord Chancellor: **Class 1** offences are the most serious offences and are **generally** to be tried by a High Court judge, unless a particular case is released on the authority of a Presiding judge to a circuit judge. These offences include treason and murder. **Class 2** offences are **generally** also to be tried by a High Court judge unless a particular case is released on the authority of a Presiding judge to a circuit judge or other judge. These offences include manslaughter and rape. **Class 3** offences **may** be listed for trial by a High Court judge, but may be tried by a circuit judge or recorder if the listing officer, acting under the directions of a judge, so decides. Class 3 offences include all offences triable only on indictment other than those specifically assigned to classes 1, 2 and 4, for example, aggravated burglary, kidnapping and causing death by dangerous driving. **Class 4** offences are normally tried by a circuit judge, recorder or assistant recorder, although they may be tried by a High Court judge. They include grievous bodily harm, robbery and conspiracy, and all ‘either way’ offences – those which may be tried whether on indictment at the Crown Court or summarily, i.e. at magistrates’ courts. The offences include treason and murder.

Prior to the Courts Act, 1971, the (now abolished) Assizes Courts were presided over by High Court Judges only and, consequently, the traditional High Court vacation times applied to the Assizes Courts.

By creating a new tier of **'hybrid'** criminal court, comprised of both High Court Judges, with their traditional High Court vacation time, and Circuit Court Judges with no such traditional vacation time, Parliament attempted to ensure the **continuous session** of the Crown Court.

In addition, the so-called **'ticketing'** system was introduced. 'Ticketing' entails authorization to hear the more serious cases⁶, which is given by the Presiding judge to Circuit judges whom he feels have the aptitude and experience necessary to deal with these particular cases, which were hitherto the prerogative of High Court judges only⁷.

The High Court vacation times still technically apply to High Court Judges when sitting in the Crown Court, although it is widely noted that even this appears to be coming to an end, with High Court Judges now sitting through the summer where required in serious criminal cases.

The Beeching Report, 1969.

The Royal Commission on Assizes and Quarter Sessions, 1966 – 1969, chaired by Lord Beeching, was the Parliamentary body which first mooted

⁵ 3 weeks at Christmas, 2 weeks at Easter, 1 week at Whitsun and the two summer months of July and August.

⁶ See footnote 4 *supra*.

⁷ Lord Justice Auld, in his Review on the Criminal Courts of England and Wales remarked that “at present, authorizations are given primarily, not as a badge of recognition or advancement, but to relieve High Court judges from having to try certain cases of a particular class or category, where there are too many for them to try.” He recommended that “most of the rigidities of the present ‘ticketing’ system should be removed and replaced by the conferment on the Resident Judges wide responsibility, subject to general oversight of the Presiding Judges, for allocation of judicial work at their court centres, but coupled with, [firstly,] regular and systematic appraisal enabling Resident Judges and Presiding Judges to determine the experience and interests of the judges; and [secondly], the undertaking by judges of such training by the JSB as may be required as a pre-condition for the trial of particular categories of work.” Chapter 6, para 20 – 25.

the idea of the restructuring of the court system, and the creation of the Crown Court. Their report considers the difficulties created, *inter alia*, by the system of Assizes, and the limited time the judges were available to hear cases. As shown above, their recommendations in this regard were largely accepted.

It is interesting to note that, in addition to the above measures, the Commission also had certain recommendations in respect of the fixed two month summer vacation, which were not dealt with by Parliament in the Act establishing the Crown Courts⁸.

Beeching made the wry comment that "*proposals for any reduction in the length of vacations are understandably likely to arouse strong feelings, and arguments for leaving the holiday period undisturbed, therefore, need to be examined dispassionately.*"⁹

In the event, as has been seen, the matter of vacation times was left open by the Legislature.

The Beeching Commission was opposed to the 2 month summer vacations enjoyed by High Court judges (when sitting in the proposed Crown Courts) on grounds that these vacations -

- "i [caused] an inevitable increase in the delay time of some cases by 2 months – 2 months of real time to those who are not lawyers; and
- ii the peak in court loading which is bound to follow a shut down of 2 month' duration, with consequent disturbances to listing for months thereafter, and a recurrent danger that

⁸ See footnote 2.

⁹ The Royal Commission on Assizes and Quarter Sessions, 1966 – 1969 para 422, p. 133.

each peak in turn may cause a permanent extension of average delay time.”¹⁰

Lord Beeching recommended that:

- consideration be given to reducing the formal legal vacation periods for High Court Judges sitting in the Crown Court; in particular, to confining the summer vacation to the month of August, and,
- that this should be achieved by greater staggering of the existing sitting commitments of the High Court Bench, not by increasing them.

Beeching that was of the view that, if implemented, his recommendations would be beneficial to judges and not make any real difference to the lives of the legal practitioners.

The Beeching Commission also considered an argument by a joint Committee of the Bar Council and the Council of Law Society for retaining the long vacation.

Their case was that the general public might find their holidays interfered with, and that most of the other courts in the country did not close for such a lengthy period. The point is made in the report that the second argument rather tends to defeat the first – that is, presumably, if all of the other courts in the country are closed for a shorter period of time, they must interfere with the holidays of a larger number of persons.

The Commission stated thus:

¹⁰ *op. cit.* para 422 – 425, pp.133 – 134.

"We recognize that national habits are changing. Holidays abroad are becoming relatively cheap and common, so that climatic restriction of holiday months is diminishing. **Staggering of holidays is being fostered**, and in many places the 'Wakes week' approach to industrial holidays has disappeared. It will, therefore, become progressively more difficult to sustain the argument that closure for 'the holiday period' will eliminate most of the problems arising from holiday absence. Therefore, although we think it justifiable for the courts to close for a month, we recommend that the closure of the High Court for a summer vacation should be **made progressively shorter and less complete** than it is at present. By **staggering** this, we are not proposing that High Court judges should have their total vacation period cut, and certainly not without recompense, but, moved by the same influences as others, many judges may welcome a wider choice in the timing of holidays, and staggering of their leave should be quite possible.

It is also relevant that, with the reduced reliance on part-time judges which we are proposing, it will no longer be necessary for members of the Bar to sit judicially in the Long Vacation to avoid interference with their practices.

We firmly believe that, if the Long Vacation is reduced, most of the difficulties foreseen by the legal profession will prove to be unreal, and certainly no more difficult than those which other professional men take in their stride."¹¹

In the period subsequent to the Courts Act, 1971, the Lord Chancellor set no vacation times in respect of **Circuit Judges** in the Crown Court. However, in the earliest stages of the new criminal system, lists tended to be kept light of business throughout August and September reflecting the position as it had been with the Assize Courts.

Over time, the pressure of work at the criminal courts, and the increased numbers at the Bar contributed to more and more listings being arranged

¹¹ *Op. cit.* para 424, p.134.

in those months, and the ebbing away of the traditional lighter load at those times. Simply, the number of cases the Crown Court was required to adjudicate upon grew, as did the number of barristers able to perform that work. It became impossible to meet the demand for court time and to retain the vacation time in any real form.¹²

The general increase in workload is clearly reflected by examining the statistics on the following table.

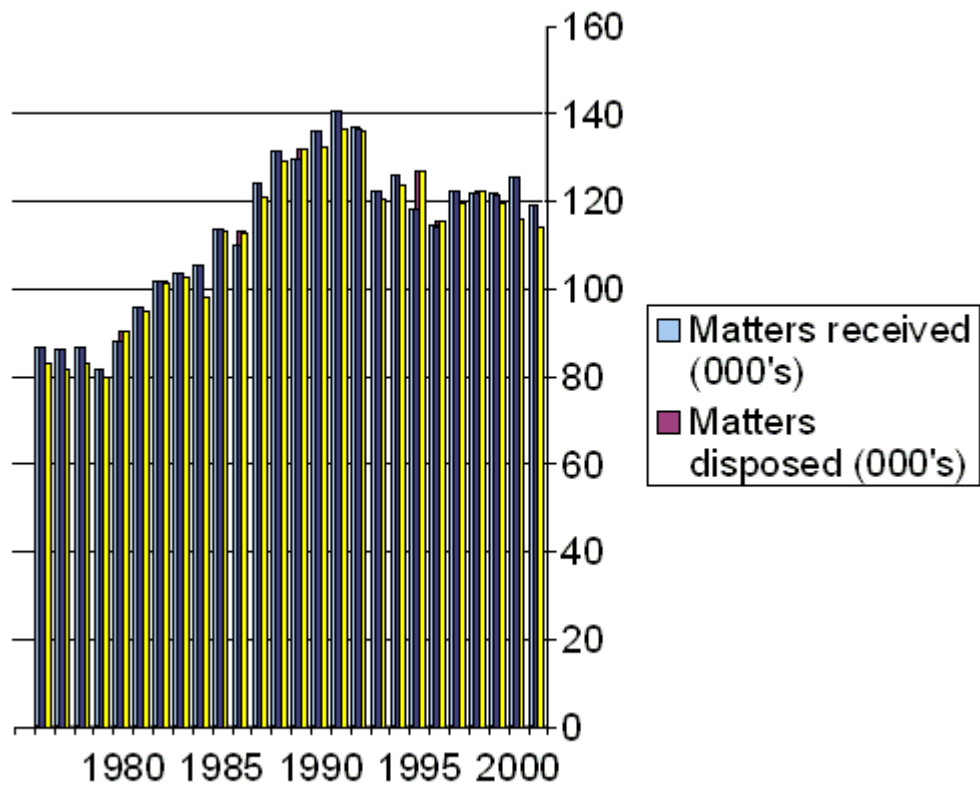
¹² During 2001, 80,551 cases were received for trial at the Crown Court, an increase of over 13% on the 2000 total. Committals for trial disposed of during 2001 totalled 75,565, an increase of nearly 4%. As receipts exceeded disposals the number of cases outstanding increased by nearly 38% to 31,612 compared with 22,946 at the end of 2000. Lord Chancellors Department Report “Judicial Statistics” [Volumes 1986 – 2001].

Table of matters dealt with by Crown Court

Year	Trials received	Trials disposed	Committals for sentence received	Committals for sentence disposed	Appeals received	Appeals disposed	Total received	Total disposed
1974	App. 44000	App. 44500	XXX	XXX	XXX	XXX	No figures	No figures
1975	App. 50000	App. 48000	XXX	XXX	XXX	XXX	No figures	No figures
1976	54576	51705	16628	16419	15304	14990	86508	83114
1977	57407	53118	13138	12846	15857	15497	86402	81461
1978	57091	53927	13223	13050	16372	16195	86686	83172
1979	50798	49464	13983	13961	16699	16274	81480	79699
1980	55594	57271	14935	14973	17531	17859	88060	90103
1981	60750	61929	15421	15223	19710	17573	95881	94725
1982	67869	66184	14845	14544	19025	20775	101739	101503
1983	73524	72567	11222	11521	18861	18775	103607	102863
1984	75283	74777	9250	9141	20622	20350	105155	98268
1985	83898	82788	9299	9427	20596	21059	113793	113274
1986	84244	86426	7504	7581	18386	18925	110134	112932
1987	98873	96197	7947	7867	17276	17053	124096	121117
1988	106524	104773	8577	8485	16315	15849	131416	129107
1989	98668	101232	13718	13689	17223	16860	129609	131781
1990	103011	100005	15270	14988	17801	17557	135838	132550
1991	104754	101999	16554	15995	19150	18433	140458	136427
1992	100994	100742	14883	15546	20783	19765	136660	136053
1993	86849	85566	11088	10956	24531	23722	122468	120244
1994	89301	86980	11485	11226	25262	25644	126048	123850
1995	81186	88985	11718	11726	25240	26062	118144	126773
1996	83328	83274	12002	11762	18981	20304	114311	115340
1997	91110	90096	14871	13378	16269	16196	122250	119610
1998	75815	77794	29774	28224	16278	16473	121867	122491
1999	74232	73539	31928	30641	15413	15381	121573	119561
2000	71022	72762	27591	28713	13902	14359	112515	115834
2001	80551	75565	25960	25717	12596	12679	119107	113961

NB Note a drop in Crown court trials received in 1978 – a result of the Criminal Law Act 1977 which reclassified offences and enabled more matters to be dealt with by the Magistrates’ Courts and similarly a drop in 1989 as a result of reclassifying offences under the Criminal Justice Act 1988.

**Figures taken from the Lord Chancellor’s Department Report “Judicial Statistics” (volumes 1986-2001)



In September 2001, **Lord Justice Auld**¹³ recommended that the Beeching Commission's recommendation in respect of the '**staggering**' of the respective Judges' vacations be revisited as, in practice, almost all the High Court judges were in fact working throughout the formal vacations. In fact, in August, the Crown Courts dealt with about 70% of its usual monthly workload.

Lord Justice Auld based his recommendation also on the reasoning that a shorter summer vacation would be -

*"a useful discipline in maintaining the momentum of case preparation and management. It would be more in line with the working patterns of most public and private sector organizations. And, it would help to correct a popular misconception about the present work pattern and load of the higher judiciary."*¹⁴

No statute or Practice Direction brought a sudden halt to the summer vacation within the Crown Court, although it is plain that the restructuring of the criminal court system and the creation of a new rank of judge were largely responsible for the changes.

Ultimately, it was the **pressure** placed on the courts by the number of cases before it, and the commitment of the judiciary to efficient and speedy justice, which forced an abandonment of even a lighter summer schedule.

¹³ Review of the Criminal Courts of England and Wales op. cit. Chapter 6, para. 38.

¹⁴ *op. cit.* Chapter 6, para 39.