



The Law Officers' Department

Annual Review 2018

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Introduction by HM Attorney General Robert MacRae QC

The Law Officers' Department has again had a very busy year, against the background of significant legal reform.

The Jersey Financial Crime Strategy Group agreed in May 2017 to fund an Economic Crime and Confiscation Unit under the direction of the Attorney General. The new unit was launched in October 2017 and, now that all recruitment has taken place, has a complement of nine posts including specialist financial crime lawyers, police officers and a forensic accountant. The establishment of the Economic Crime and Confiscation Unit ensures that the Island remains at the forefront of the fight against financial crime and money laundering. The new unit has already had considerable success including prosecuting a financial institution for intermeddling in the Estate of a deceased person, and also three successful applications under the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018, the first within days of the new law coming into force.

The Civil Division of the Law Officers' Department also saw growth in the year, with important work on Brexit; adult safeguarding in preparation for the Mental Health (Jersey) Law and the Capacity and Self-Determination (Jersey) Law coming into force; children's safeguarding and children-centred legislation in response to the Independent Jersey Care Inquiry report.

Finally we are also doing more for less. In 2014 the total department spend including Court and Case Costs was £8.445 million. At that time the department had 68 staff. In 2019 the total departmental budget including Court and Case Costs is £8.3 million. The headcount, owing to the increased responsibilities of the department, has increased to 86. By restricting the amount of work that is externalised and by increasing the skills and capability of our staff we have managed to increase the range of services that we can offer to government and those upon whom the Law Officers' Department depends, without an increase in our budget.

My grateful thanks to the lawyers and staff of the Law Officers' Department who continue to work with dedication and skill in order to secure the objectives of the Law Officers' Department, which are set out at page 6 of this Review.

Robert MacRae QC

Attorney General



Her Majesty's Attorney General
Robert MacRae QC
sworn in 5 May 2015



Her Majesty's Solicitor General
Mark Temple QC
sworn in 17 August 2015

About the Law Officers' Department

What we do

Give legal advice to the Government, the States Assembly, States Departments and the Crown

Provide an independent public prosecution service for the Island

Protect the interests of the Crown and States in civil proceedings

Advise and represent the Children's Service to help safeguard children at risk

Assist overseas law enforcement agencies

Carry out conveyancing work for the Crown and States of Jersey

Organisation

The **Attorney General** has overall responsibility for the Department.

The **Solicitor General** deputises for the Attorney General and gives advice on his own account.

The Law Officers' Department consists of the Criminal Division and the Civil Division supported by a small Administration team.

A Director manages each division. The **Criminal Division** is divided into three teams: the Criminal Court Team; the Economic Crime and Confiscation Unit (ECCU) and; the Mutual Legal Assistance Team.

The Criminal Court Team prosecutes cases before the Royal Court and the Magistrate's Court, gives advice to the States of Jersey Police and the Honorary Police and consists of 17 legal advisers and assistants.

The Economic Crime and Confiscation Unit was established in October 2017 in order to ensure that the Island remains at the forefront of the fight against financial crime and money laundering. Recruitment for this new team continued in 2018 to reach the full complement of staff of six legal advisers and assistants, two Detective Sergeants and a forensic accountant.

The Mutual Legal Assistance team deals with international requests and consists of five legal advisers and assistants and a civilian investigator.

The **Civil Division** is divided into four teams; Advice; Commercial and Contentious; Safeguarding and Property.

The Advice team has ten legal advisers and assistants providing advice regarding the following: international treaties, BREXIT, European Law, sanctions, statutory interpretation, extension of UK legislation to Jersey, drafting of Orders in Council and Rules of Court, legislation projects, human rights, penalty review of draft legislation, drafting of Royal Assent memoranda, and public law advice.

The Commercial and Contentious team consists of nine legal advisers and assistants who provide advice in respect of contracts and contractual disputes, employment and discrimination claims, data protection and freedom of information, planning, general civil litigation and applications for judicial review.

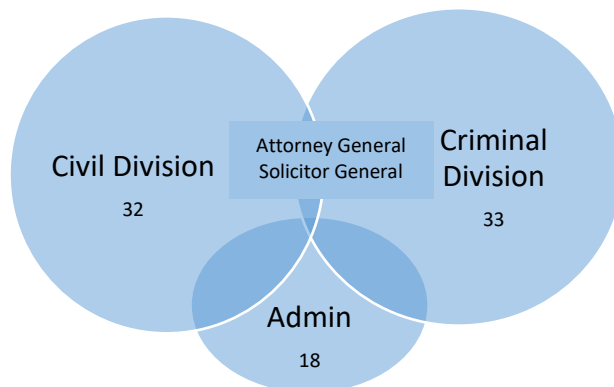
The Safeguarding team consists of eight legal advisers and assistants who provide advice to the Children's Service about the care and protection of children in the Island, and deal with applications for public law orders in relation to children.

The Property team consists of three members of staff who advise on all property related matters and who deal with conveyancing work on behalf of the Public of the Island and the Crown.

The **Administration** team supports the Law Officers and legal staff, in order that the functions of the Law Officers can be carried out efficiently and effectively and in line with Financial Directions and Codes of Practice.

See the Organisation Chart at Appendix 1

Law Officers' Department Headcount by Division
(at 31 December 2018)



Our Code

All staff at the Law Officers' Department adhere to the Code of Conduct issued by the States of Jersey Human Resources Department. Furthermore, lawyers in the Law Officers' Department are also bound by the Departmental Code of Conduct for lawyers. This is found on the Law Officers' Department's web pages at www.gov.je/lawofficers and sets out the rules and standards applicable to lawyers which are appropriate having respect to the interests of justice and their duties as public officers.

Objectives of the Law Officers' Department

- 1) To provide objective legal advice to Government, Scrutiny, Members of the States and Departments of the States of Jersey.
- 2) To provide a high quality prosecution service working in the interests of justice.
- 3) To ensure that the interests of the States of Jersey and the Crown are protected by acting for them in civil proceedings.
- 4) To ensure that the functions and duties of the Attorney General arising from custom or statute are performed to a high standard and in a timely manner.
- 5) To offer effective assistance within reasonable timescales to overseas judicial and law enforcement agencies in criminal matters.
- 6) To provide an efficient conveyancing service in relation to property matters affecting the Crown and the States of Jersey.

Overview 2018

<p>January Data Protection (Jersey) Law 2018 and Data Protection Authority (Jersey) Law 2018: both laws adopted by the Assembly in January and registered in the Royal Court the following month. The first British jurisdiction to have its legislation in place to implement the GDPR.</p>	<p>February LOD participation in the meeting of the Heads of Central Authorities and Contact Points of the Commonwealth Network of Contact Points held at Marlborough House in London</p>
<p>March First Trust Management Ltd v AG: successful defence of the challenge to the \$US 23m asset restraint in Bengis (and involvement in the return of the funds to SA for use in projects aimed at restoring the damaged fish stocks).</p>	<p>April AG v Quant: defendant sentenced to 12 years' imprisonment, having been found guilty of twenty charges including rape.</p>
<p>May Participation in the CARIN AGM in Warsaw.</p> <p>Jersey becomes a core donor to the Basel Institute's International Centre for Asset Recovery (ICAR), supporting ICAR's efforts to build capacity in developing countries to prevent and combat financial crime and return stolen assets through international cooperation.</p>	<p>June AG v Morrish: defendant sentenced to 13 years' imprisonment for historic sexual abuse cases.</p> <p>European Union (Repeal and Amendment) (Jersey) Law 2018 registered in the Royal Court</p>
<p>July Paper dispelling 'rape myths' circulated and published in media by LOD.</p> <p>Criminal Procedure (Jersey) Law 2018 registered in the Royal Court.</p> <p>Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018 registered in the Royal Court.</p>	<p>August First successful asset forfeiture application under the new Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018 resulting in confiscation of £90,797.77, paid into the Criminal Offences Confiscation Fund.</p>
<p>September AG v Amy: defendant sentenced to four and half years' imprisonment for breaching restraining order.</p> <p>AG v Petroleum Distributors (Jersey) Ltd: £100,000 fine imposed for contravention of the Health and Safety at Work (Jersey) Law 1989.</p> <p>AG v King, Bailey and Barber: defendants indicted in the Royal Court with 25 counts including forgery, fraud, larceny and falsification of accounts. King extradited from Bahrain. King later sentenced to 6 years' imprisonment.</p>	<p>October AG v Abu Dhabi Commercial Bank Jersey: first conviction of a bank for intermeddling. Judgement published. Defendant fined £25,000.</p> <p>AG v CI Co-Operative Society Ltd: £65,000 fine imposed for contravention of the Health and Safety at Work (Jersey) Law 1989.</p> <p>Contract passed for final land purchase required for Les Quennevais School project.</p> <p>Mental Health (Jersey) Law 2016 and Capacity and Determination (Jersey) Law 2016: both laws implemented and in force.</p> <p>International Co-operation (Protection from Liability) (Jersey) Law 2018 registered in the Privy Council.</p>
<p>November AG v Byrne: defendant sentenced to seven years' imprisonment having been convicted of 14 offences relating to fraud and providing false information. The Sexual Offences (Jersey) Law 2018 came into force.</p>	<p>December AG v Manning: first conviction for contravention of Money Laundering Order since 2007, plus 22 counts of fraudulent conversion. Defendant sentenced to three years and six months' imprisonment.</p>



Pictured: Mark Temple QC, Lise Stensrud, Mike Pfister, Silje Hanstad, Walter Reithebuch, Sylvia Bluck, Senator Ian Gorst, Robert MacRae QC, Gretta Fenner, MD of ICAR, Tom Le Feuvre

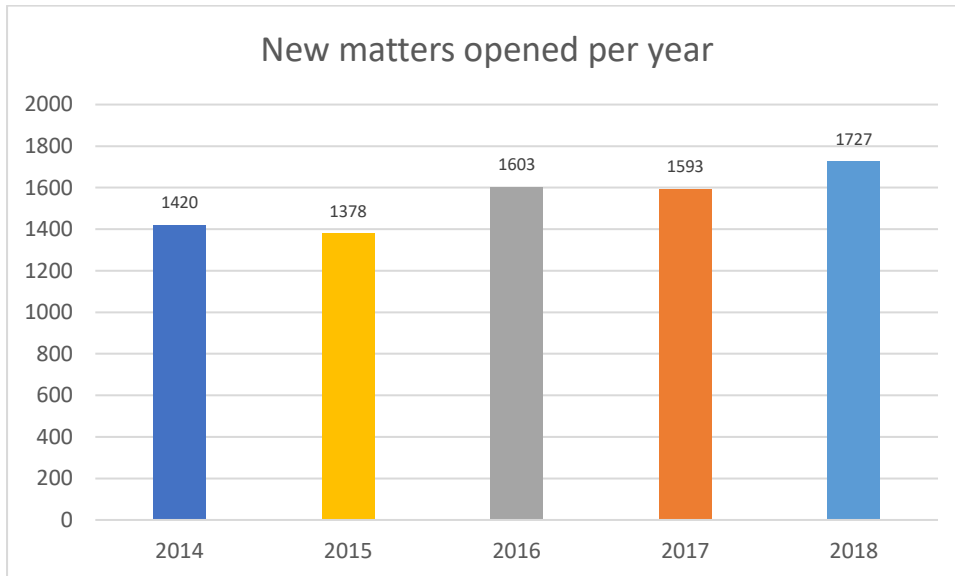
2018 marked the year in which Jersey became a donor nation of the International Centre for Asset Recovery (ICAR). Membership of ICAR was negotiated by the Attorney General.

Jersey joins jurisdictions including Switzerland, United Kingdom and Norway in furthering the work of ICAR including capacity building to combat financial crime in developing countries. Jersey hosted ICAR's AGM in November 2018.

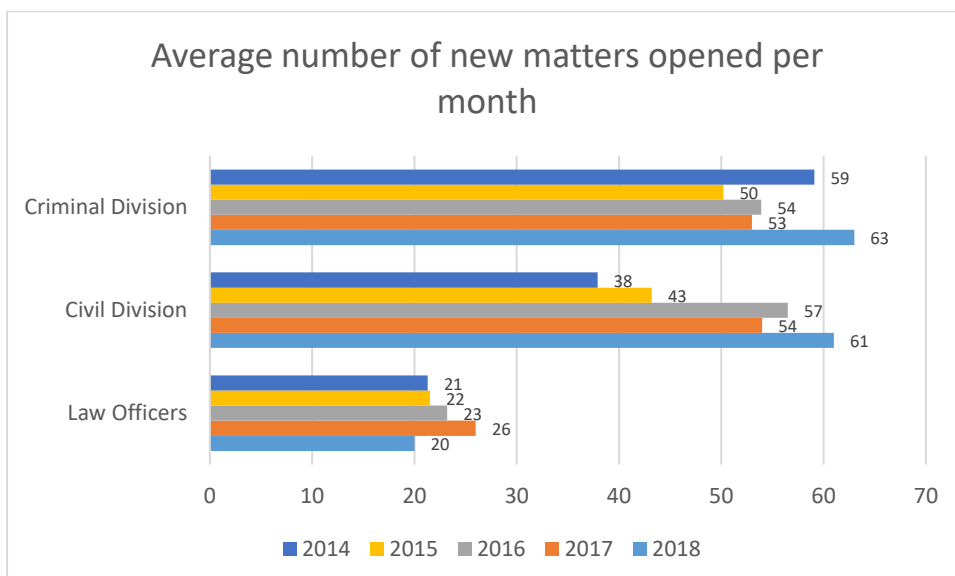
The work we do

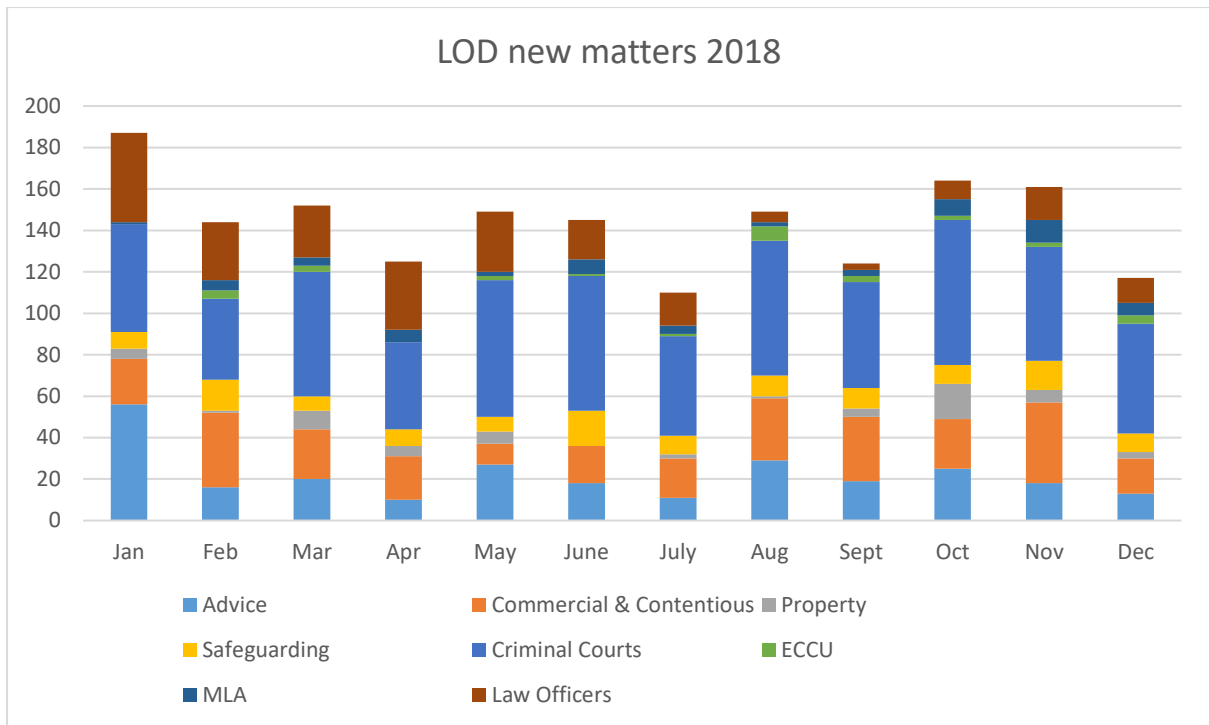
New Matters

While the number of new matters opened during a year does not provide a full picture of the activity of the Department, as new matters can take from a few hours to many hundreds of hours to complete, the number of matters opened is a useful indicator of the volume of work undertaken by the Department in terms of the number of requests for legal advice and prosecution files opened. In 2018 1,727 new advice and prosecution files were opened at the Law Officers' Department:



Broken down by files opened per month in the two divisions and directly by the Law Officers:





Criminal Division

Criminal Justice measures

New software has been introduced in 2018 which draws out data from a programme used across the Criminal Justice System and can provide Key Performance Indicators which can be benchmarked with comparable data from England and Wales¹ for the first time.

- 1) Average number of days from charge to first Magistrate's Court appearance:
England & Wales: 36 days. Jersey: 7 days
- 2) Average number of days from first Magistrate's Court appearance to sentence:
England & Wales: 22 days. Jersey: 21 days
- 3) Average number of days from first Magistrate's Court appearance to Royal Court sentence:
England & Wales: 200 days. Jersey: 134 days

Further work needs to be undertaken for future reviews in order to expand the number of Key Performance Indicators and improve the methods of data collection. A digitalised court service would greatly improve the range of data available and cut down on administration time spent in this area.

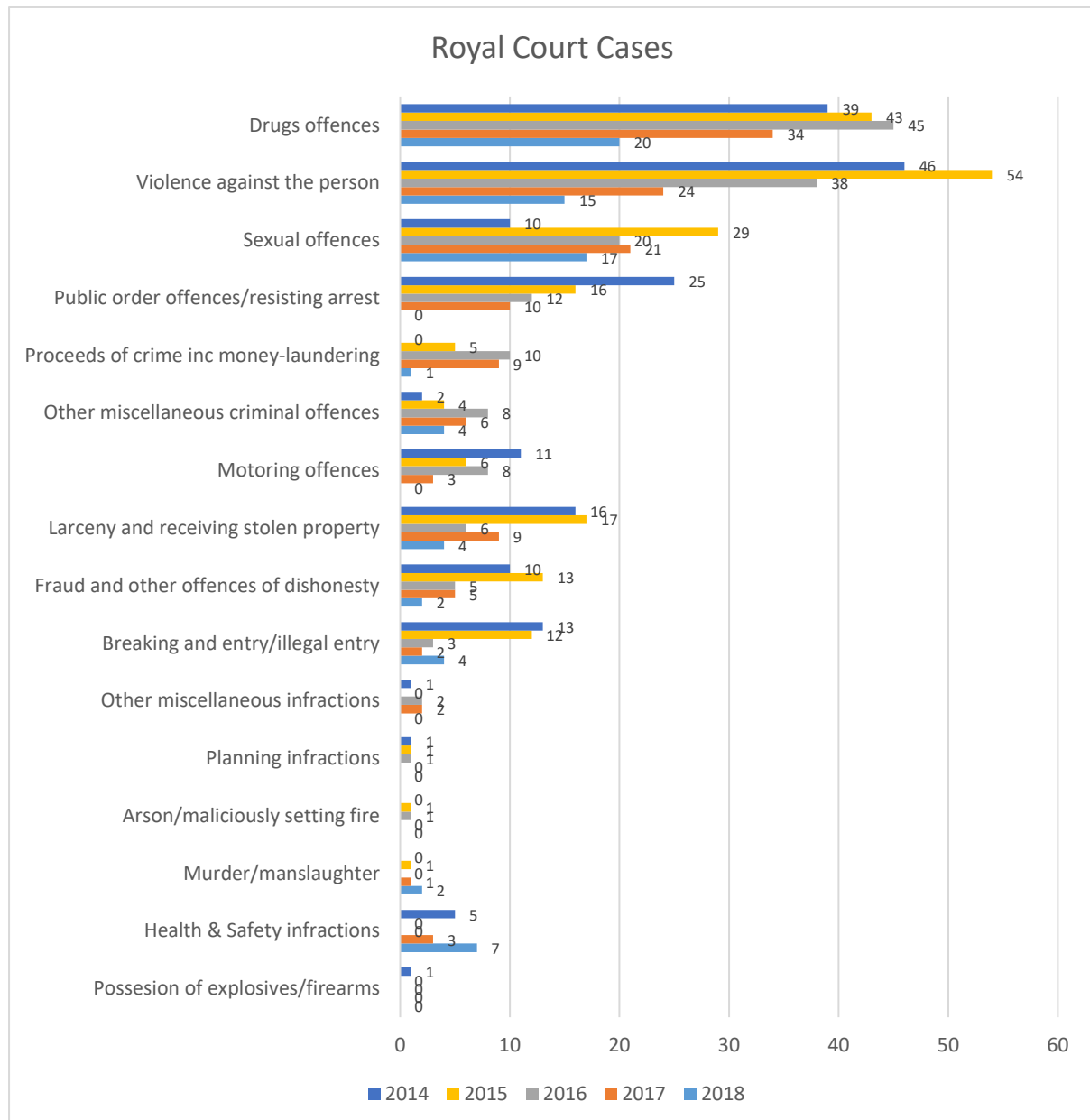
See Appendix 2

¹ *Efficiency in the Criminal Justice System*, National Audit Office, 2016

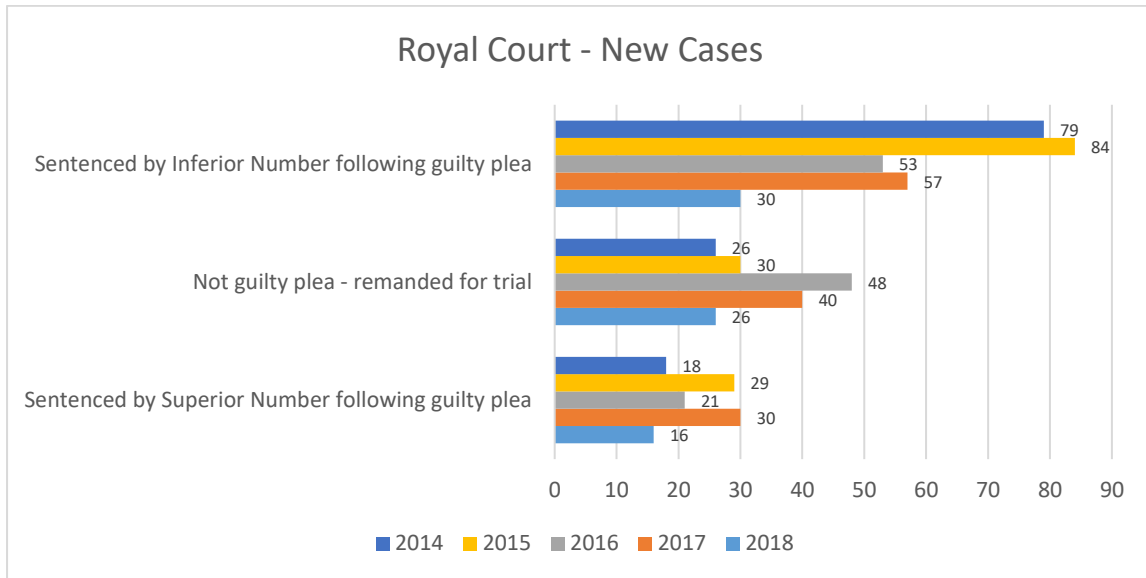
Criminal Court Team

During 2018 a total of 76 new criminal prosecutions were committed from the Magistrate's Court to the Royal Court or indicted directly to the Royal Court. The total number of new criminal prosecutions in the Royal Court has seen a decline in 2018 following a move to prosecute more cases in the Magistrate's Court.

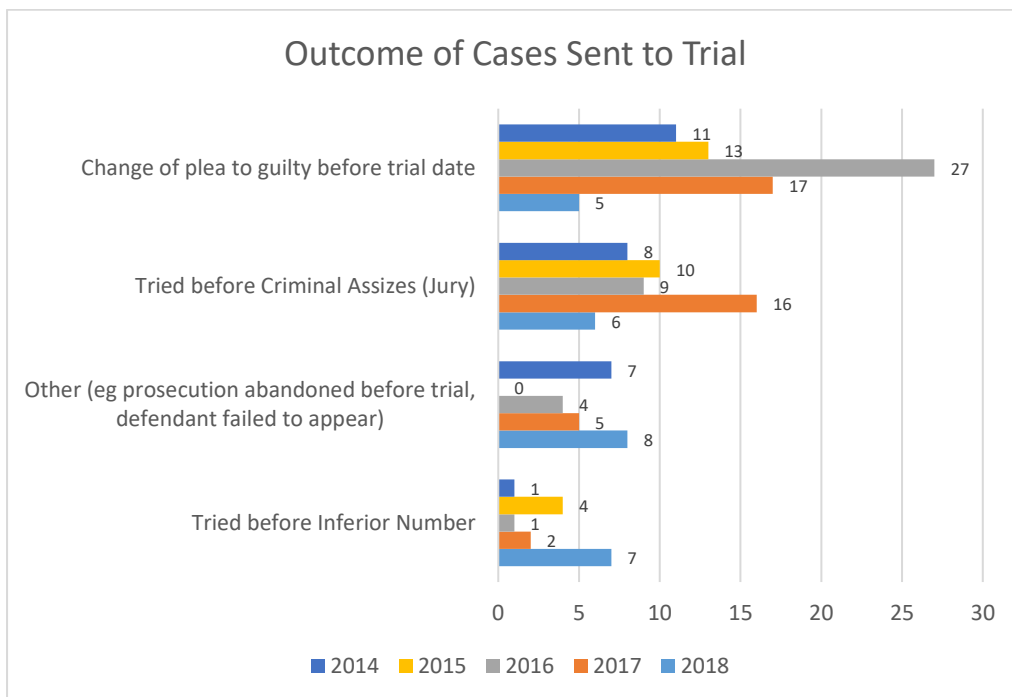
There was a notable increase in Health & Safety prosecutions in the years, with seven in 2018.



New cases at the Royal Court were dealt with in the following manner:



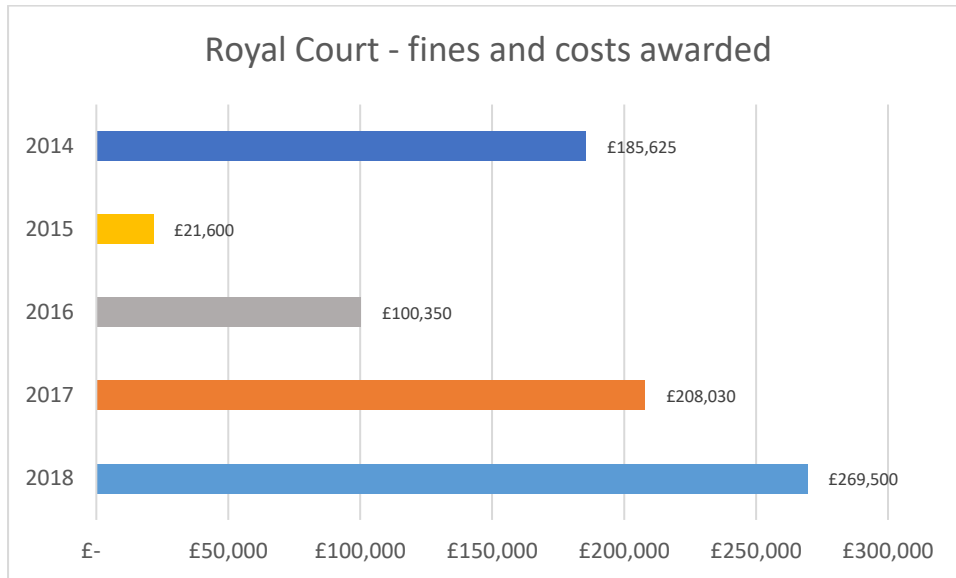
The outcome of the cases sent to trial were as follows:



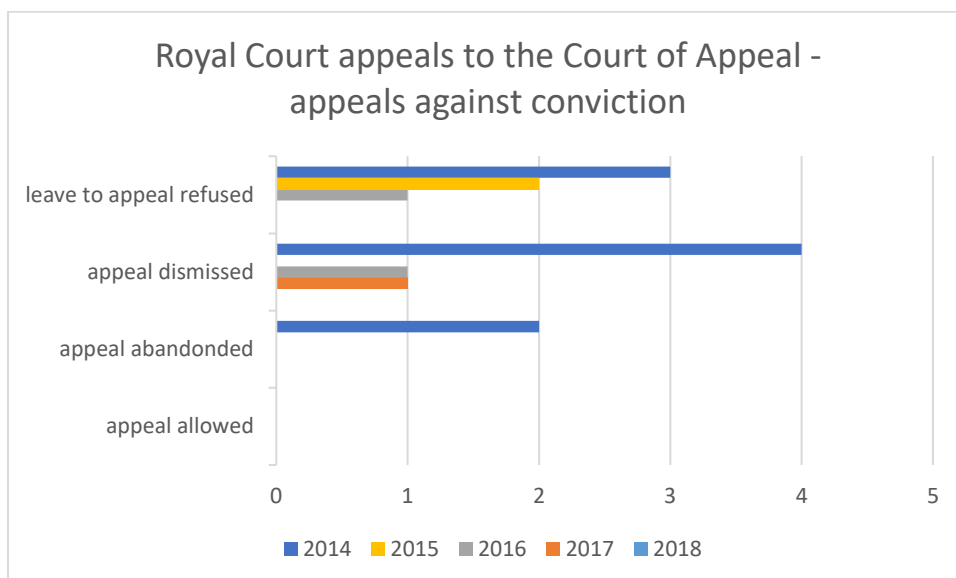
Twelve trials, with thirteen defendants, took place in 2018. Of the thirteen defendants, eight were convicted and five were acquitted.

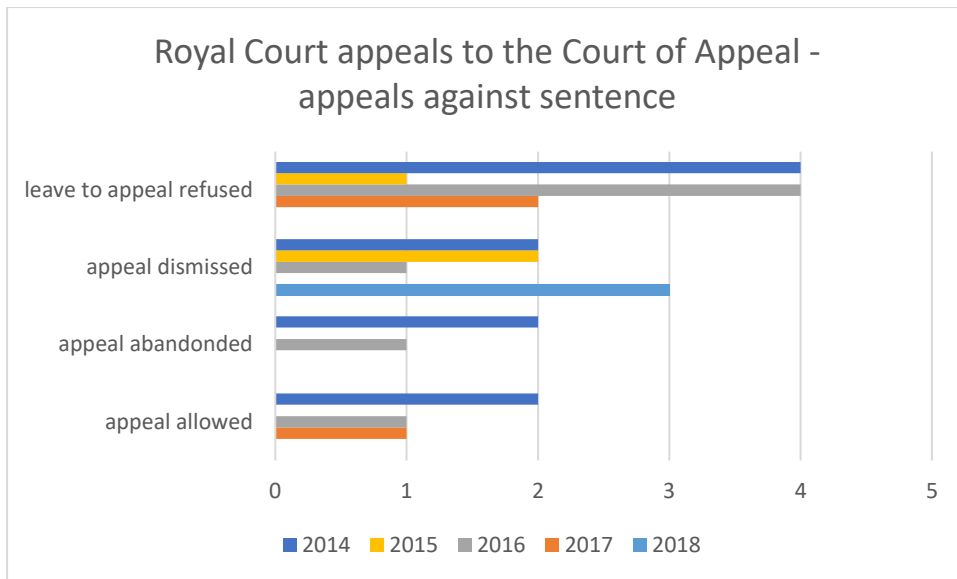
The trials included four rape cases tried by jury, resulting in three convictions and one acquittal. The sentences imposed to these cases were for eight, twelve and fifteen years' imprisonment.

The amount of fines and costs awarded in the Royal Court each year varies according to the number of companies and individuals prosecuted during the year for offences which tend to attract fines, such as Health and Safety prosecutions, rather than custodial or other types of sentence. Two significant contraventions of the Health and Safety at Work (Jersey) Law 1989, referred to in the Overview of 2018 on page 7, resulted in fines of £100,000 and £65,000.



In 2018 there were no appeals against conviction from the Royal Court to the Court of Appeal and three appeals against sentence, which were dismissed:





In addition to prosecuting cases in the Royal Court, the Criminal Court team also advise the States of Jersey Police, the Honorary Police and prosecutes all trials before the Magistrate’s Court, including those cases that start in the Magistrate’s Court before moving to the Royal Court.

The team also provides an out of hours call service and delivers training sessions to Centeniers, Police Officers and other professionals within the legal system.

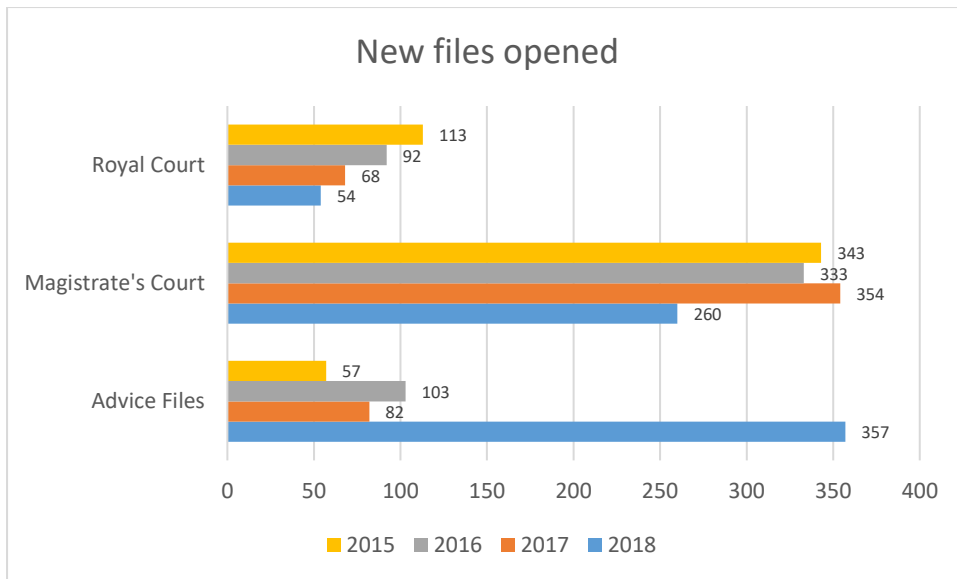
The breakdown of types of new cases is shown in the chart on the following page.

Notes for the chart:

Royal Court files are cases that were committed from the Magistrate’s Court to the Royal Court;

Magistrate’s Court files are cases that were completed in the Magistrate’s Court;

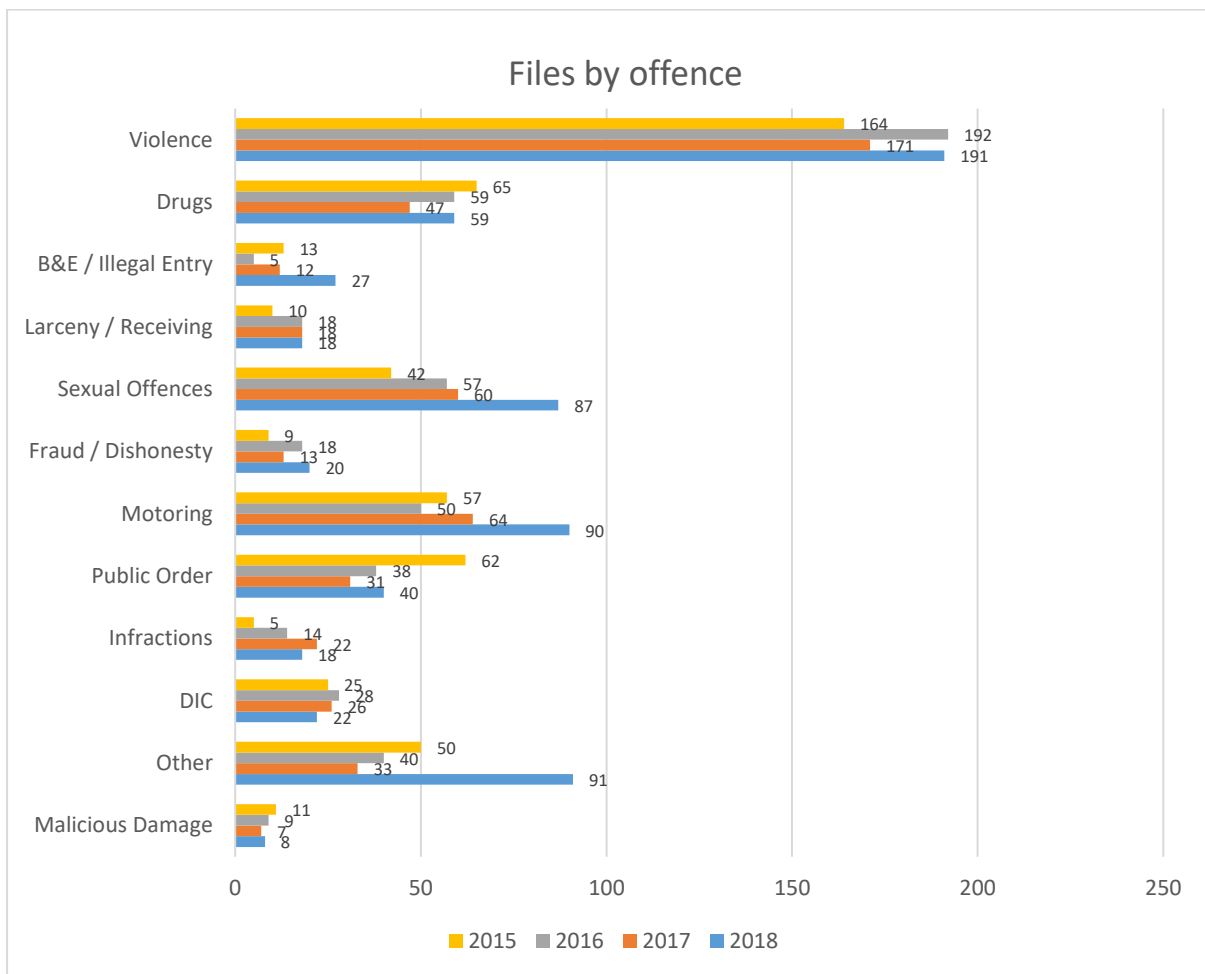
Advice files are matters that have come in for charging advice to be given by a Legal Adviser. Where advice is given to charge, the case may be dealt with by the Legal Adviser or, alternatively, the case is taken on by the Centenier.



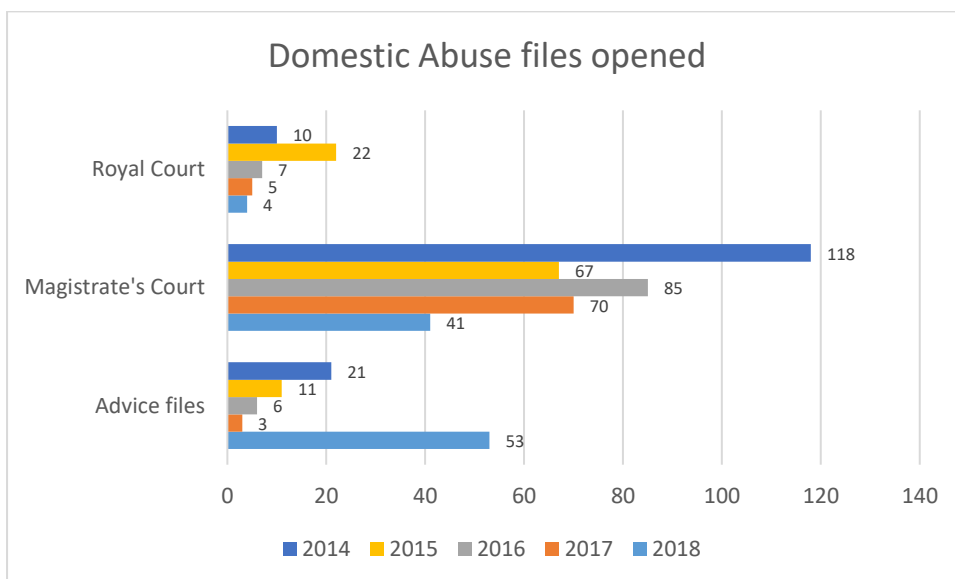
As indicated by the comments on page 10, the amount of work in the Royal Court has fallen. This is partly a recognition of the fact that the Magistrate's Court is the appropriate venue to deal with a larger variety of cases. However the cases being committed to the Royal Court are generally more complex than before.

In 2018 a new process was introduced whereby more cases are reviewed by the Legal Advisers in the Criminal Division before charge is authorised by a Centenier. This new way of working provides stakeholders with early legal advice in order to ensure that the two-stage test under the Code on the Decision to Prosecute is rigorously considered when a charging decision is required. As a result, cases which might not previously have been referred to the Criminal Division for advice are in nearly all cases. This new approach has resulted in an increase in Advice files being opened and fewer cases being discontinued post charge. This saves Court time and costs and ensures that only strong cases are prosecuted.

The breakdown of the new files opened by offence:



Domestic Abuse files dealt with by the Law Officers' Department:



Commentary on Domestic Abuse

While the number of cases is still significant, the continued decrease from the peak number of cases in 2014 is due to a number of factors.

A new process was introduced in 2018 whereby the Department requires the States of Jersey Police to seek advice at the earliest opportunity in relation to a number of offences, and specifically cases where Domestic Abuse was the allegation. Accordingly fewer cases are being discontinued post-charge at court.

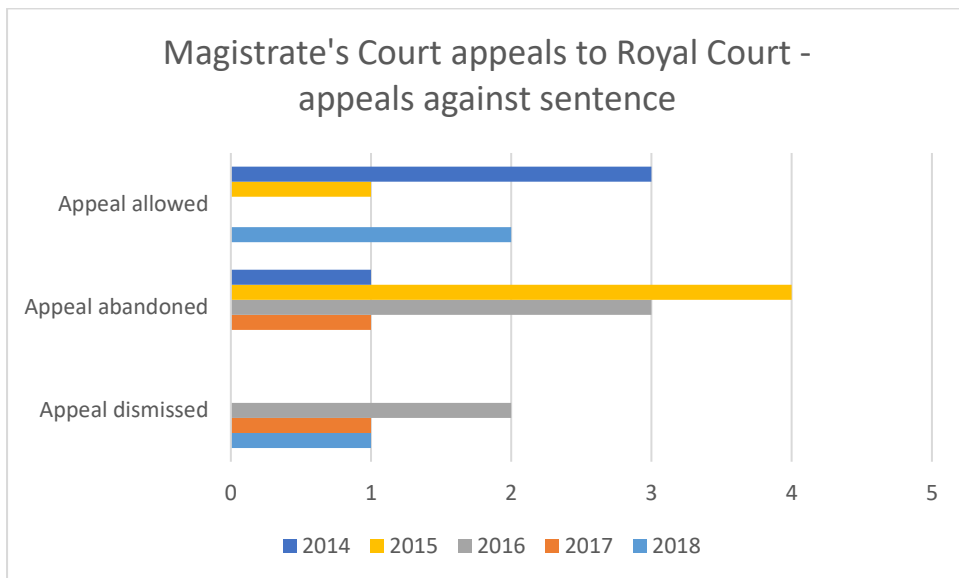
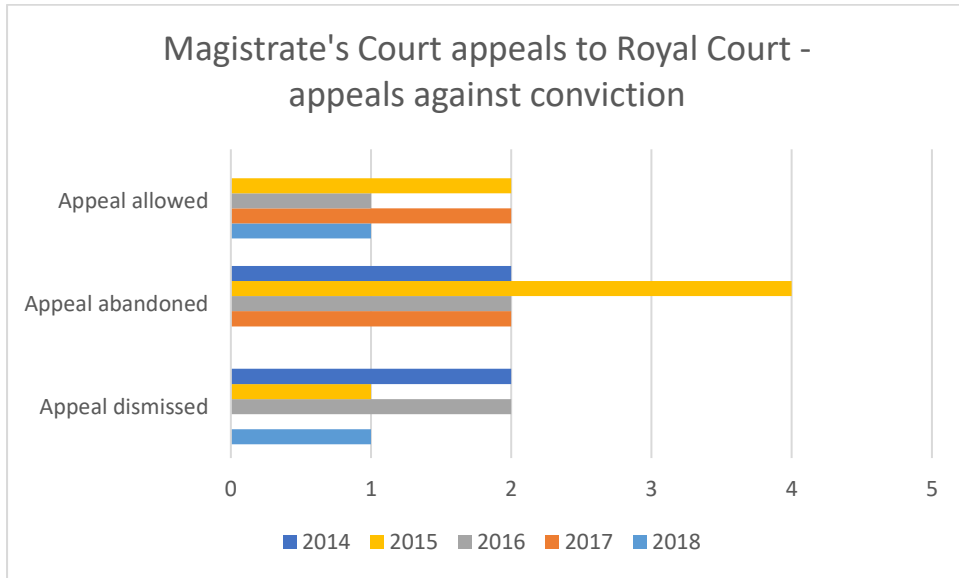
As a result of the new process we have seen an increase in conviction rates to 86% where the Department has provided pre-charge advice. Where no advice was given pre-charge the conviction rates are 74% in 2016, and 67% in 2017.

A number of factors have also improved the prosecution of Domestic Abuse cases:

1. Restraining Orders
2. Independent Domestic Violence Advisor (IDVA) support
3. The Domestic Abuse Disclosure Scheme, known as “Clare’s Law”
4. Legal Advice

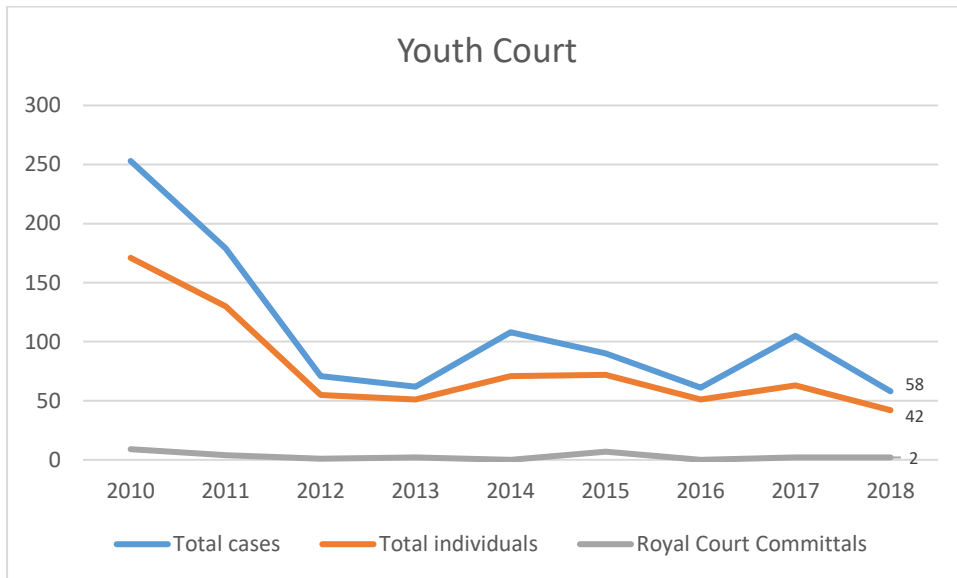
These factors, brought about by collaborative working, should be seen as a sign of success. In particular, there has been a significant reduction in complainants unwilling to support a prosecution as a result of IDVA support. The imposition of Restraining Orders on conviction has meant offenders are prohibited from contact with the complainant(s). In addition, the Adapt programme has provided educational support to those convicted of Domestic Abuse and has reduced re-offending.

A small number of appeals against conviction or sentence are made each year from the Magistrate’s Court to the Royal Court. The results of the appeals are shown below:



Youth Court

2018 saw the continuation of the trend in the reduction of cases coming before the Youth Court.

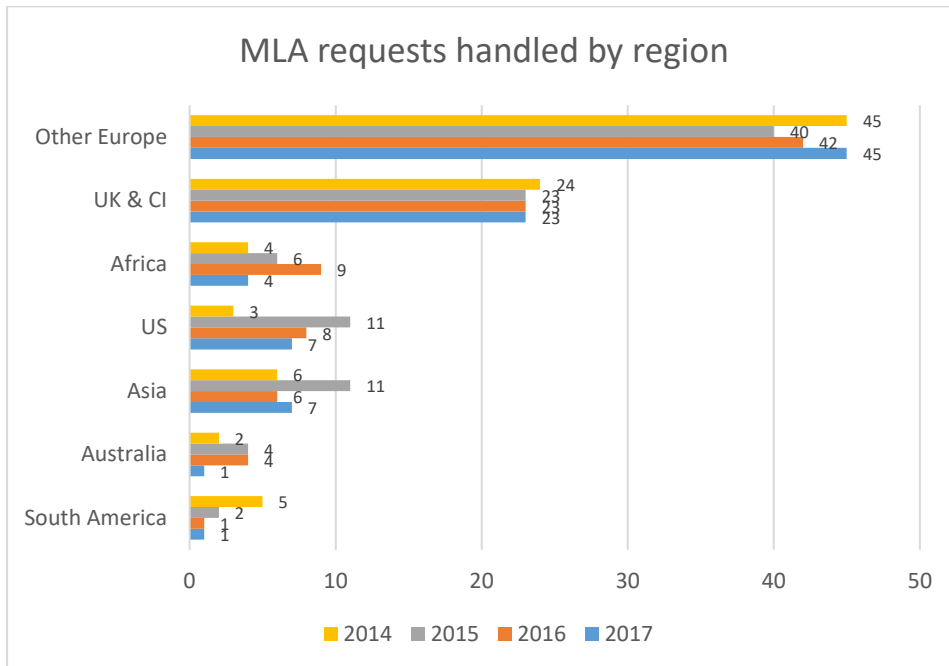


Youth cases, which were at one time routinely prosecuted, have benefitted from a new approach. Where a young person might previously have been prosecuted, the criminal justice partners working collaboratively, try to divert young people from the system by looking at alternatives, including early intervention and deferred decisions. The result is fewer cases being charged for court, and, more importantly, better support being provided to the young people of Jersey.

Mutual Legal Assistance

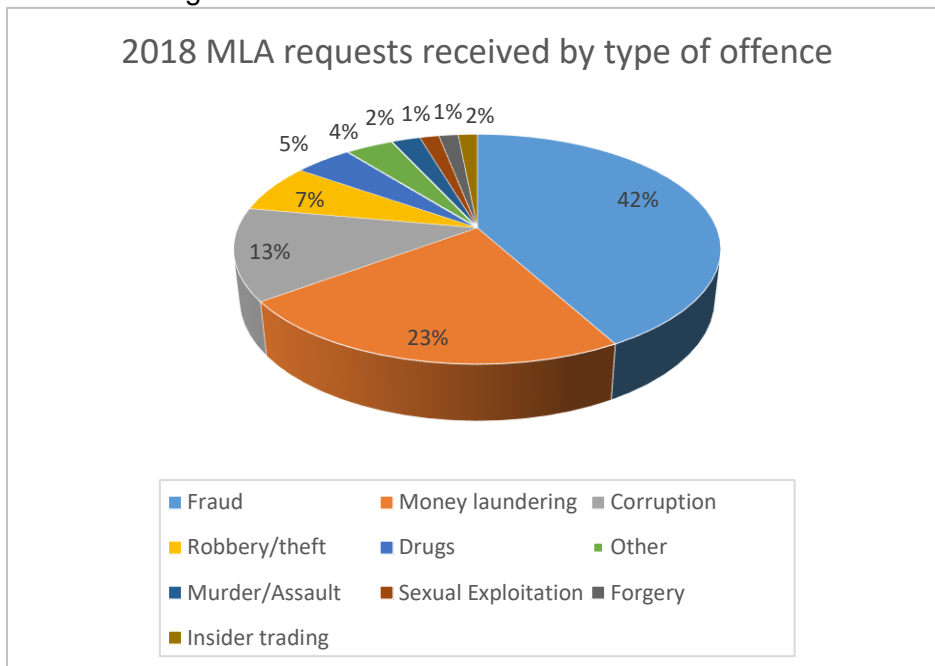
Interaction with foreign jurisdictions

The Criminal Division deals with Mutual Legal Assistance on behalf of the Attorney General. Details of how to apply for assistance appear on the Law Officers' Department's web pages in English, French and Arabic at www.gov.ie/LawOfficers. The work involved in this area includes gathering written and oral evidence for use in overseas criminal or civil asset recovery investigations and proceedings, as well as freezing and confiscating the proceeds of crime and drug trafficking. Confidentiality precludes us from reporting the details of individual requests for assistance but we can say that 90 requests were handled² in 2018:



² Requests 'handled' during 2018 represents Requests received in 2018 as well as Requests received in previous years and on which work was carried out during 2018.

The following chart shows a breakdown by alleged offence for the requests for assistance handled during 2018:



How assistance was provided



Requests for assistance dealt with during 2018

Notes for the chart on page 21:

Formal assistance – there were 35 occasions during 2018 where formal assistance was provided to foreign jurisdictions. Formal assistance is where assistance is rendered to a Requesting Authority pursuant to a Letter of Request, using the legislation referred to in the table on page 20.

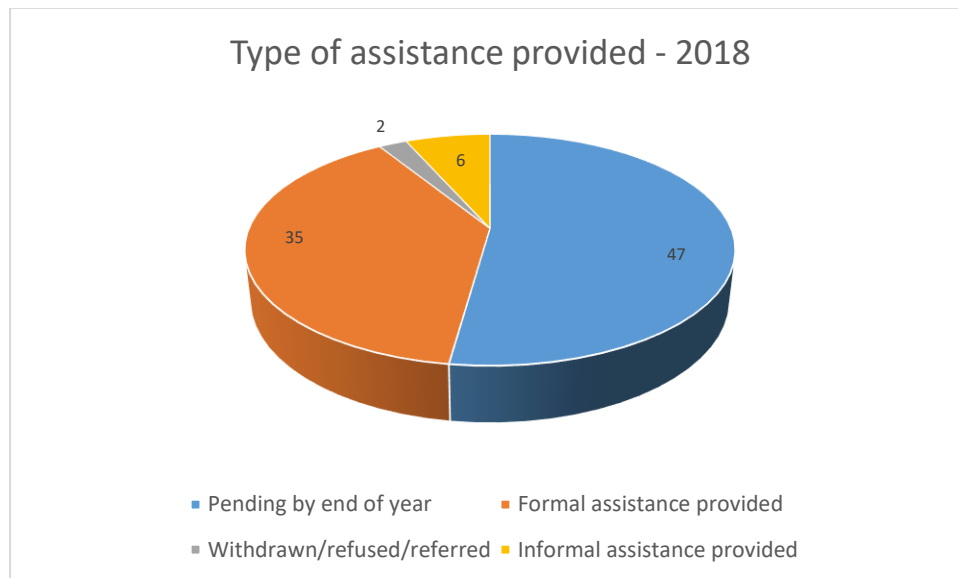
Informal assistance there were six instances where informal assistance was provided to foreign jurisdictions during 2018. Informal assistance occurs where assistance is rendered

pursuant to a Letter of Request, without recourse to our legislation. For instance, where a witness is willing to provide a statement on a voluntary basis or service of documents is effected on a Jersey resident on behalf of a foreign jurisdiction.

Requests are occasionally **withdrawn** by the Requesting Authority in cases where our assistance is no longer required, for instance, where a defendant is acquitted.

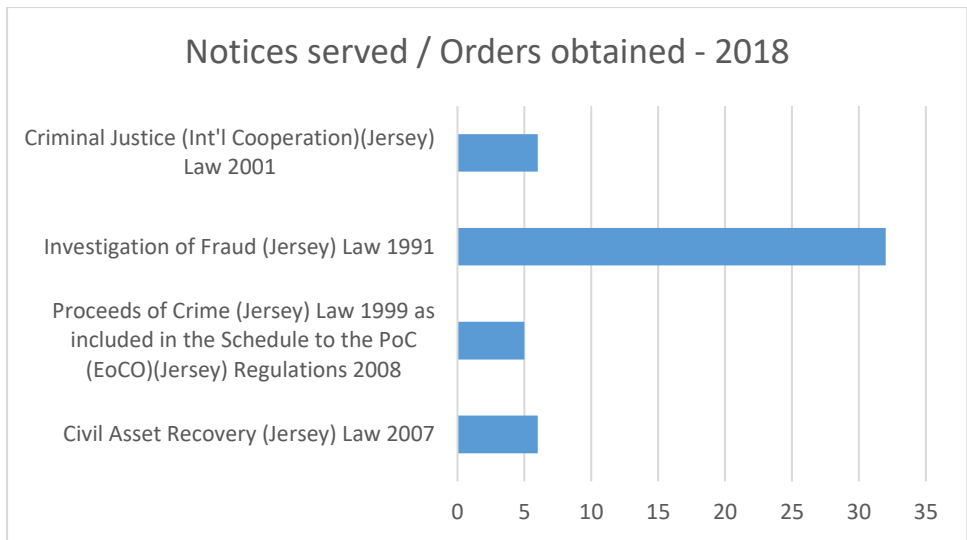
Requests may be **referred** to another jurisdiction when it becomes clear the relevant evidence/witness is located there – for example UK bank / credit card records are typically located in the United Kingdom (even where the cardholder has a Jersey bank account). Where a request is received for UK credit card records we would inform the Requesting Authority and offer to re-direct the request as necessary.

Requests are rarely **refused**. In some cases however it becomes impossible to assist for a variety of reasons. For instance, the Attorney General may refuse to assist in cases which are potentially politically motivated.



Notices / Orders issued

The following table shows the number of Notices served/Orders obtained as a result of assistance provided (Orders being either *Saisies judiciaires* or those registering External Confiscation Orders).

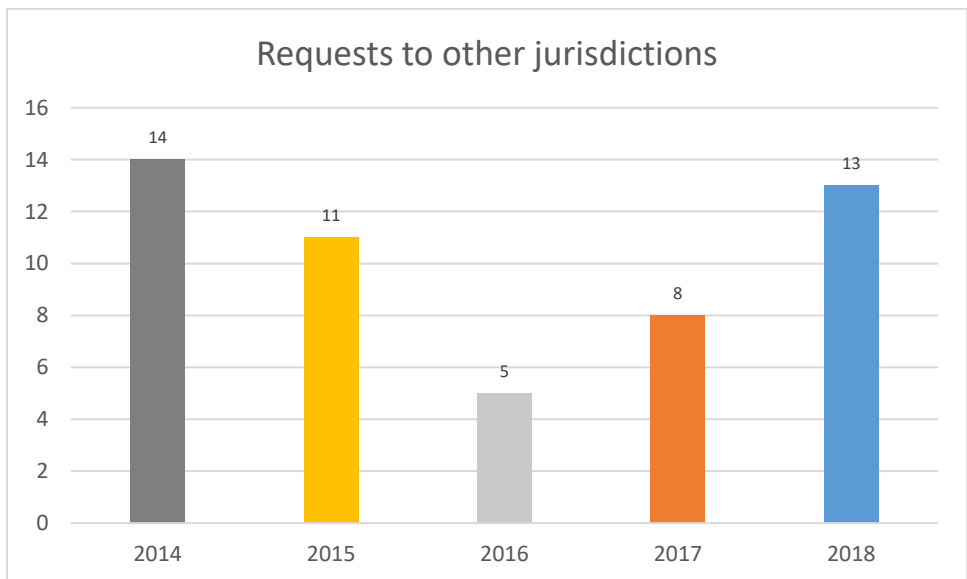


Notices are issued by the Attorney General under the Criminal Justice (International Co-operation)(Jersey) Law 2001 Law for the production of documentary evidence to assist overseas authorities in criminal investigations and prosecutions. Documentary evidence is also obtained pursuant to Notices issued by the Attorney General under the Investigation of Fraud (Jersey) Law 1991 in cases concerning serious and complex fraud, wherever committed.

Requests are also received from overseas jurisdictions to restrain assets and to register and enforce External Confiscation Orders. Where a *Saisie judiciaire* is granted by the court the assets become vested in the Viscount until such time as either an External Confiscation Order is registered and enforced, or the *Saisie judiciaire* is varied or discharged.

Requests to other jurisdictions

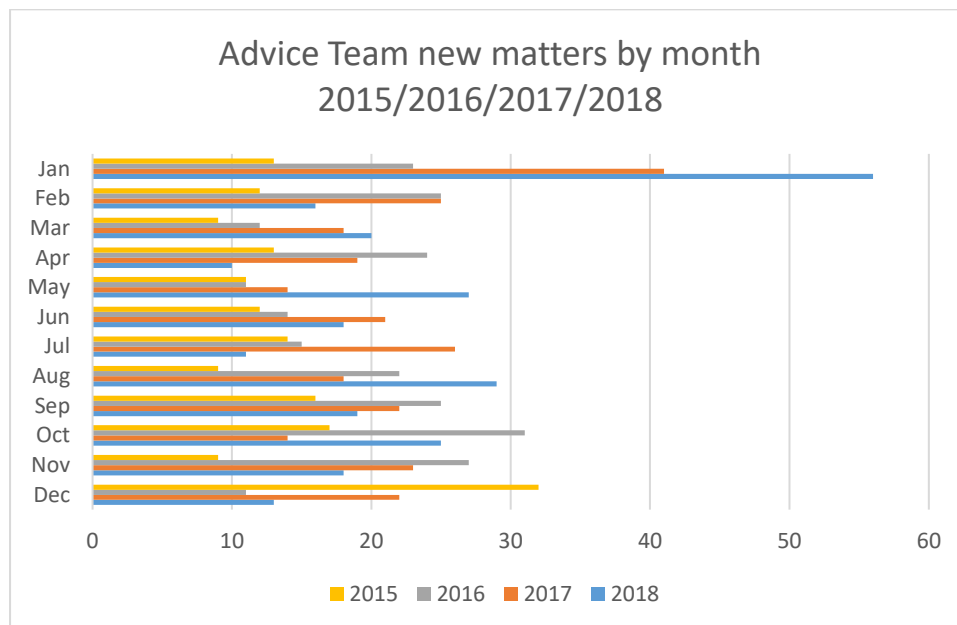
Thirteen requests for assistance were issued by the Attorney General to foreign jurisdictions during 2018. Those Requests were made for the purpose of obtaining evidence from overseas authorities for use in Jersey criminal investigations and criminal prosecutions and asset restraint or registration of Jersey Confiscation Orders



Civil Division

Advice Team

The Advice Team plays a central role in supporting the Government of Jersey to fulfil its objectives. In 2018 the team maintained the 2017 average of opening 22 new matters a month, compared with 20 in 2016 and 14 matters per month in 2015. The monthly breakdown of new matters is shown in the table below:



The period prior to an election is often busy for the Advice team, which both supports and advises the Government on policy and legislative development; and advises the authorities responsible for conducting the election itself. In 2018 these demands were combined with the exceptional demands of preparing for Brexit.

During the first quarter of 2018, members of the Advice team worked on a number of momentous pieces of legislation, advising on the processes of enacting legislation, supporting the legislation through the Assembly the process of obtaining Royal Assent and advising on the processes for bringing these Laws into force. These Laws included the European Union (Repeal and Amendment) Law (Jersey's Brexit Law), the Sexual Offences (Jersey) Law and the new Data Protection Laws.

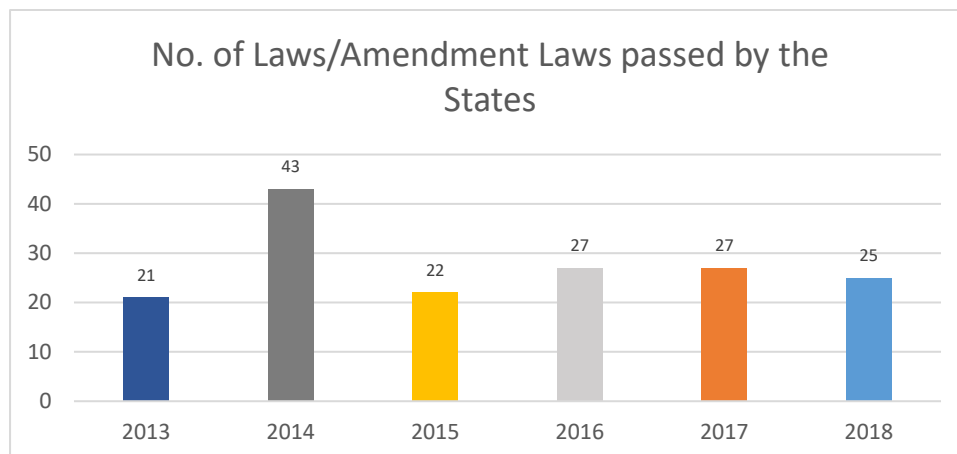
The Advice team is working with officers to bring the new Bail Law into force in summer 2019 and to commence the first aspects of the Criminal Procedure (Jersey) Law 2018, so that rules can be made to underpin the new bail process and prepare for the commencement of the Criminal Procedure Law, with the aim of having this substantially in force by the end of 2019.

The Advice team has also played a key co-ordination and advisory role for Government and stakeholders to fulfil a substantial programme of work to implement the Mental Health Law and the Capacity Law, which both came into force on 1 October 2018. Combined with the work of lawyers in the Safeguarding Team to support officers to implement the legislation in practice, this enabled the conclusion, on time, of the four year project to transform Jersey's mental health legislation.

Brexit was a dominating aspect of Government's priorities through 2018. Members of the Advice team have been key contributors to all of the work streams that are being progressed to prepare Jersey for its changing relationship with the EU and the UK. In the legislative context, the Advice team has led work on the Brexit legislation programme in partnership with External Relations and the Legislative Drafting Office to ensure no gaps or deficiencies exist in Jersey's laws when Brexit takes place. This has included advising on subjects as disparate as the need for periodic technical inspections of vehicles, the implementation of international sanctions and the protection of animal welfare.

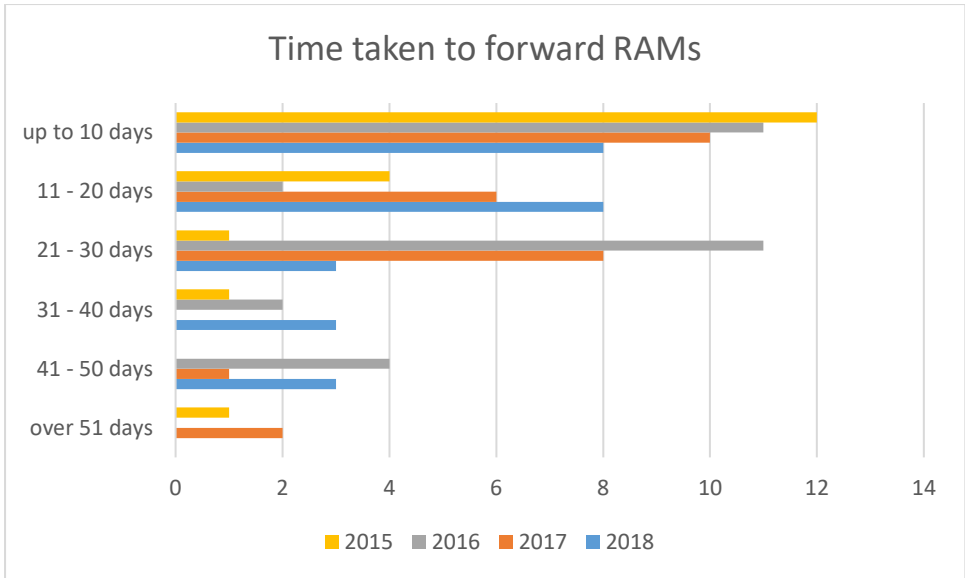
Laws

2018 was another busy year for legislation, with 25 pieces of primary legislation adopted. While the number of laws passed in 2018 did not exceed the volumes seen in previous election years, a large number of the pieces of legislation were passed before the election, many of which were of a high political, economic or constitutional significance. These included new legislation to reform criminal procedures and sexual offences, to implement strict new data protection requirements and to prepare for Brexit. The nature and significance of the legislation passed in 2018 made it a demanding and successful year for the Advice team, which was closely involved in the development of all of the Government's key legislation priorities and with supporting the Government and States members during the legislative and scrutiny processes.



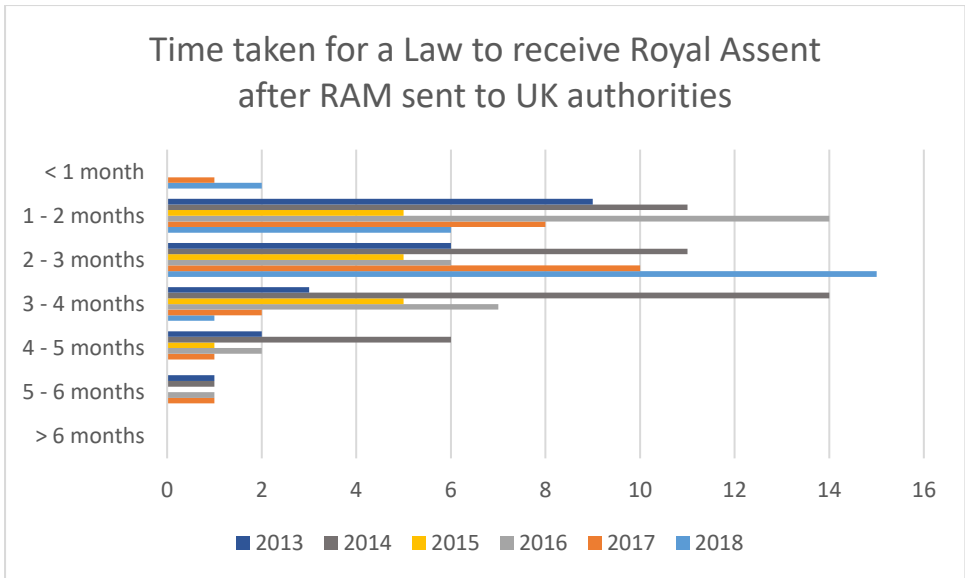
The Attorney General has a duty to report to the Privy Council following the adoption of primary legislation by the States so that Royal Assent may be sought; and to draw to the attention of the Privy Council any features of that legislation which might affect the interests of the Crown. This duty is fulfilled by the submission of a Royal Assent Memorandum ("RAM") in respect of each draft Law to the Ministry of Justice via His Excellency the Lieutenant Governor. Each RAM is prepared by the Law Officers' Department expeditiously, with the aim to complete the RAMs and forward them to the Privy Council via the States Greffe within 10 days of their being forwarded to the Law Officers after being adopted.

The Advice team has continued to improve on the efficiency of the process for attaining Royal Assent. Notwithstanding the higher volume of work undertaken in 2018, there has been an improvement in performance towards this target in 2018, with a higher percentage of RAMs being completed within the target. This improvement, partly due to an improvement in staffing levels in 2018 is expected to continue in 2019.



In years prior to 2013 it was not uncommon to have to wait between six months and a year for a Law to receive Royal Assent after it was forwarded to the Privy Council. In 2018 over 95% of new laws received Royal Assent within three months from their being forwarded, an increase of 15% on 2017. The reason for this can be attributed to a range of factors, including the good working relationships with officials in the Crown Dependencies Team at the Ministry of Justice (MoJ) and the more frequent involvement of lawyers at the Law Officers' Department in developing legislation for consideration by the States, thereby reducing the scope for legal issues to be raised at a late stage in the process.

The following table demonstrates the time taken for a Law to receive Royal Assent following the transmission of the Royal Assent Memorandum to the UK authorities.



It is very rare for Royal Assent to be given to a Law less than one month after adoption, because the Privy Council timetabling requires papers to be submitted to Ministers around six weeks prior to a sitting. However, this was achieved in 2018 through close liaison between

Law Officers' Department and MoJ lawyers to ensure that Jersey's data protection legislation could be submitted to the Privy Council as soon as it was forwarded to ensure it was in place in good time before the EU's General Data Protection Regulations came into effect. In fact, Jersey's new data protection legislation, which the Law Officers' Department was closely involved in developing, was in place before the GDPR implementing legislation of 25 of the 28 Member States of the EU.

A petition was submitted in 2018 requesting Royal Assent be withheld for the Criminal Procedure (Jersey) Law. This process has the potential to hold up the enactment of primary legislation without good reason. The Advice team were able to respond quickly and effectively to the petition to ensure the Law's approval, but further work may be taken forward with MoJ in 2019 to avoid the delay that such petitions have the potential to cause arising in future.

At the time of publication of this review, all laws have received Royal Assent.

2018 also saw the drafting and lodging of the Damages (Jersey) Law 2019 which was passed by the Assembly in 2019. The Damages Law is an important piece of legislation; it fixes the discount rate for calculating damages claims in personal injury claims and puts the award of annual payments by way of damages under a periodical payments order on a statutory basis. The legislation has proved successful in reducing the complexity and cost of large personal injury cases, allowing the Government and insurance company to better plan for provisions in such cases. The Law Officers' Department substantially contributed to the legislation.

Orders in Council

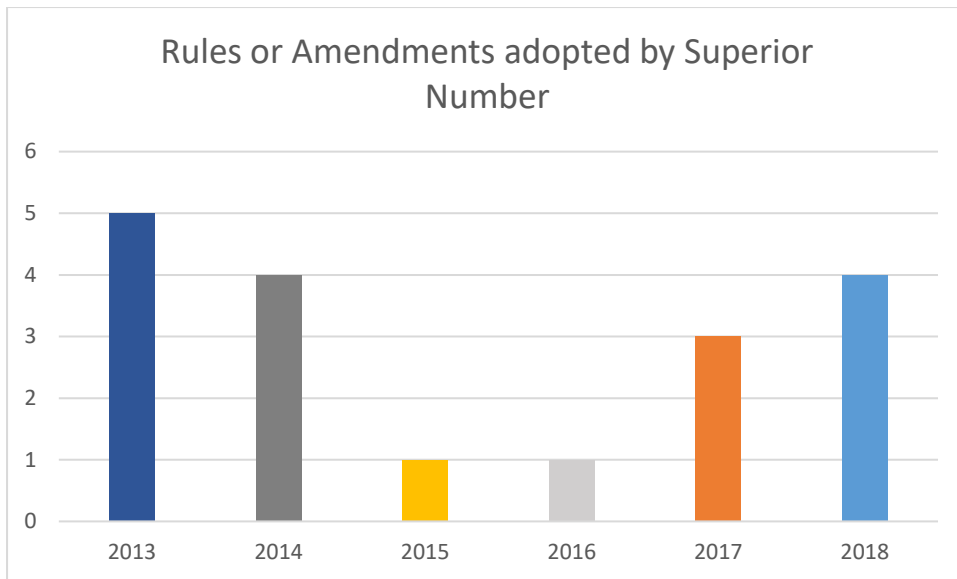
During 2018, two Orders in Council extending UK Acts of Parliament (with modifications) were registered by the Royal Court relating to immigration biometric registration and information. The Law Officers' Department is responsible for drafting the text of such Orders in Council alongside legal advisers in the relevant UK lead department and in the MoJ; and assists in the process for remitting the Orders through the official channel for registration by the Royal Court.

Proposals to prepare a consolidated Order in Council in respect of immigration legislation, which will make the process for extending future enactments much simpler and quicker has been substantially progressed during 2018, with a view to all relevant UK legislation in this area being re-extended in 2019.

Rules of Court

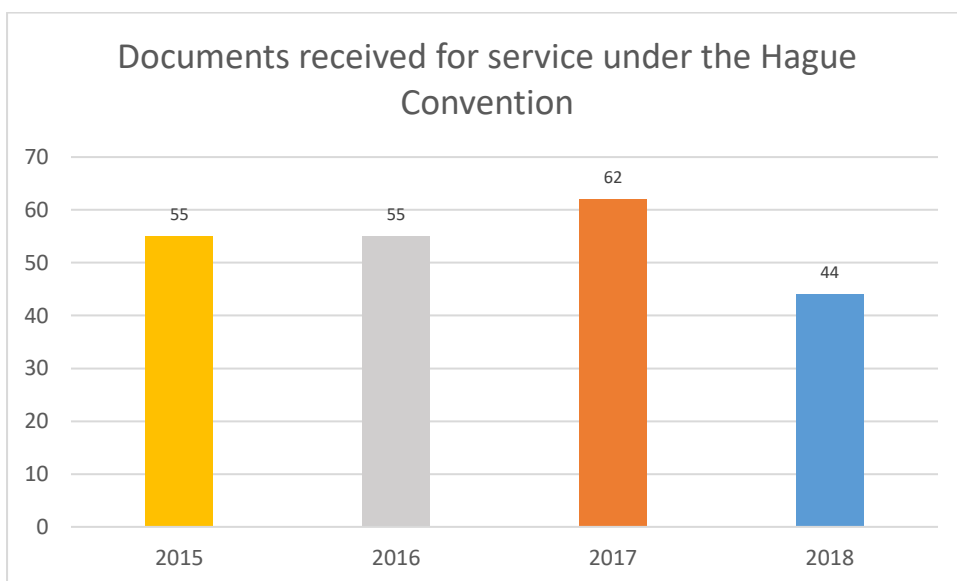
Rules of Court are made by the Superior Number of the Royal Court under powers contained in the Royal Court (Jersey) Law 1948 or powers conferred on it by other legislation. The drafting function belongs to the Judicial Greffe, but the Law Officers' Department assists with the discharge of that function.

Between 2013 and 2018 the number of Rules or Amendments to Rules adopted by the Superior Number was as follows:



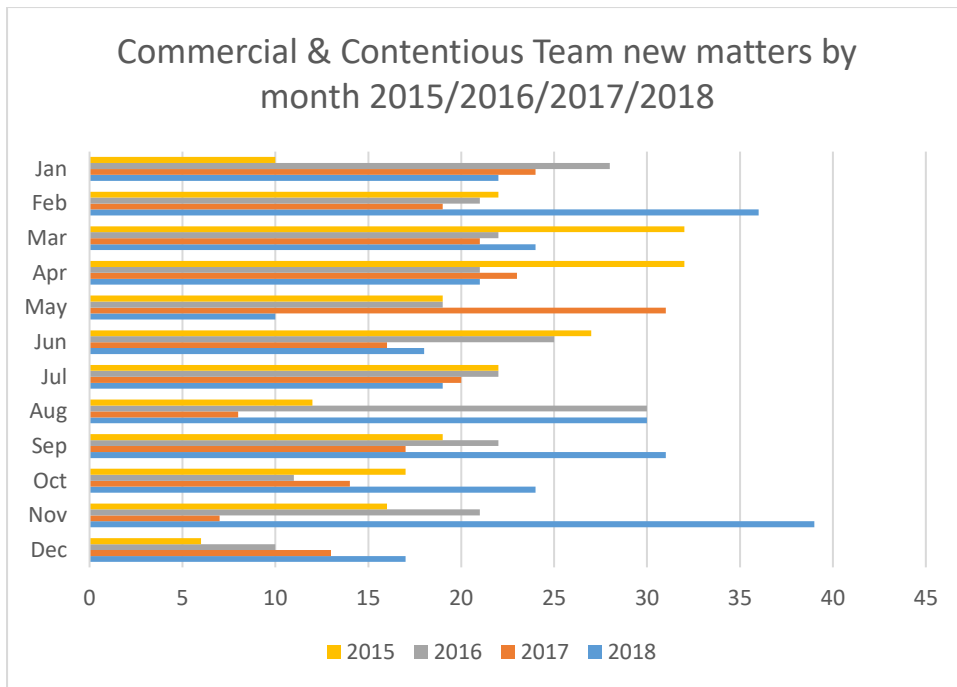
Hague Convention – service of documents

The Advice Team is also responsible for the administration of requests from overseas authorities for the service of judicial documents under the 1965 Hague Convention on the Service of Documents. The number of documents received for service is shown in the table below:



Commercial and Contentious Team

In 2018 the Commercial and Contentious Team opened an average of 24 new matters a month, compared with 18 in 2017, 21 in 2016 and 19 matters per month in 2015. The monthly breakdown of new matters is shown in the table below:



Commercial / Projects

During 2018, the Commercial and Contentious team continued to provide advice in respect of numerous high profile commercial and public law matters.

The team advised on a broad sweep of advisory work, including:

- a) contractual/procurement issues and negotiations;
- b) legal advice supporting significant Government of Jersey programmes/projects;
- c) advice on investment documentation;
- d) the formation of planning obligation agreements;
- e) supporting the Public Elections team;
- f) advice in respect of the use of compulsory purchase powers;

General and planning matters

The Commercial and Contentious team has conduct of all civil litigation matters (excluding safeguarding cases) for the Department.

Team members are on the record for a wide spectrum of contentious work involving the Government of Jersey.

Matters of note from 2018 included:

- a) hearings in the Court of Appeal;
- b) breach of contract litigation;

- c) advice to the Minister for Planning and Environment and senior officers on several high profile/sensitive matters;
- d) tax matters, where the team anticipates a significant increase in activity;
- e) representation at various Tribunals, including the challenging terrain of discrimination law;
- f) the first ever referral under the Wills and Succession Law to the Inferior Number on the question of the suitability of a former bankrupt to be appointed as executor of an intestate's estate (where a team Legal Adviser appeared on behalf of Judicial Greffier);
- g) National Risk Assessment: a team Legal Adviser led on this important project, working closely with the Criminal Division, the States of Jersey Police, the JFSC and the wider Government of Jersey.
- h) judicial reviews/applications for leave relating to immigration and asylum matters.
- i) Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018: a team Legal Adviser contributed heavily to its policy development and drafting instructions, with the first application made and granted within one week of the Law coming into force (working in tandem with the ECCU team).

Employment and Discrimination

The Employment and Discrimination Legal Advisers within the Commercial and Contentious team act for the States Employment Board (SEB), the largest employer on the Island. The team provides advice in respect of any employment matters that are raised by or on behalf of the SEB. In 2018, this included advice in respect of the organisational restructure of the public service and the introduction of an Employment Quarterly Review programme (hosted by a Legal Adviser from the team and presenting to HR Managers and Business Partners across the organisation).

One Legal Adviser participated in a highly successful secondment to the Chief Operating Office (People Services), accentuating the benefits of collaborative working.

The team also regularly attends the SEB and represents it at the Jersey Employment and Discrimination Tribunal.

Clinical negligence

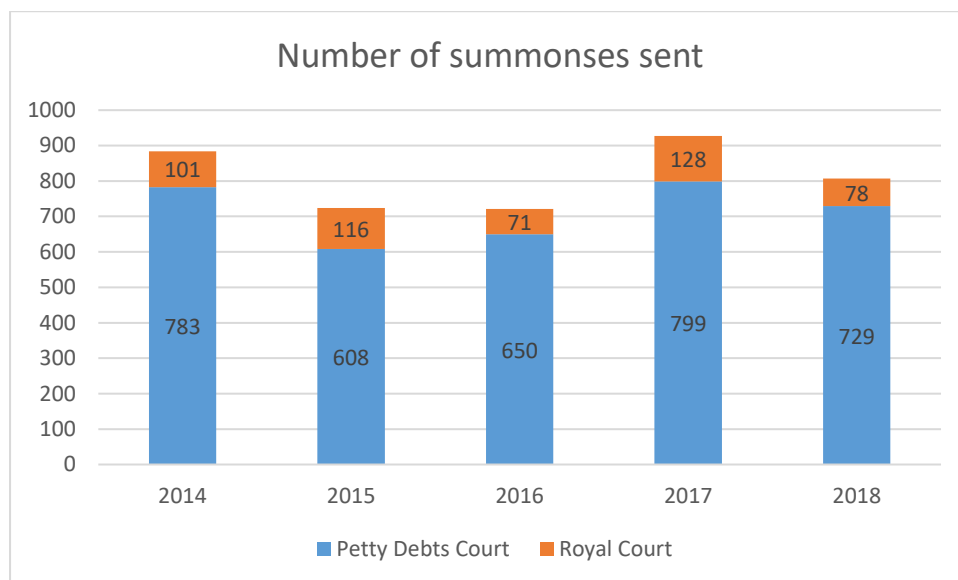
The Commercial and Contentious team advises the Minister for Health and Social Services in clinical negligence claims. The team has a dedicated Legal Adviser (with support from two Assistant Legal Advisers), who works closely with colleagues in the Health and Community Services Department, insurers and medical defence organisations in this complex and highly specialist area.

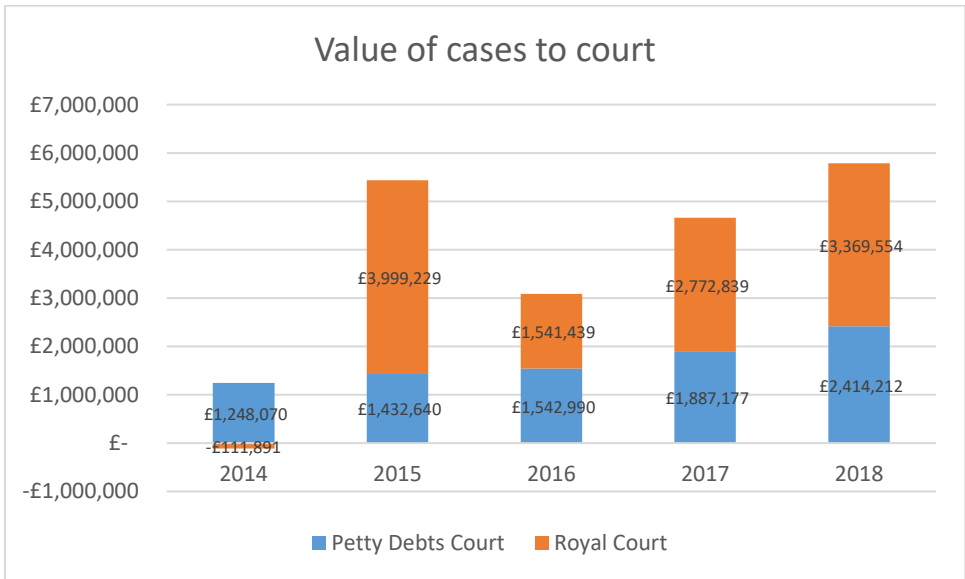
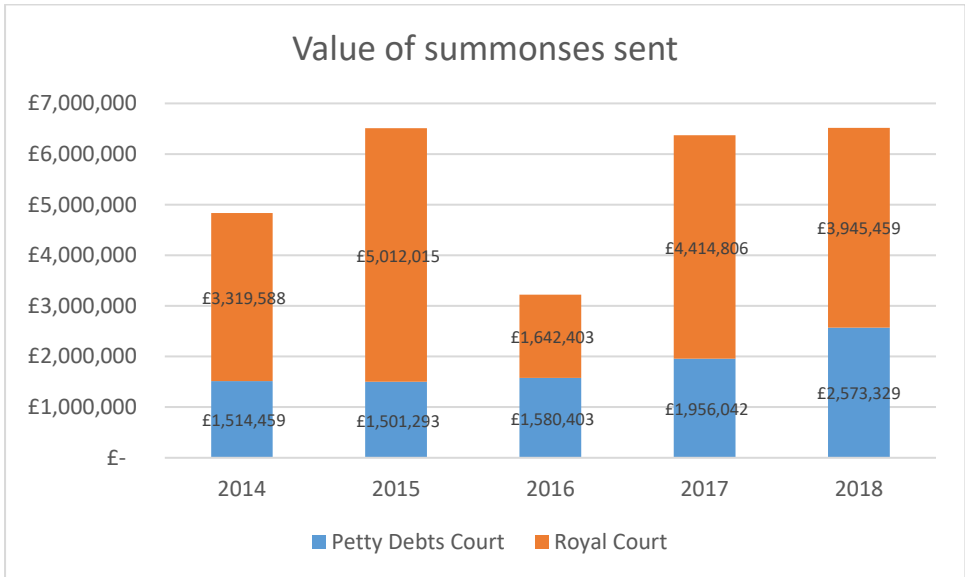
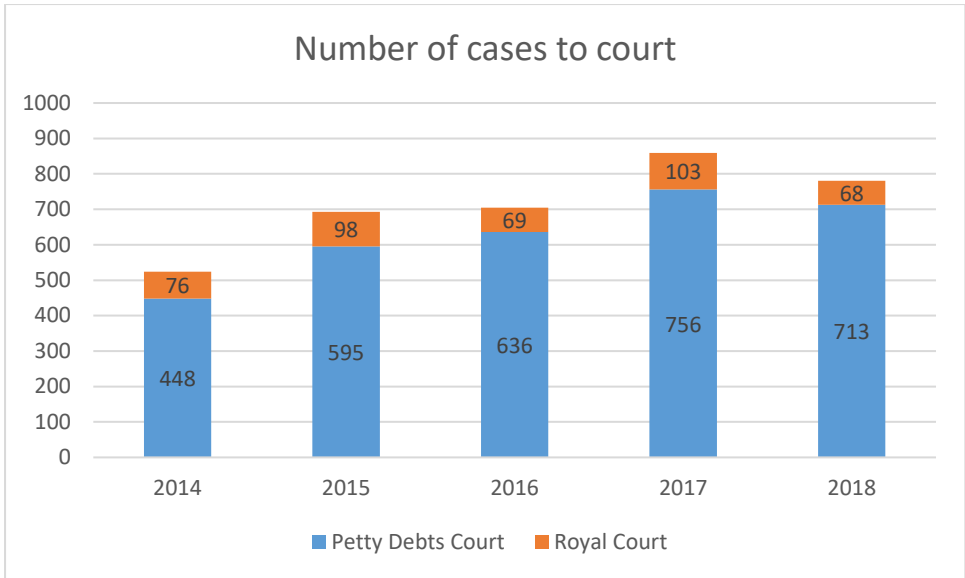
Information and data protection

The Commercial and Contentious team has continued to provide legal support to the States Central Freedom of Information Unit in another busy year. The team has also been active in offering training across the organisation in data protection/FOI, in supporting the implementation of the Data Protection (Jersey) Law 2018 and actively contributing to important work on data sharing.

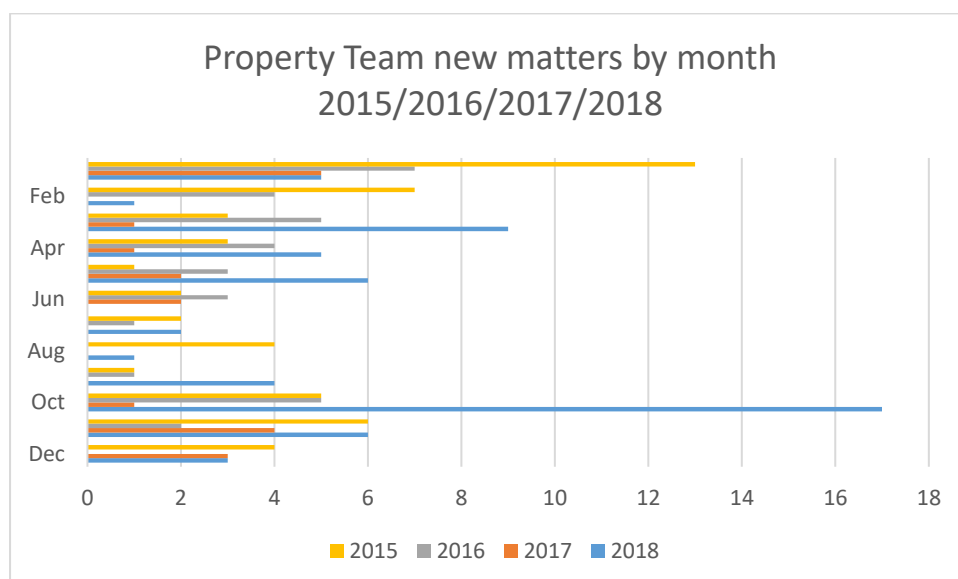
Debts

The Department also has the responsibility to process debt collection through the courts on behalf of Government of Jersey Departments. This work provides significant income for the Government as a whole. Members of the Commercial and Contentious Team, as well as advocates from elsewhere in the division, operate a rota system of appearing in the Petty Debts Court. Members of the team are responsible for regularly liaising with the Debts Service regarding issues and answering any legal or procedural queries that arise.





Property Team

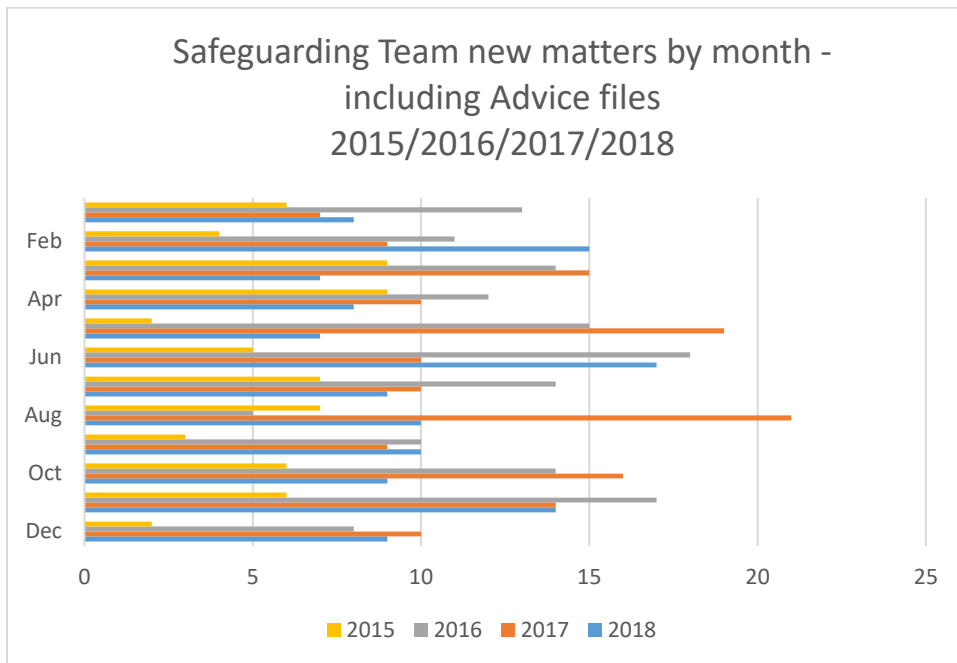


The Property Team completed the following transactions before the Royal Court:

Transactions	2015	2016	2017	2018
Property sales (inc sale of rights)	42	33	20	5
Property purchases	1	3	9	3
Deeds of arrangement	7	5	3	5
Party to contracts	15	4	10	8
JEC contract leases	2	1	0	0
Other contract leases	2	3	9	10
Gift, cession and transfers	7	8	3	7
Exchange and counter-exchange	2	0	0	0
Mortgages secured by simple conventional hypothec	13	0	0	0
Mortgages registered as judicial hypothecs	0	11	4	0
Rembours (reimbursements of States loans)	22	24	15	14
Gross Values				
Sales completed on behalf of the Public or the Crown	£8,964,138	£8,355,460	£6,365,675	£1,628,488
Purchases completed on behalf of the Public or the Crown	£577,500	£641,500	£1,162,210	£969,976
New loans registered – judicial hypothec	£1,105,051	£691,500	£135,900	0
JEC leases annual receipts	£1,980	£990	0	0
Crown leases annual receipts	£5,000	£99	0	£100
Public leases annual receipts	£150	£443,753	£4,926	£135,448
Considerations on deeds of arrangements	£500	£4,500	£10,000	£32,500
Legal fees recovered	£36,450	£61,735	£26,100	£12,420

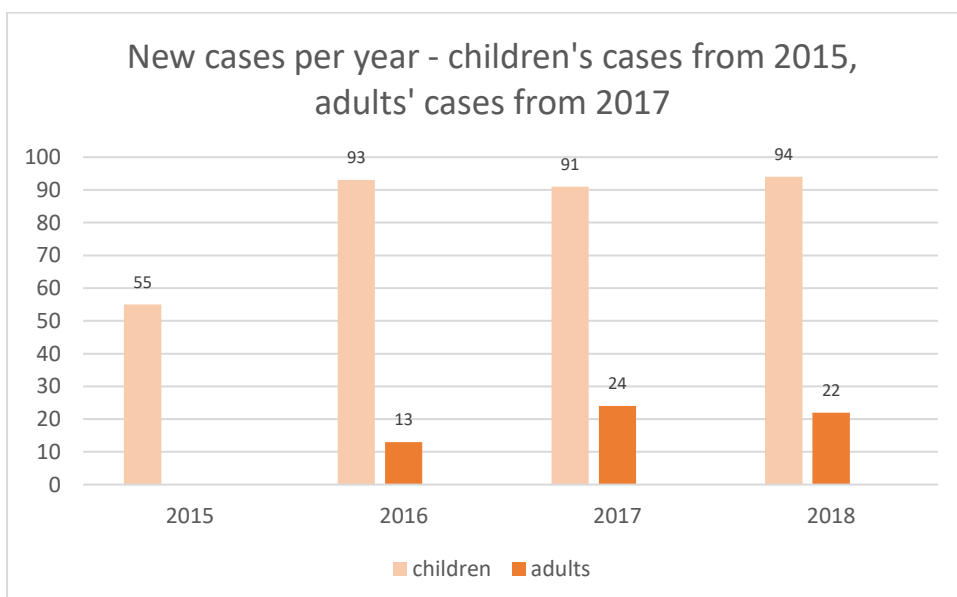
Safeguarding Team

The team's remit was expanded in 2017 to provide advice, primarily to the Health & Social Services Department, in relation to adult as well as children's safeguarding matters. The team acts for the Children's Service in applications for various public law children's orders and for adult social services in relation to mental health and capacity issues. These matters can be extremely urgent and time-consuming. Given that these cases concern vulnerable children and adults, they are of vital importance.



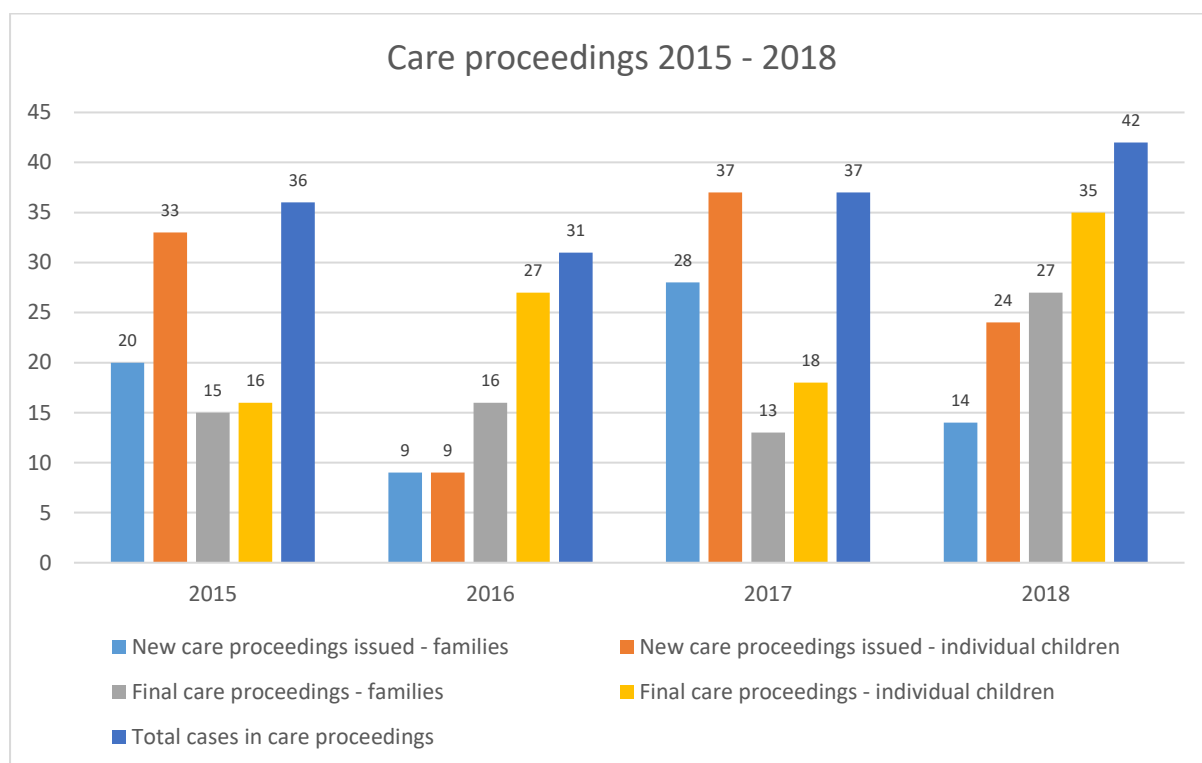
There was a significant increase in referrals relating to specific children in 2016, this figure has been sustained in 2017 and 2018.

The following chart also shows new referrals for adult cases, which have been formally recorded since 2016:

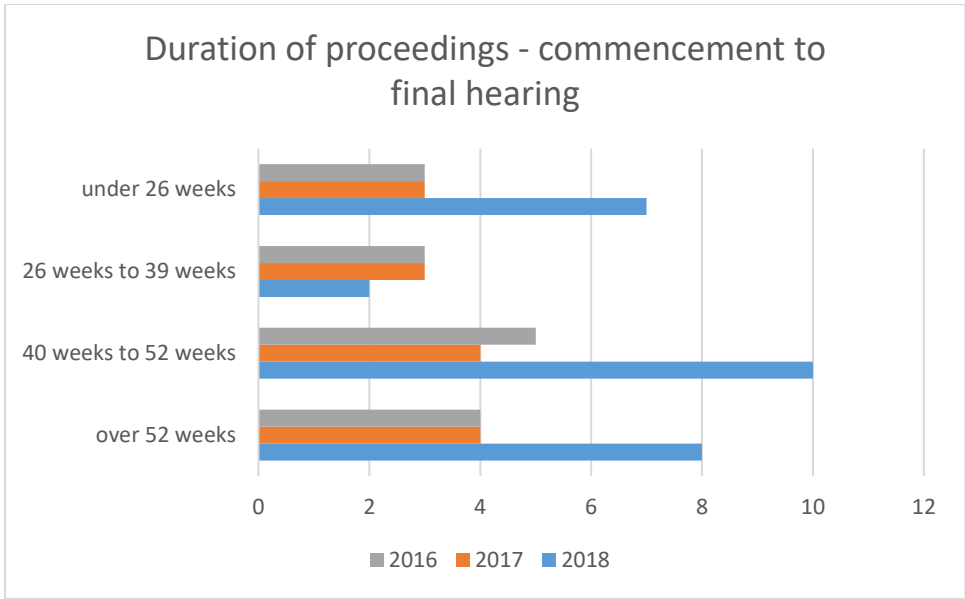


During 2016 the Children’s Service adopted a pre-proceedings process, designed to avoid court proceedings. The process is triggered when the Children’s Service is considering issuing care proceedings and is designed to ensure that the child and family are clear about the nature of the concerns and about what is expected of them to avoid care proceedings being issued. During 2018 there were thirteen cases in pre-proceedings, of which two have entered into proceedings. The remainder have either concluded satisfactorily or are continuing. This means this process has been successful in avoiding the need for some children to be made subject to care proceedings and has allowed those children to remain with their families.

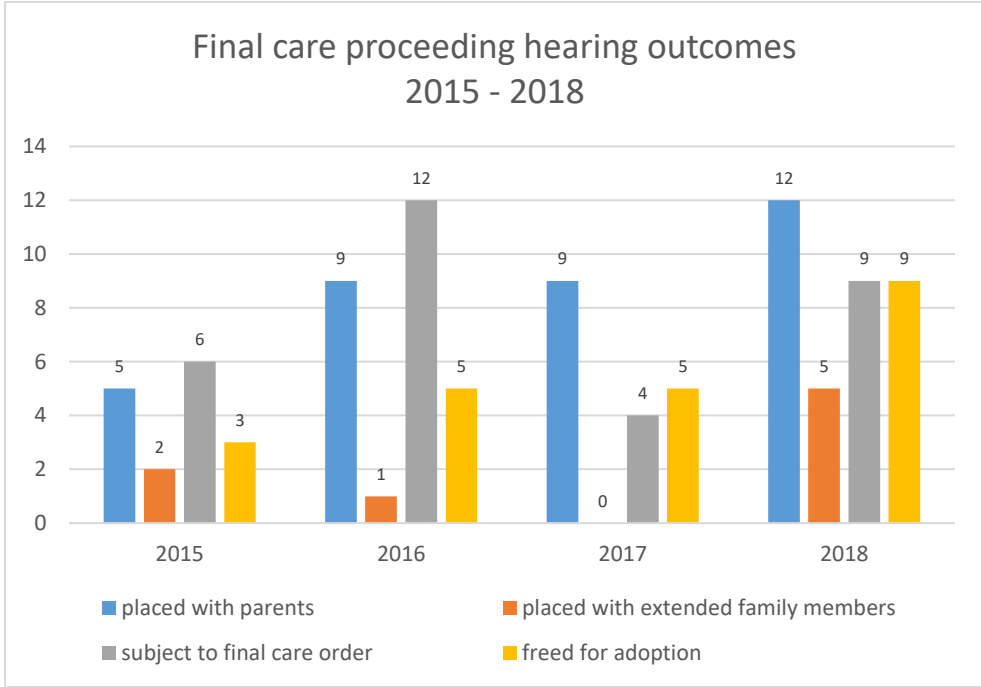
The following table shows the number of new care proceedings, final care proceedings and total cases in care proceedings each year since 2015:



There were 97 hearings in 2018. Of the 27 final hearings, the shortest period in proceedings (i.e. from the date of the application to the last day of the last hearing) was two weeks and the longest was 92 weeks. The average period in proceedings was 42 weeks. Sometimes the time taken to assess parents and other family members for their suitability as caregivers takes a significant period of time. The following table shows the duration of the proceedings which led to final hearings in 2016, 2017 and 2018:

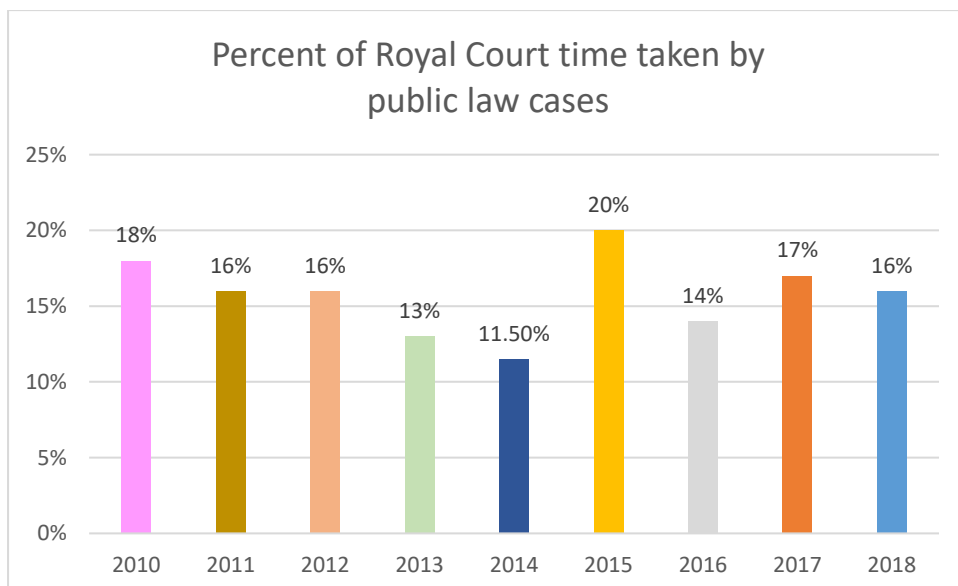


The outcome of a final care proceeding hearing will be the decision to place children either with their parents or extended family members, or for the children to remain subject to a final care order, or to be freed for adoption. The final care proceeding outcomes since 2015 are shown in the following table:



Children’s public law cases require a significant amount of court and preparation time, often at very short notice.

The following table shows the percentage of Royal Court time taken by public law cases in the last nine years:

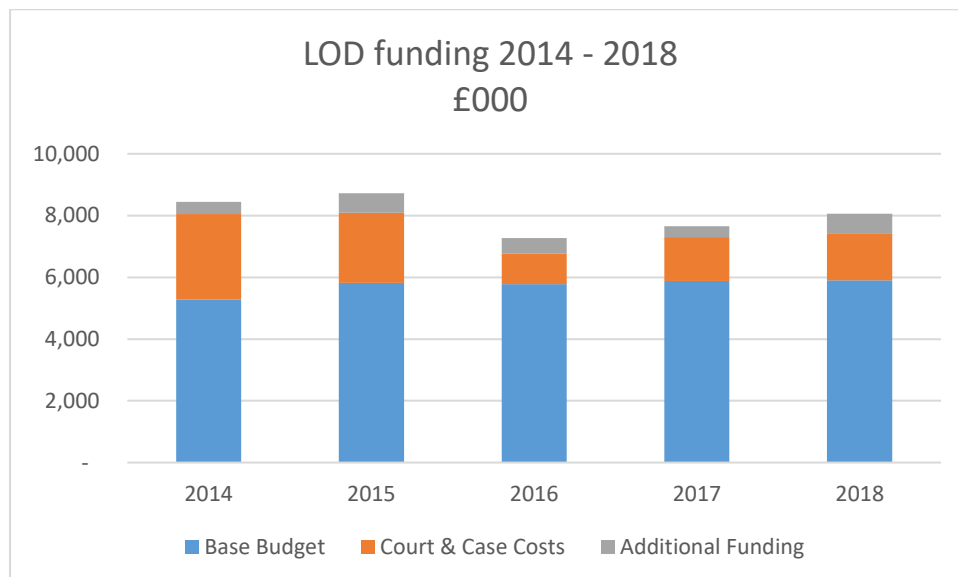


Financial resources

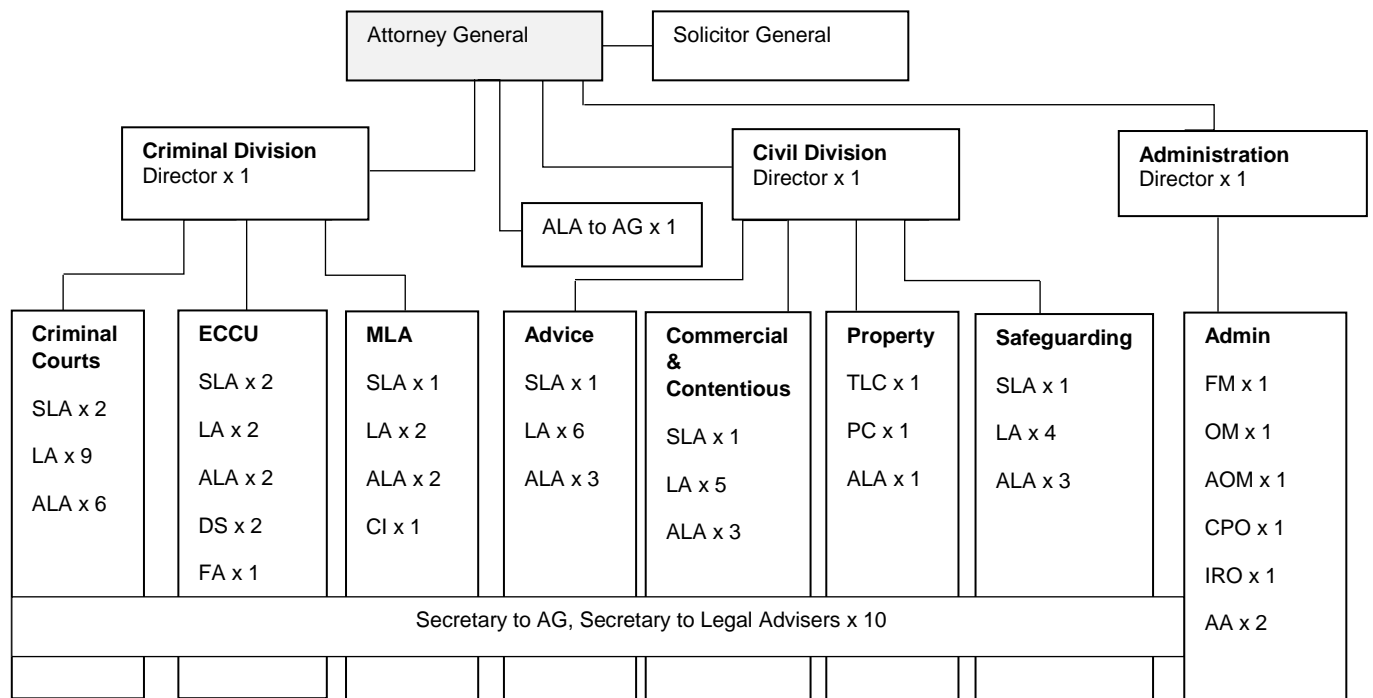
As a non-ministerial department, the Law Officers' Department receives funding from the Government of Jersey and adheres to the Financial Directions as set out by the Treasurer of the States under the Public Finances (Jersey) Law 2005.

The work of the Law Officers' Department has increased substantially since the start of the current Medium Term Financial Plan (MTFP) in 2016, with the establishment of the Economic Crime and Confiscation Unit in 2017 (as referred to on page 5), increased work in Children's and Adult Safeguarding and for Brexit preparations. Despite these significant increases in workload, efficiency savings established during this MTFP have enabled the department to operate with less funding than in 2014 and 2015.

The department's operations in this MTFP can be summarised as *delivering more for less*. The savings commitment will continue into the final year of the MTFP (2019) and into the Government Plan (2020 – 2023).



Appendix 1 – Law Officers’ Department Organisation Chart 2018



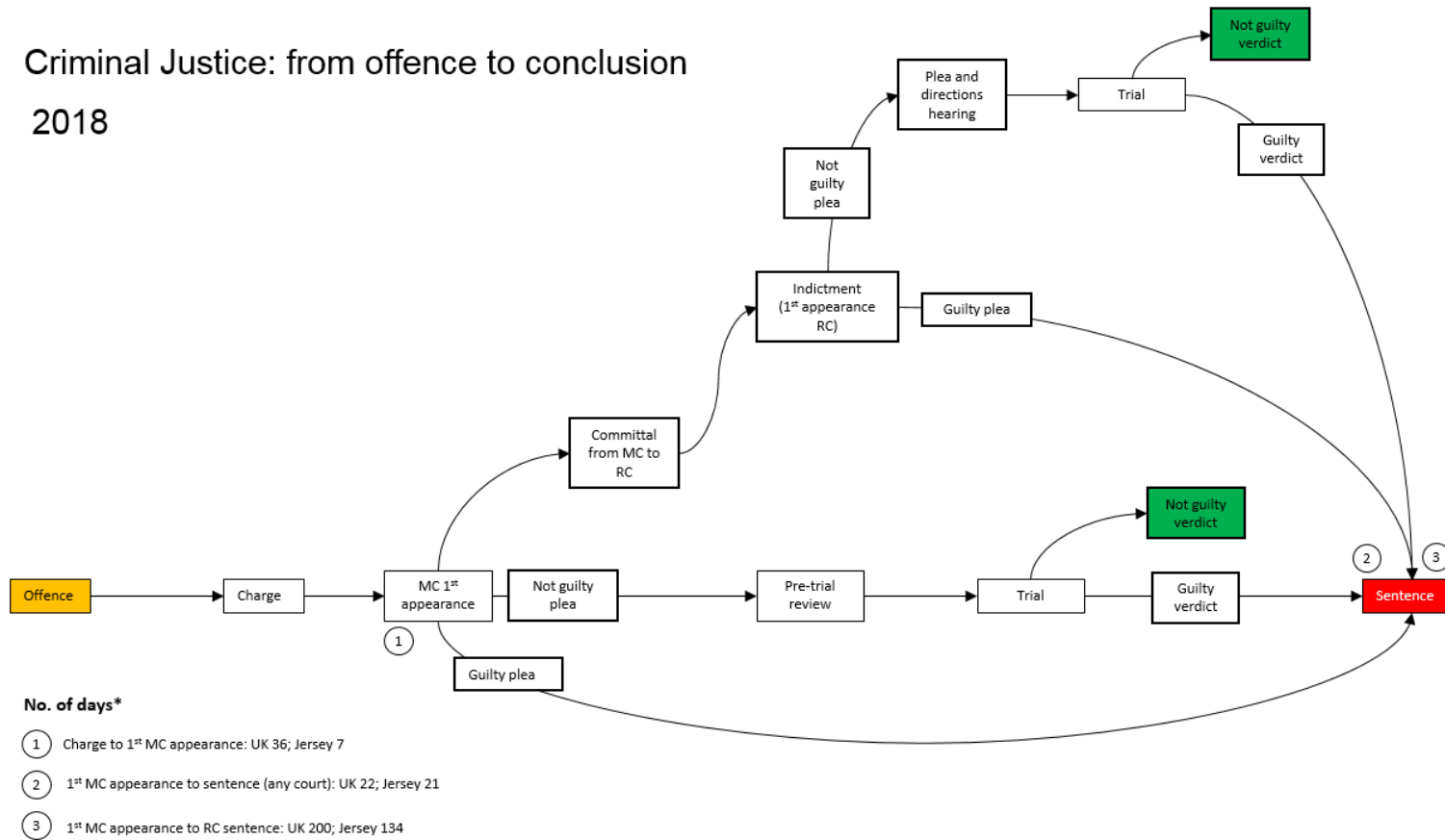
Notes

Headcount in this chart is by individual, not by 'Full Time Equivalent' (FTE). The headcount was correct at 31 December 2018 and does not include authorised vacancies.

- AA: Administration Assistant
- AG: Attorney General
- ALA: Assistant Legal Adviser
- AOM: Assistant Operations Manager
- OM: Operations Manager
- CI: Civilian Investigator
- CPO: Court Proceedings Officer
- DS: Detective Sergeant
- ECCU: Economic Crime and Confiscations Unit
- FA: Financial Accountant
- FM: Finance Manager
- IRO: Information and Records Officer
- LA: Legal Adviser
- MLA: Mutual Legal Assistance
- PC: Project Conveyancer
- SG: Solicitor General
- SLA: Senior Legal Adviser
- TLC: Team Leader - Conveyancing

Appendix 2 – Criminal Justice KPIs

Criminal Justice: from offence to conclusion
2018



* Source: UK figures from National Audit Office report 2015, Jersey figures from Daisy2 2018, accessed on 16/07/2019.