



The Law Officers' Department

Annual Review 2019

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Introduction by HM Attorney General Mark Temple QC

The Annual Review for 2019 represents the last year in which Robert MacRae QC was HM Attorney General for Jersey as he was appointed Deputy Bailiff on 6 January 2020. The achievements presented in this Review are therefore his and of the Law Officers' Department collectively, but I am delighted to highlight a few of them in this introduction.

Firstly, the Criminal Procedure (Jersey) Law 2018 came into force in two phases on 17 July and 31 October 2019. Covid-19 has interfered with the legislative timetable but it is hoped that the remaining provisions of the Law and accompanying Regulations and Rules of Court will be brought into force by the States Assembly by an Appointed Day Act before the end of this year. The Law represents a major overhaul and update of procedure for criminal prosecutions dealt with by the Jersey courts.

Secondly, the Economic Crime and Confiscation Unit (ECCU) secured a substantial confiscation under the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018 in the case of the Truk Settlement. This resulted in approximately US\$11,000,000 being paid into the Criminal Offences Confiscation Fund. The remaining balance of approximately US\$6,000,000 was shared between three charities, including a Jersey charity.

Thirdly, in October 2019 the Law Officers' Department obtained accreditation by Lexcel, which is the Law Society of England and Wales' legal practice quality mark. This provides independent assessment of the Department's standards for excellence in practice management and client care. The Lexcel assessor concluded that "the Department is extremely well managed and organised and in particular proved itself to be very strong in the area of people management", and that "the Department demonstrated a truly supportive wellbeing environment."

In July 2019 the Department created a new team to administer the Redress Scheme established in response to the findings of the Independent Jersey Care Inquiry. As at 31 December 2019 some 80% of the applications received had been concluded with 18 applications rejected and 134 claims settled in accordance with the Scheme.

Finally, in 2019 the Department continued to deliver more for less in terms of financial resources received from public funds. Despite continued increases in workloads in 2019 the Department successfully operated with less funding than it received in 2014 and 2015.

I am extremely grateful to all the members of the Department who have delivered this excellent performance.

Mark Temple

HM Attorney General QC

About the Law Officers' Department

What we do

- Provide legal advice to the Government, the States Assembly and the Crown
- Provide an independent public prosecution service for the Island
- Protect the interests of the Crown and Government in civil proceedings
- Help safeguard children and adults at risk
- Assist overseas law enforcement agencies

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 Courts Team; the Economic Crime and Confiscation Unit (ECCU); and the Mutual Legal Assistance Team.

The **Criminal Courts team** prosecutes cases before the Royal Court and the Magistrate's Court, and gives advice to the States of Jersey Police and the Honorary Police. The team 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. The team consists of nine staff: six Legal Advisers and assistants, two Detective Sergeants and a forensic accountant.

The **Mutual Legal Assistance team** handles 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 ten 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, personal injury claims, general civil litigation and applications for judicial review.

The **Safeguarding team** consists of ten 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 Team also provides advice in relation to vulnerable adults and those who lack mental capacity.

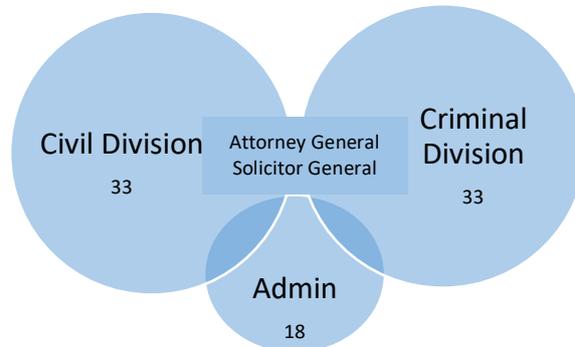
The **Property team** consists of three members of staff who advise on all property related matters and who deal with conveyancing work on behalf of the Public of the Island and the Crown.

In 2019 a temporary fifth team was added to the Civil Division, consisting of a Legal Adviser and an Assistant Legal Adviser, to administer the **Redress Scheme** for the Government of Jersey. This scheme is designed to provide redress for people who, as children, were abused or suffered harm in a Government of Jersey Children’s Home or foster care or while accommodated at Les Chênes between 1945 and 2005 and was set up in response to the findings of the Independent Jersey Care Inquiry.

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 the Public Finance Manual and Codes of Practice.

See the Organisation Chart at Appendix 1

Law Officers’ Department Headcount by Division
(at 31 December 2019)



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 legal advice to the Government, States Assembly and the Crown;
- 2) to provide an independent prosecution service for the Island;
- 3) to protect the interests of the Crown and the Government in civil proceedings;
- 4) to help safeguard children and adults at risk; and
- 5) to assist overseas law enforcement agencies.

Overview 2019

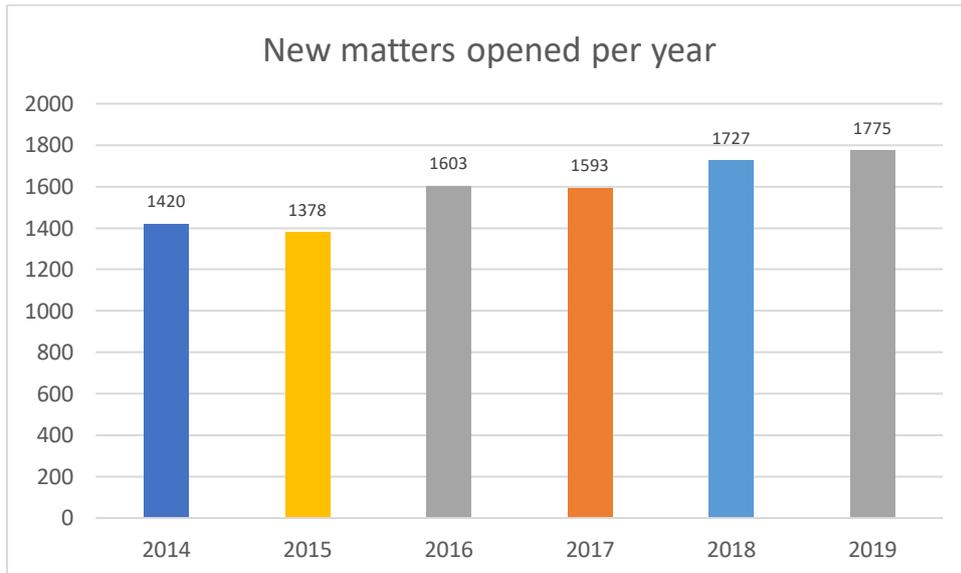
<p>January</p> <p>AG v Priestly: defendant sentenced to five years' imprisonment for historic sexual abuse.</p> <p>AG's supplementary direction published on personal amounts of certain controlled drugs.</p>	<p>February</p>
<p>March</p> <p>AG v Le Chevere: defendant sentenced to 15 years' imprisonment for sexual abuse.</p> <p>AG v Byrne: confiscation order of over £785,000 made against the defendant by the Royal Court in order to compensate victims.</p> <p>AG's direction published on the conduct of Parish Hall enquiries.</p>	<p>April</p> <p>AG v King: defendant sentenced to six years' imprisonment after a lengthy fraud case involving extradition of the defendant from Bahrain.</p> <p>AG v Daly: defendant sentenced to six and a half years' of imprisonment for breaching restraining orders and making indecent images of children.</p> <p>AG v Jordan: defendant sentenced to seven years' imprisonment for indecent assault and possessing indecent images of children.</p> <p>AG v Allen: defendant sentenced to eight years' imprisonment for rape and indecent assault.</p>
<p>May</p> <p>AG v Smitton: defendant sentenced to 17 years' imprisonment for importation of cannabis and heroin. Five others jailed for a total of 28 years for their involvement in the importation.</p> <p>AG v Dobrin, Dobre, Dobrin, Dianconu, Calin: defendants sentenced to a combined total of 50 years for rape.</p> <p>AG v Gordon: defendant sentenced to 16 years' imprisonment for historic sexual abuse cases.</p> <p>In preparation for the return of funds to Nigeria, over \$267 million paid in to the Civil Asset Recovery Fund from assets previously held by Doraville Properties from funds that had been laundered through the US banking system.</p> <p>United Nations anti-corruption conference in Vienna – presentation to over 100 countries on the Doraville case made by the Solicitor General.</p>	<p>June</p> <p>Volaw Trust and others v AG for Jersey: seven-judge Privy Council ruled in favour of the Attorney General confirming the powers of Jersey's Attorney General and Comptroller of Income Taxes to require the production of pre-existing documents where it is suspected that serious or complex fraud may have been committed.</p>
<p>July</p> <p>Redress Scheme set up in response to findings of Independent Jersey Care Inquiry, to be administered by Redress Team in the Law Officers' Department. The Law Officers' Department played an integral role with SPPP in designing the scheme which aims to provide an appropriate balance between damages for those who suffered abuse and the costs of administration of the Scheme.</p>	<p>August</p>

<p>Criminal Procedure (Bail) Rules 2019 implemented.</p> <p>Criminal Procedure (Jersey) Law 2018 – first phases implemented.</p>	
<p>September</p> <p>AG's guidance published: overnight detention of children and youths – issued September 2019.</p> <p>AG's guidance published: victims' right to review a decision not to prosecute.</p>	<p>October</p> <p>Routier & Another v the Commissioners for HMRC: judgment published in landmark Supreme Court case accepting Jersey Attorney General's argument on EU free movement of capital.</p> <p>AG v Larson: Royal Court delivered judgment in favour of the Attorney General in a long running investigation of fraud case.</p> <p>AG's guidance published: the service of evidence and disclosure of unused material.</p> <p>ECCU scoping visit to Nairobi to assess the capability of the Office of the Director of Public Prosecutions in prosecuting economic crime.</p> <p>Participation in the CARIN AGM in Bucharest, where the Law Officers' Department was presented with an award by the Australian Federal Police in recognition for work carried out for Australia.</p> <p>The Law Officers' Department awarded Lexcel accreditation for 'excellence in practice management and client care'.</p>
<p>November</p> <p>AG v Pryor, Quant: defendants found guilty of historic abuse.</p> <p>AG v Coleman: defendant pleaded guilty to multiple counts of fraud after complex investigation.</p> <p>AG's guidance published: bad character and hearsay provisions of the criminal procedure (Jersey) Law 2018</p> <p>AG's guidance published: contact by prosecution and defence lawyers with complaints and prosecution witnesses.</p> <p>AG's guidance published to members of the Honorary Police: the distribution of warrant cards.</p>	<p>December</p> <p>AG v Abu Dhabi Commercial Bank Jersey Branch: the bank entered a guilty plea to contraventions of the Money Laundering (Jersey) Order 2006 – the first major prosecution under the Order.</p> <p>AG v Cullen: defendant sentenced to 14 years' imprisonment for importation of £10m of heroin.</p> <p>First major confiscation under the Forfeiture Law 2018 – nearly US\$17m confiscated and split between the Criminal Offences Confiscation Fund and three charities.</p> <p>AG's guidance published: ECHR aspects of bail</p> <p>AG's guidance published: minimum unit pricing and off-licences</p>

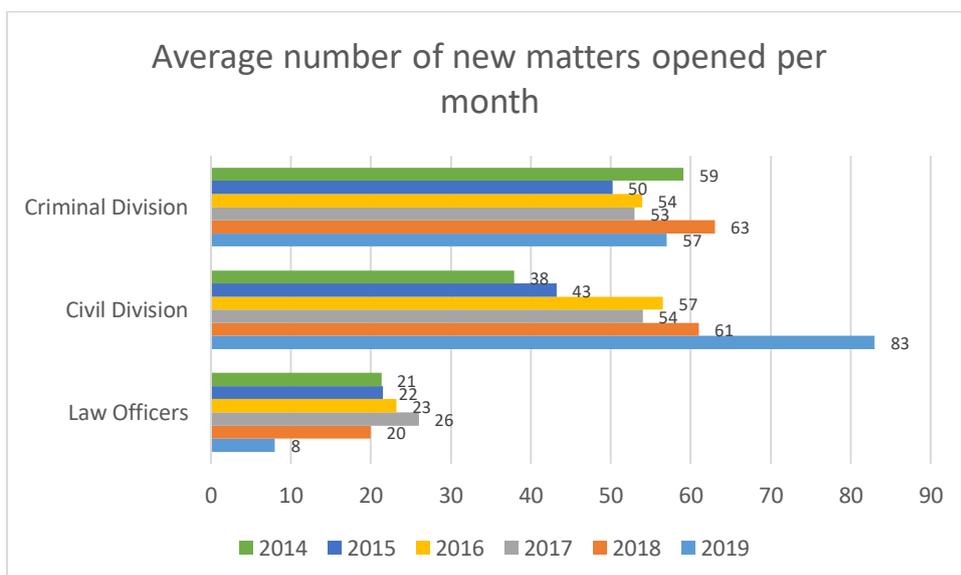
The work we do

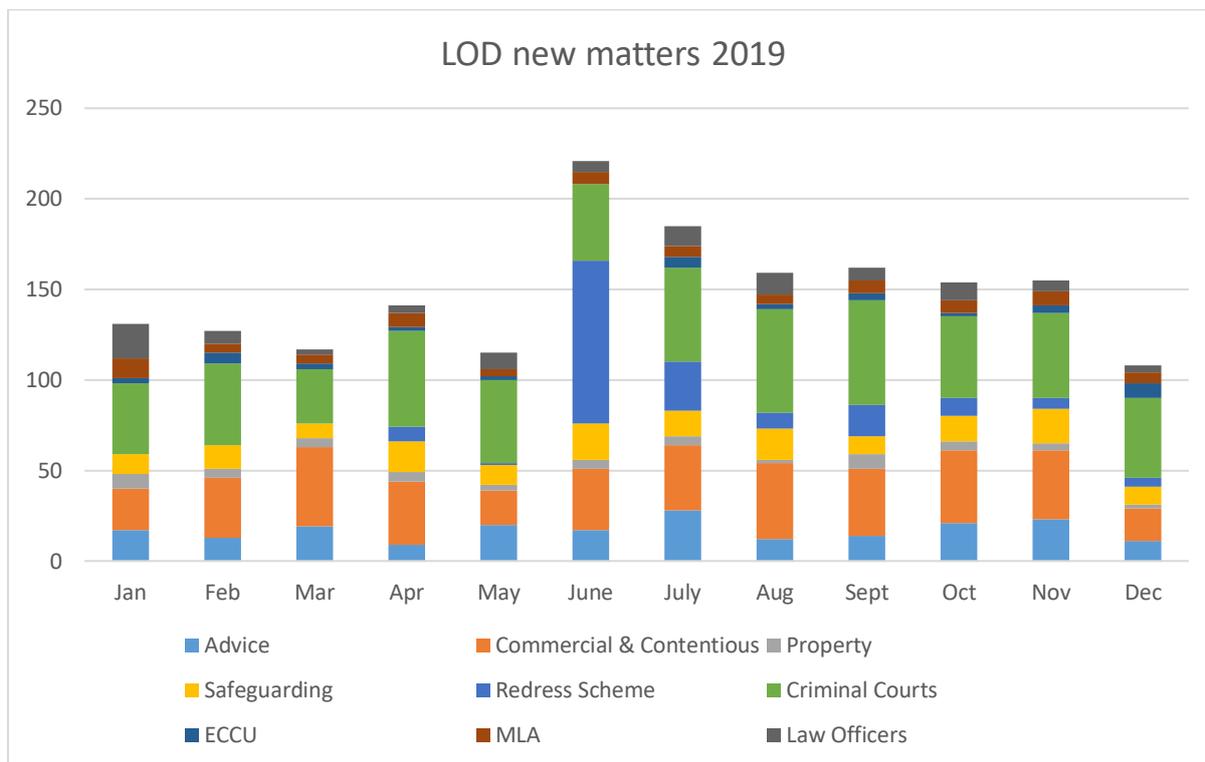
New Matters

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 2019 1,775 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: (Civil Division matters have increased as the Redress Scheme was taken on in July 2019 and the number of Law Officer matters have reduced as curatorships are no longer administered by the Law Officers' Department)



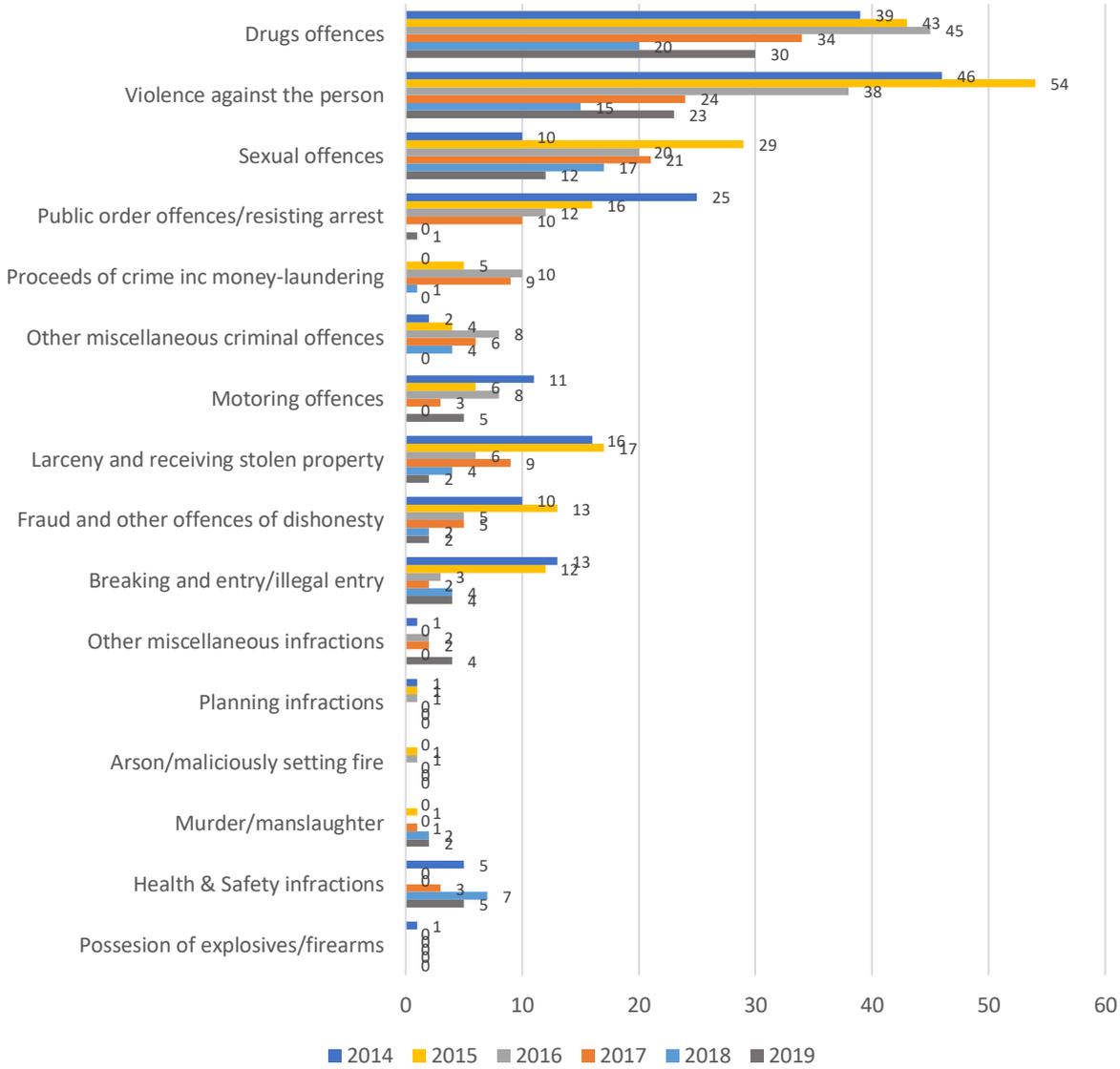


Criminal Division

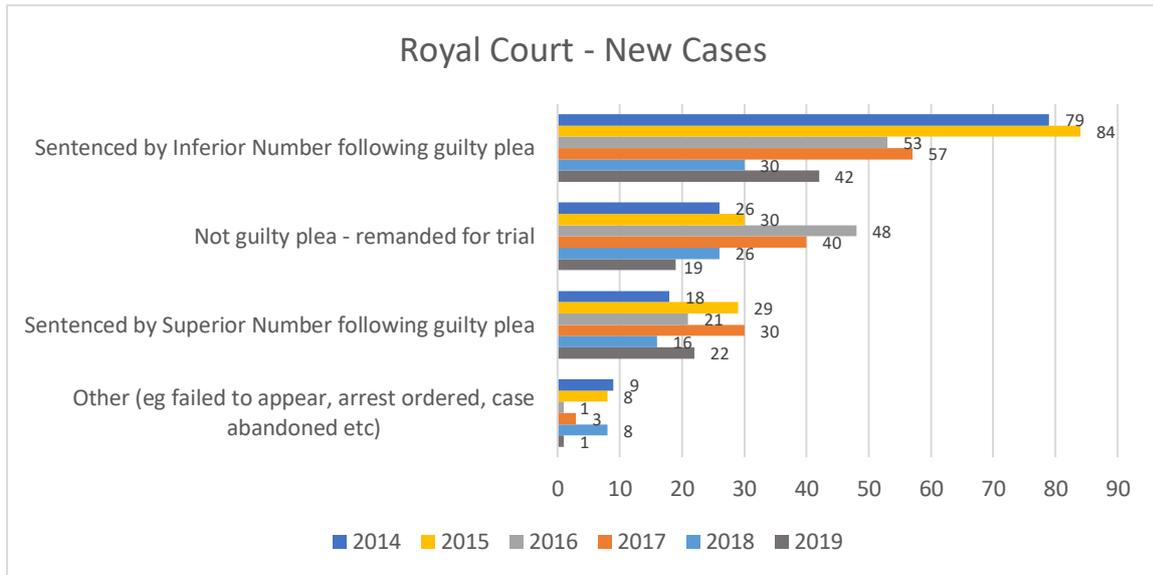
Criminal Courts Team

During 2019 a total of 90 new criminal prosecutions were committed from the Magistrate’s Court to the Royal Court or indicted directly to the Royal Court. This figure is higher than the 2018 figure (76 cases) but still reflects the move since 2018 to prosecute more cases in the Magistrate’s Court rather than the Royal Court (average number of Royal Court cases per year 2014 – 2017 was 167 cases).

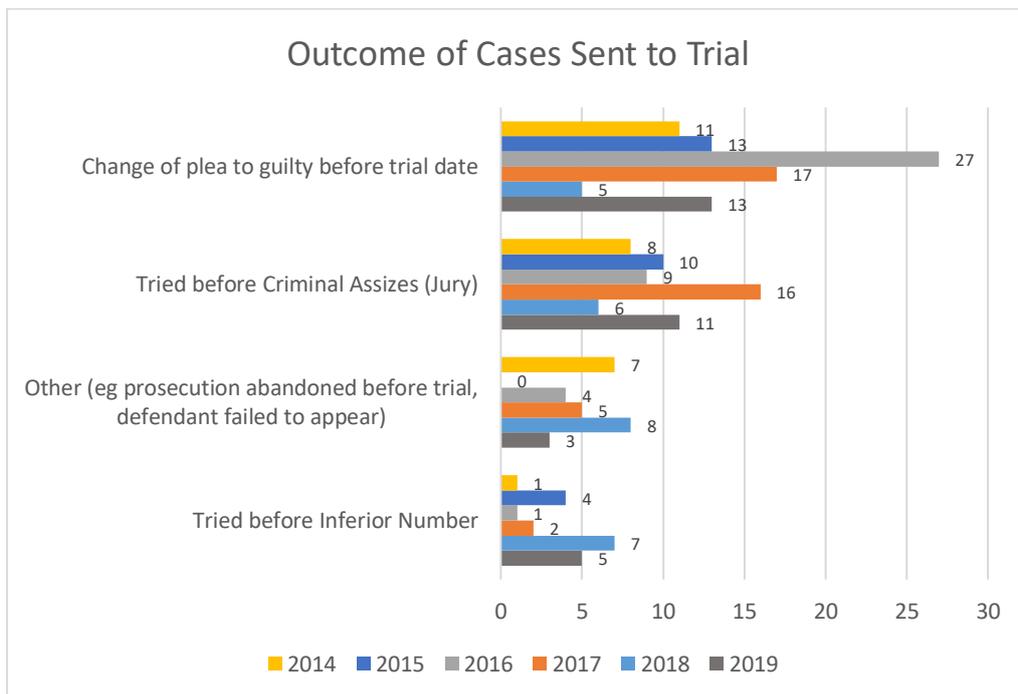
Royal Court Cases



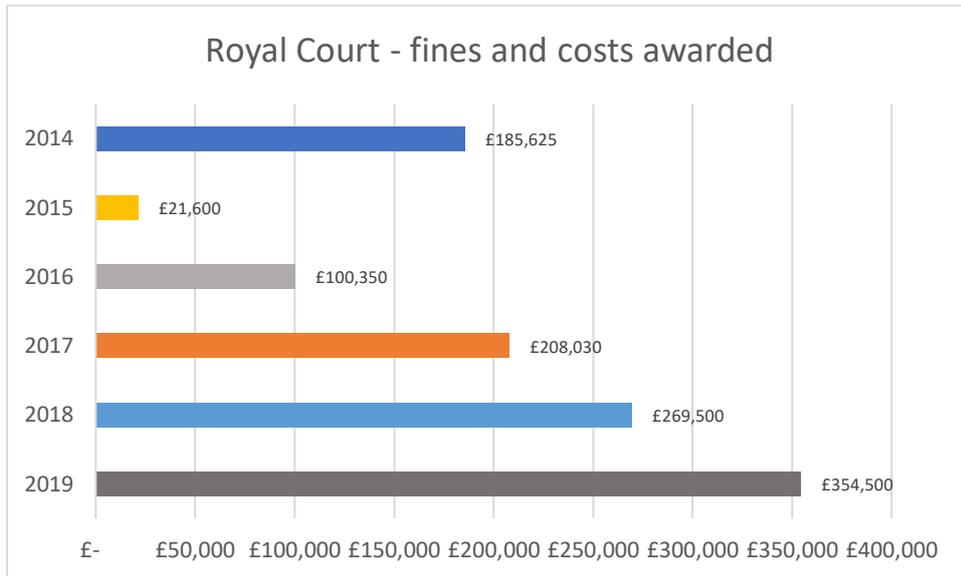
New cases at the Royal Court were dealt with in the following manner:



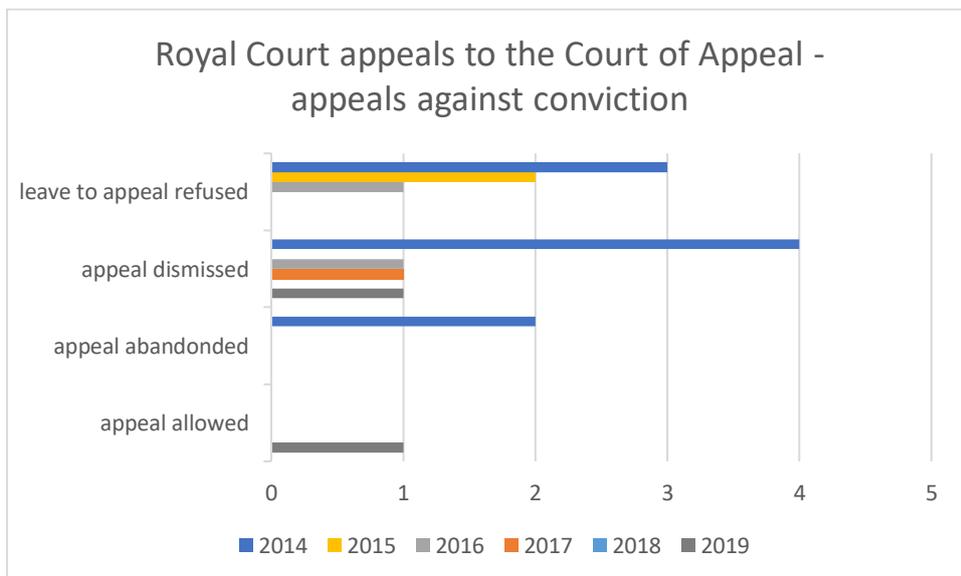
The outcome of the cases sent to trial were as follows:

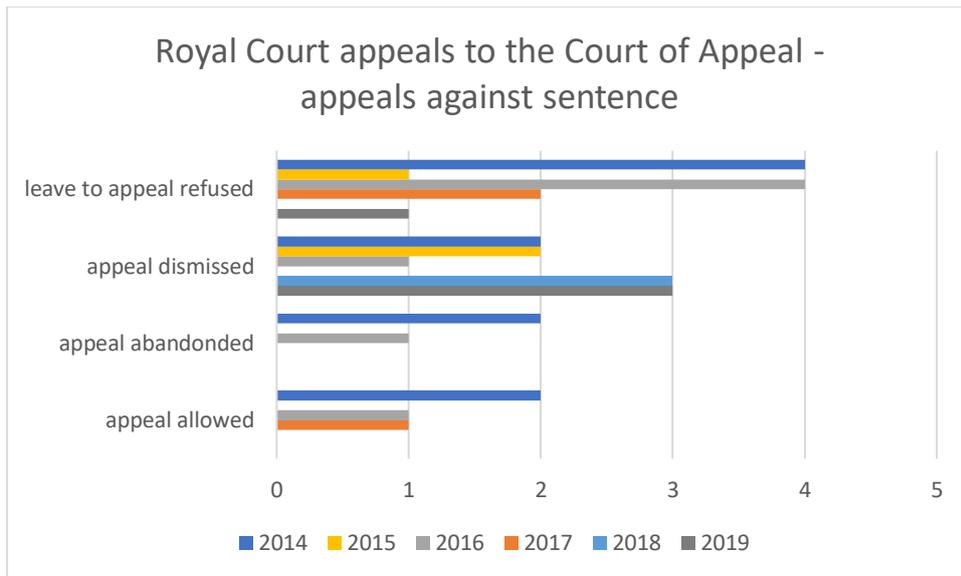


The amount of fines and costs awarded in the Royal Court each year varies according to the number of companies and individuals prosecuted during the year for offences which tend to attract fines, such as Health and Safety prosecutions, rather than custodial or other types of sentence. The relatively high figure in 2019 is due to substantial Health and Safety fines during the year.



In 2019 there were two appeals against conviction from the Royal Court to the Court of Appeal and four appeals against sentence.





In addition to prosecuting cases in the Royal Court, the Criminal Courts team also advise the States of Jersey Police and 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.

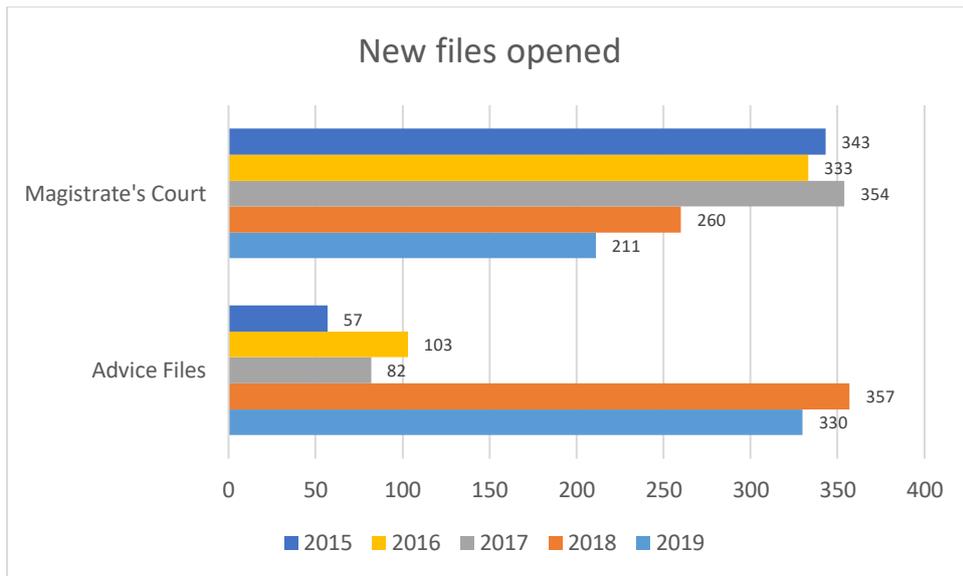
The breakdown of types of new cases is shown in the chart on the following page.

Notes for the chart:

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

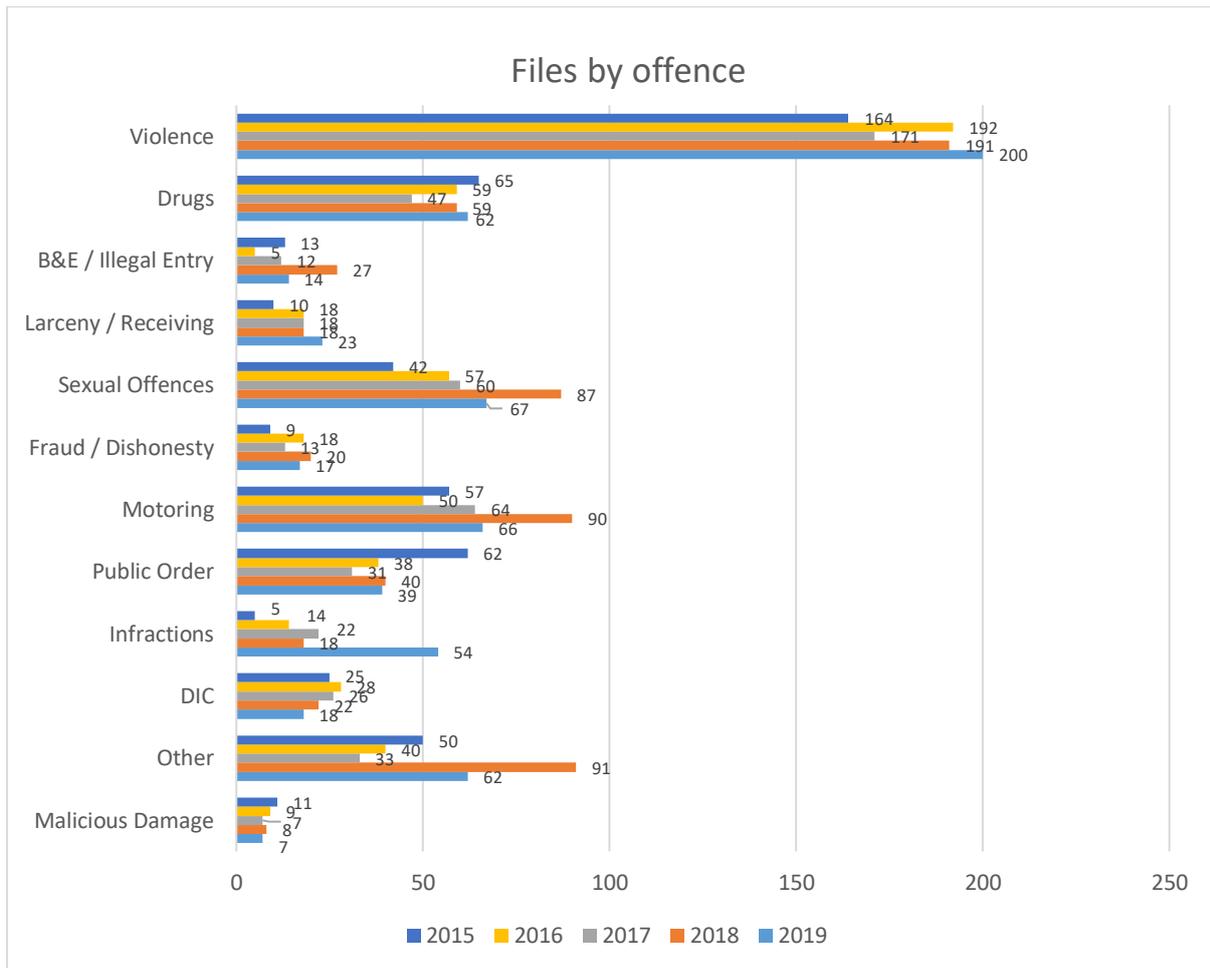
Magistrate’s Court files are cases that were completed in the Magistrate’s Court;

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.

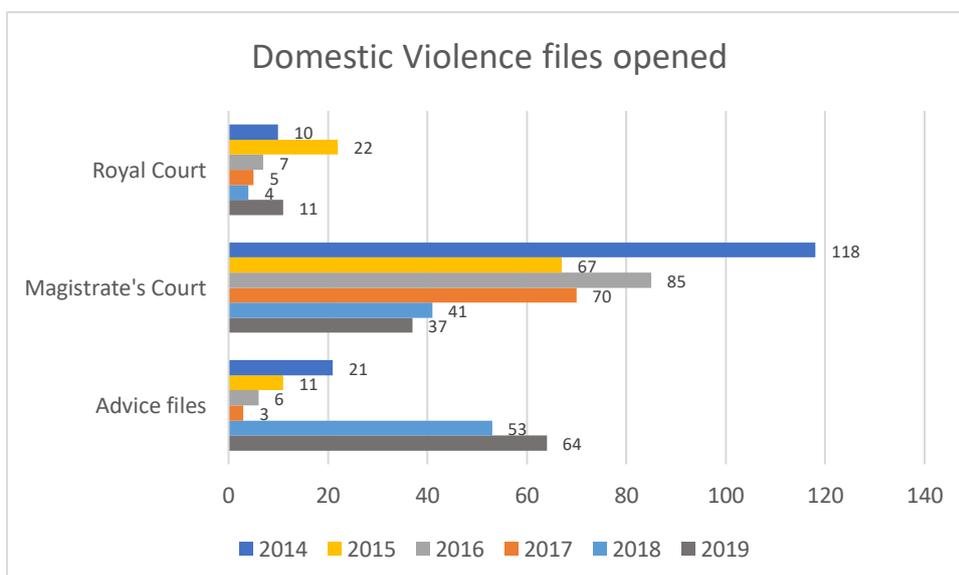


In 2018 a new process was introduced whereby more cases are reviewed by the Legal Advisers in the Criminal Division before charge is authorised by a Centenier. This way of working provides stakeholders with early legal advice in order to ensure that the two-stage test under the Code on the Decision to 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 approach has resulted in an increase in Advice files being opened and fewer cases being discontinued post charge.

The breakdown of all new files opened by offence (advice files, Magistrate's Court and Royal Court):



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.

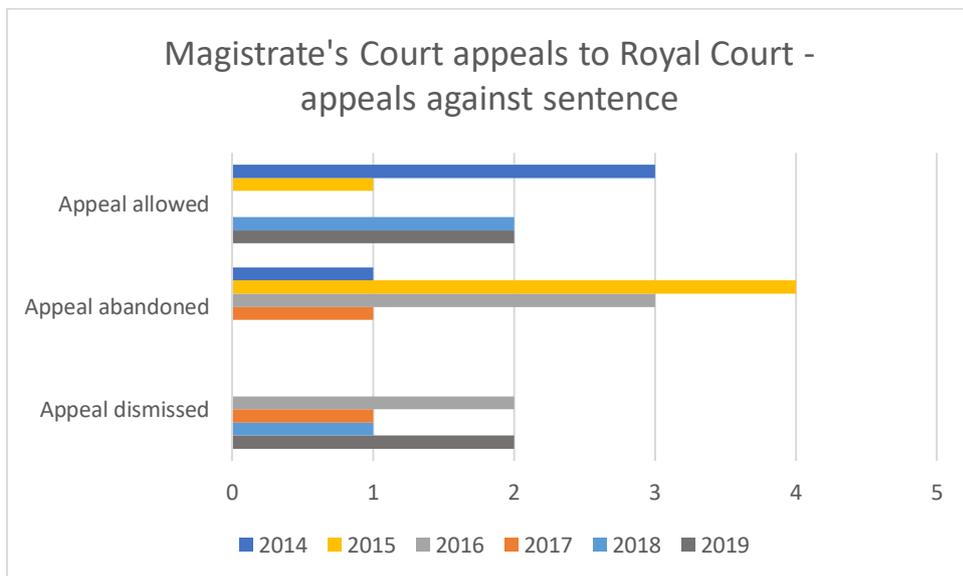
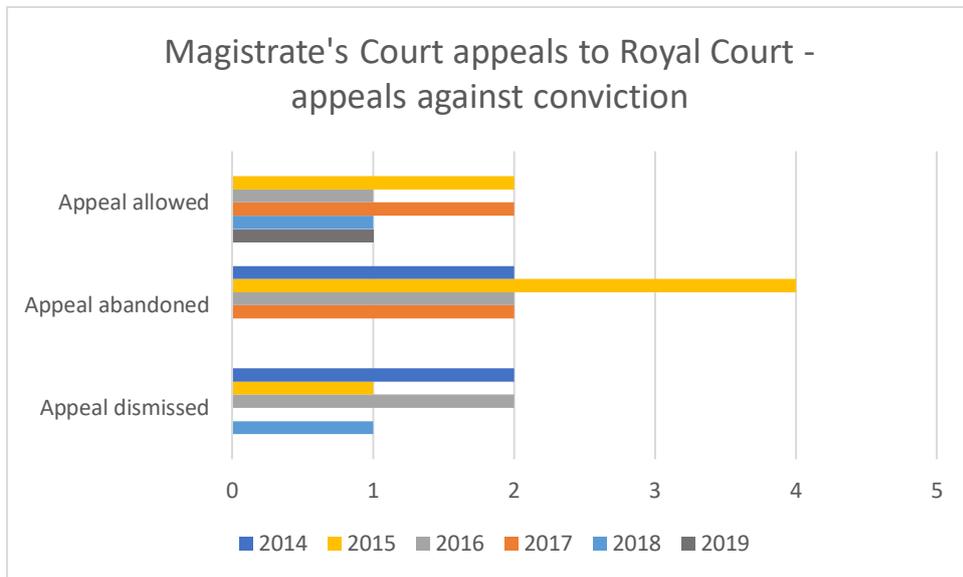
A new process was introduced in 2018 whereby the Department requires the States of Jersey Police to seek advice at the earliest opportunity in relation to a number of offences, and specifically cases where Domestic Abuse was the allegation. Accordingly fewer cases are being discontinued post-charge at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

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

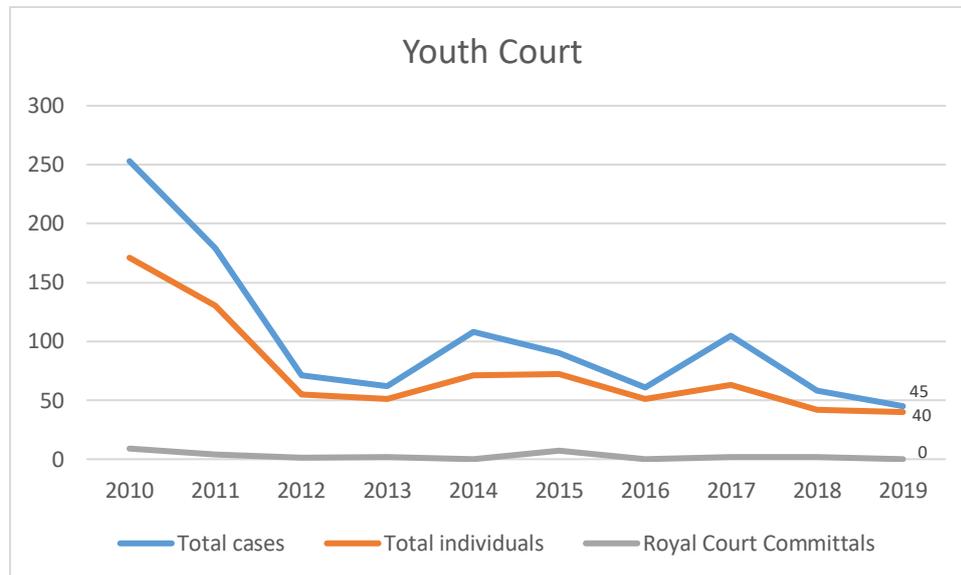
These factors, brought about by collaborative working, should be seen as a sign of success. In particular, there has been a significant reduction in complainants unwilling to support a prosecution as a result of IDVA support. The imposition of Restraining Orders on conviction has meant offenders are 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

2019 saw the continuation of the trend in the reduction of cases coming before the Youth Court.



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.

Economic Crime and Confiscation Unit

The Economic Crime and Confiscation Unit (ECCU) was established in the Law Officers' Department in October 2017 following an agreement by the Jersey Financial Crime Strategy Group in May of that year. 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 unit has a complement of nine posts including specialist financial crime lawyers, police officers and a forensic accountant.

In November 2019 two senior lawyers carried out a scoping visit to Nairobi to assess the capability of the Office of the Director of Public Prosecutions in prosecuting economic crime.

In December 2019 the team secured the first major prosecution under the Money Laundering (Jersey) Order 2006, with the Abu Dhabi Commercial Bank Jersey Branch entering a guilty plea to contraventions of the Order.

The first major confiscation under the Forfeiture of Assets (Civil Proceedings) (Jersey) Law 2018 also took place in December. This new statute allows the forfeiture of tainted assets held in bank accounts: if the assets have been subject to a police 'no consent' for over twelve months then a fast track procedure resulting in forfeiture by court order can be pursued. In

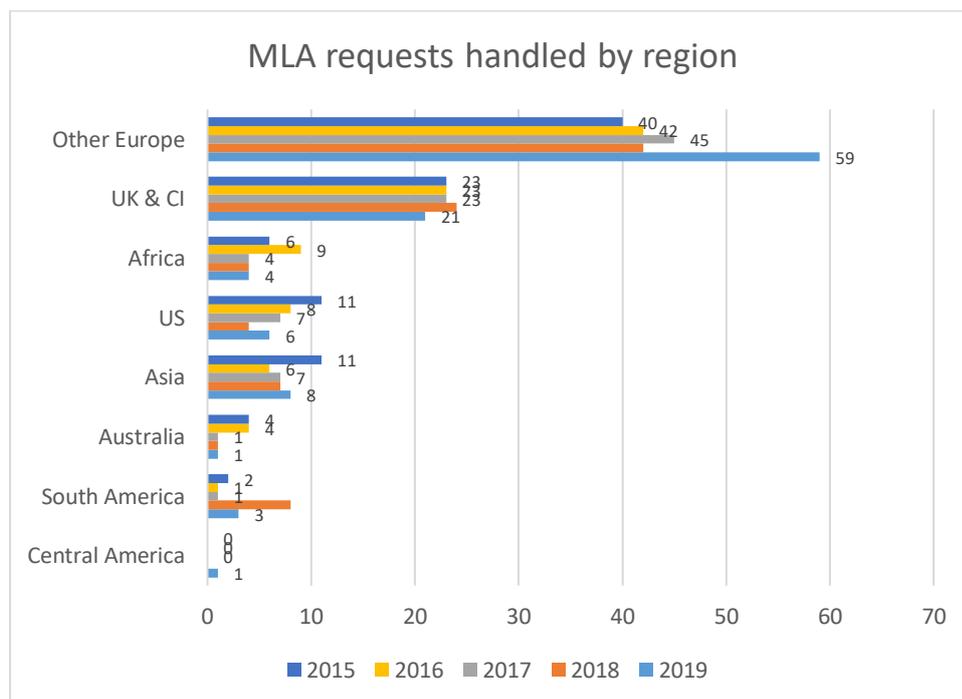
the Truk Settlement case, nearly US\$17m was confiscated with 65% of this amount being apportioned to the Criminal Offences Confiscation Fund and the balance divided between three charities.

The team continues to investigate serious and complex financial cases.

Mutual Legal Assistance

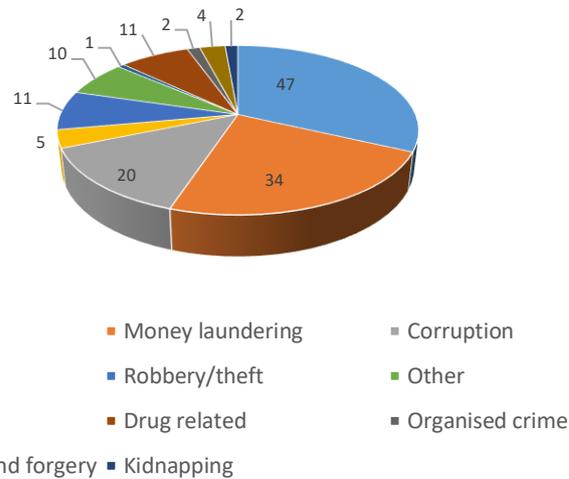
Assistance provided to foreign jurisdictions

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.je/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 received from foreign jurisdictions during 2019 but it is possible to confirm that 103 Requests were handled during the year (this includes new Requests received during the year, as well as Supplementary Requests relating to old matters and pre-2019 Requests in respect of which action was taken during 2019).



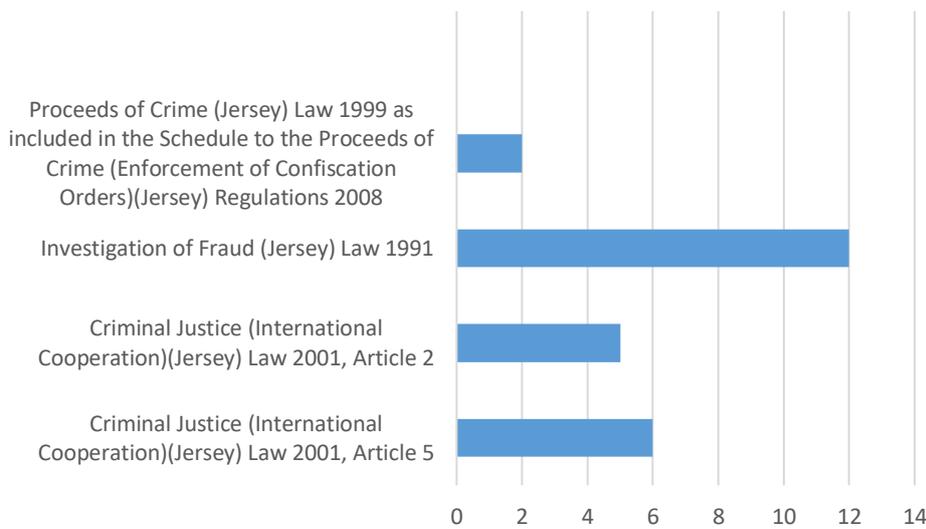
A breakdown showing the offences in respect of which such Requests sought assistance appears below (note that more than one offence is cited in some cases):

2019 MLA requests handled by type of offence



How assistance was provided

Legislation used to provide assistance - 2019



Requests for assistance dealt with during 2019

Notes for the chart on the following page:

Formal assistance – there were 36 occasions during 2019 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 above.

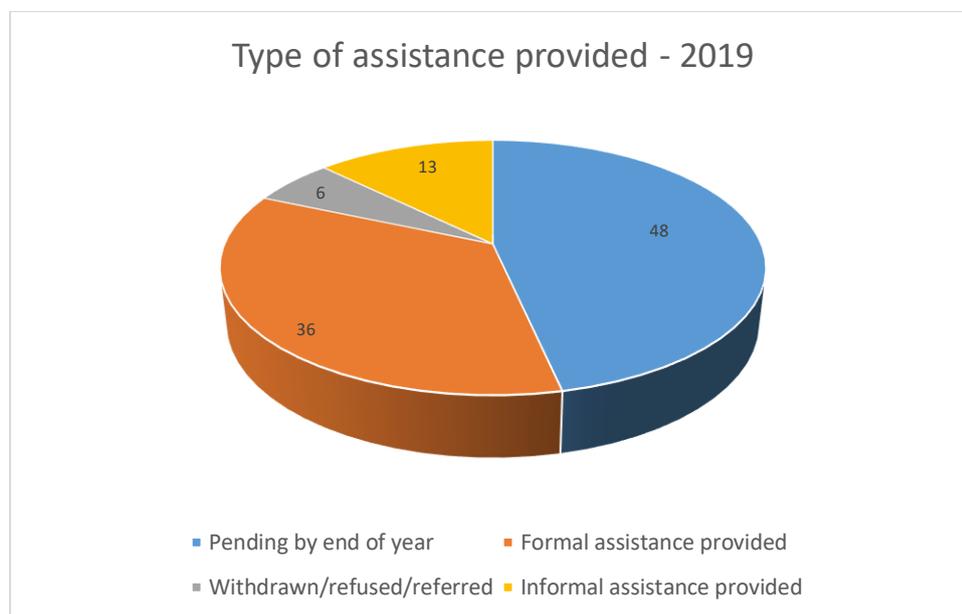
Informal assistance there were 13 instances where informal assistance was provided to foreign jurisdictions during 2019. Informal assistance occurs where assistance is rendered pursuant to a Letter of Request, without recourse to our legislation. For instance, where a

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.

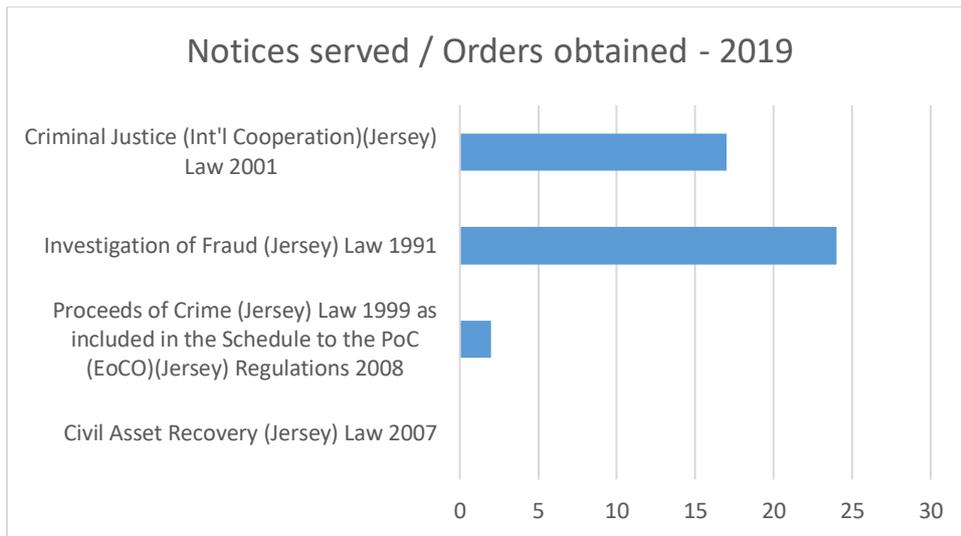
Requests may be **referred** to another jurisdiction when it becomes clear the relevant evidence/witness is located there – for example UK bank / credit card records are typically located in the United Kingdom (even where the cardholder has a Jersey bank account). Where a request is received for UK credit 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. None were refused in 2019.



Notices served / Orders obtained

The table below 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).



The numbers in the above table includes Notices issued during 2019 where the matter remains live and has been brought forward to 2020.

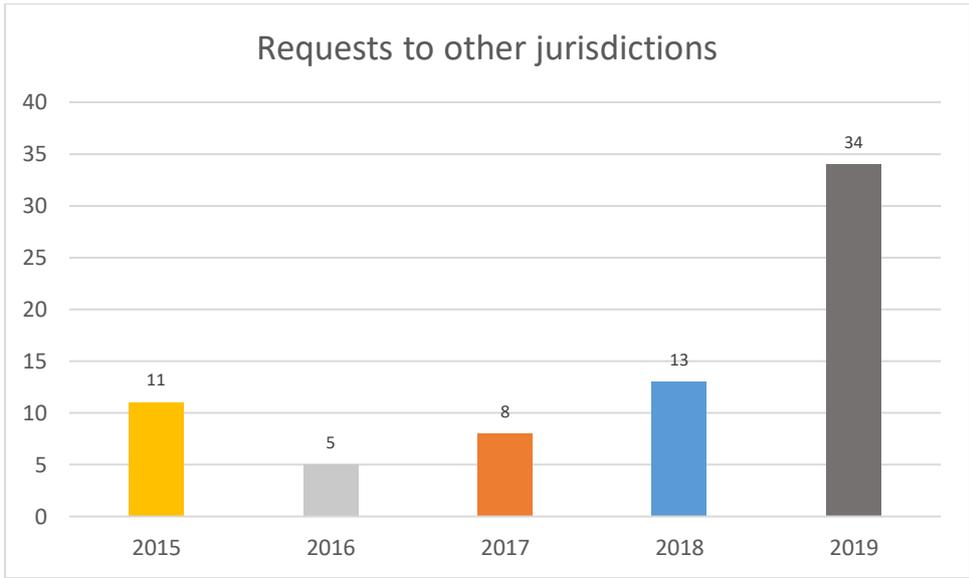
Notices are issued by the Attorney General under the Criminal Justice (International Co-operation) (Jersey) Law 2001 Law for the production of documentary evidence to assist overseas authorities in criminal investigations and prosecutions. Documentary evidence is also obtained pursuant to Notices issued 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

Thirty four requests for assistance were issued by the Attorney General to foreign jurisdictions during 2019. 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.

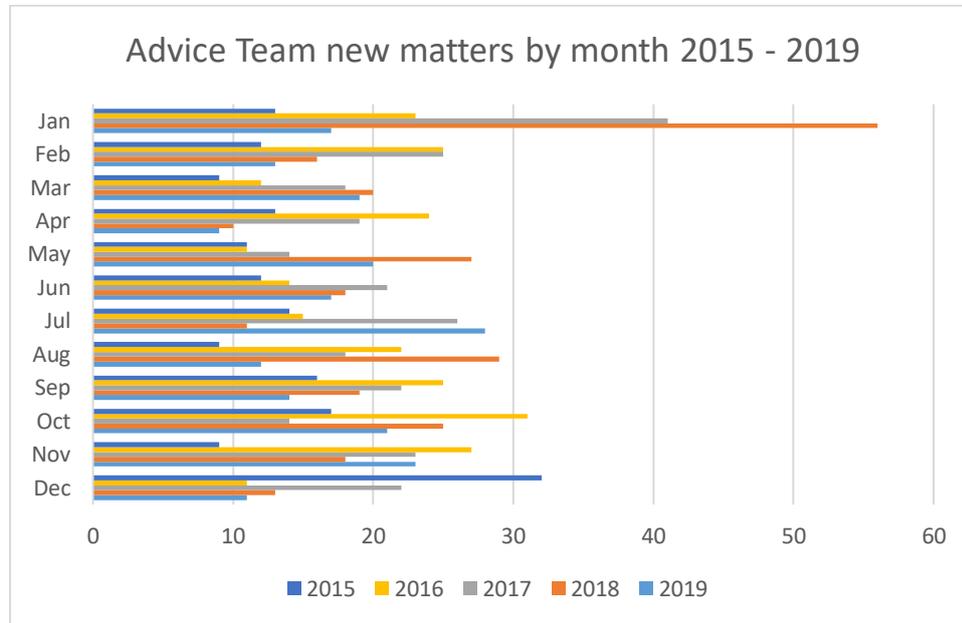
Of the 34 Requests for assistance made to other jurisdictions in 2019 a significant number related to one case.



Civil Division

Advice Team

In 2019 the Advice Team opened an average of 17 new matters per month. The monthly breakdown of new matters is shown in the table below:



The period following an election will sometimes see a reduction in the number of legislative projects which the Advice team are involved in. However, in 2019 the continuing negotiations and preparations for Brexit as well as the continuation of a series of substantial reform projects have meant that the pace and volume of work has remained high.

The Advice team continued to work closely with the Government, the Legislative Drafting Office and stakeholders to enable the new Bail Law to be brought into force on time in June 2019 and to commence substantial parts of the new Criminal Procedure Law with a view to bringing the remainder into force by the end of 2020.

During 2019, members of the Advice team also supported the Government to bring a number of other important pieces of legislation to the Assembly.

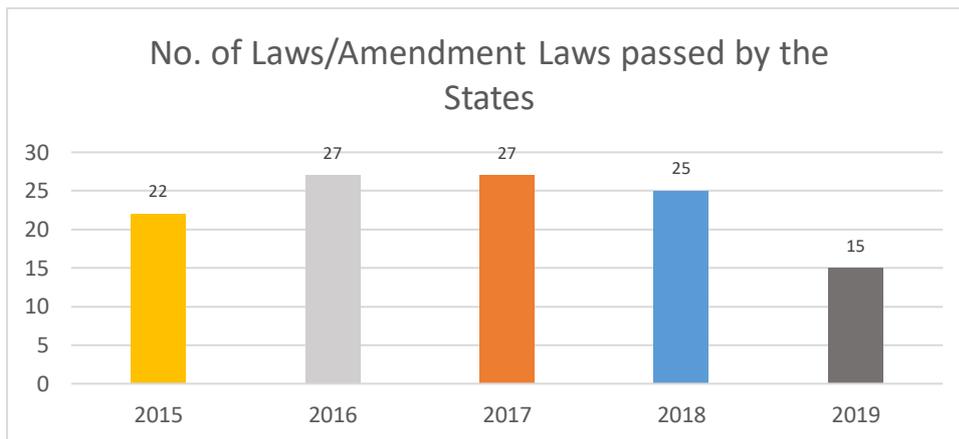
The Advice team has also taken forward a substantial programme of work to review a large number of international treaties to determine their impact on Jersey.

The Advice team has also played an important part in developing regulations and new work streams in relation to financial services, including by contributing to the implementation of the Limited Liability Companies (Jersey) Law 2019 and to other legislative projects.

The Advice team assisted the Attorney General in litigation before the UK Supreme Court, which resulted in Jersey successfully defending its right to enjoy the benefit of EU rules protecting the free movement of capital.

The Advice team continued its work to progress all Brexit work streams and to prepare for the negotiation of a new economic partnership between Jersey and the UK, and the EU.

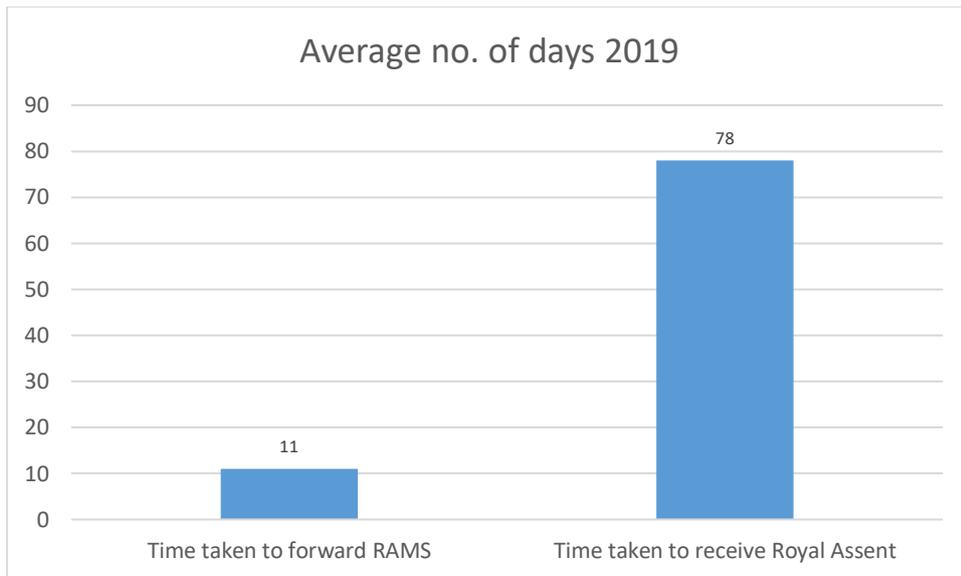
Laws



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 received by the Law Officers after being adopted.

The Advice team has continued to improve on the efficiency of the process for attaining Royal Assent and was one day off target in 2019, with an average of 11 days.

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. Good working relationships with officials in the Crown Dependencies Team at the Ministry of Justice (MoJ) and the greater 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, have led to a significant reduction in the time taken to receive Royal Assent. The average time in 2019 was 78 days.



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

Orders in Council

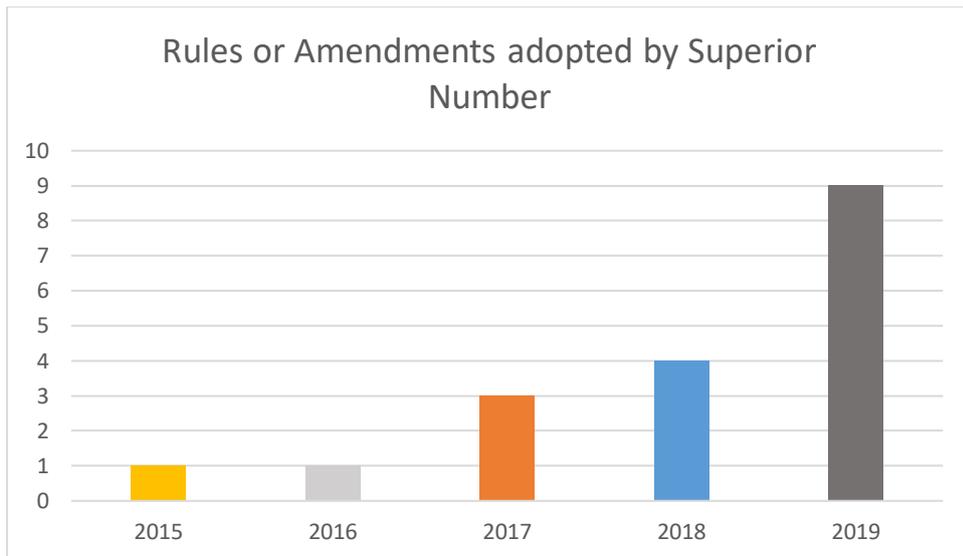
During 2019, no Orders in Council extending UK Acts of Parliament (by agreement and with modifications) were registered by the Royal Court. The Law Officers' Department is usually responsible for drafting the text of such Orders in Council alongside Legal Advisers in the relevant UK lead department and 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 2019 and discussions have taken place with the UK Government to ensure that all relevant UK legislation in this area can be re-extended in 2020.

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.

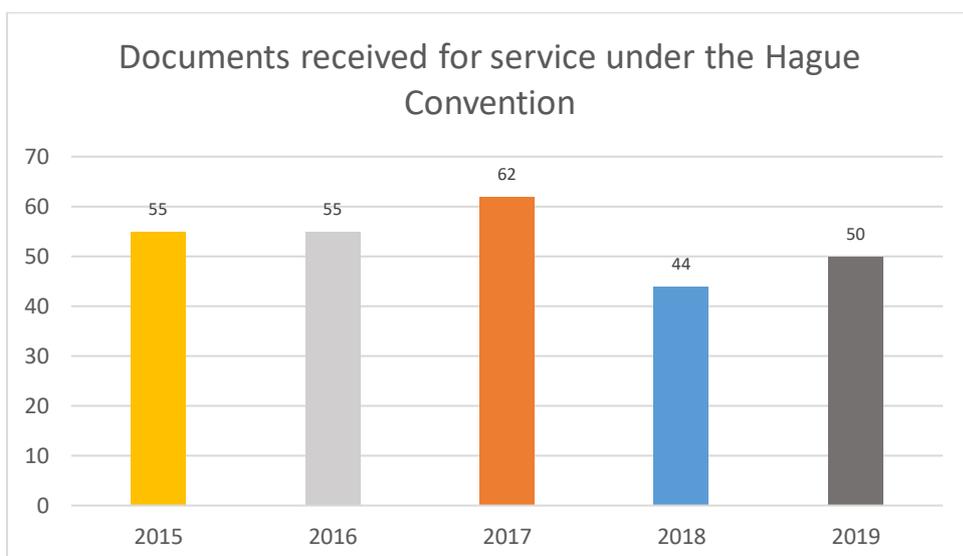
Between 2015 and 2019 the number of Rules or Amendments to Rules adopted by the Superior Number was as follows:



There was an increase in the number of Rules of Court adopted during 2019, in part due to the implementation of parts of the Bail Law and Criminal Procedure Law leading to the introduction of new or amended rules.

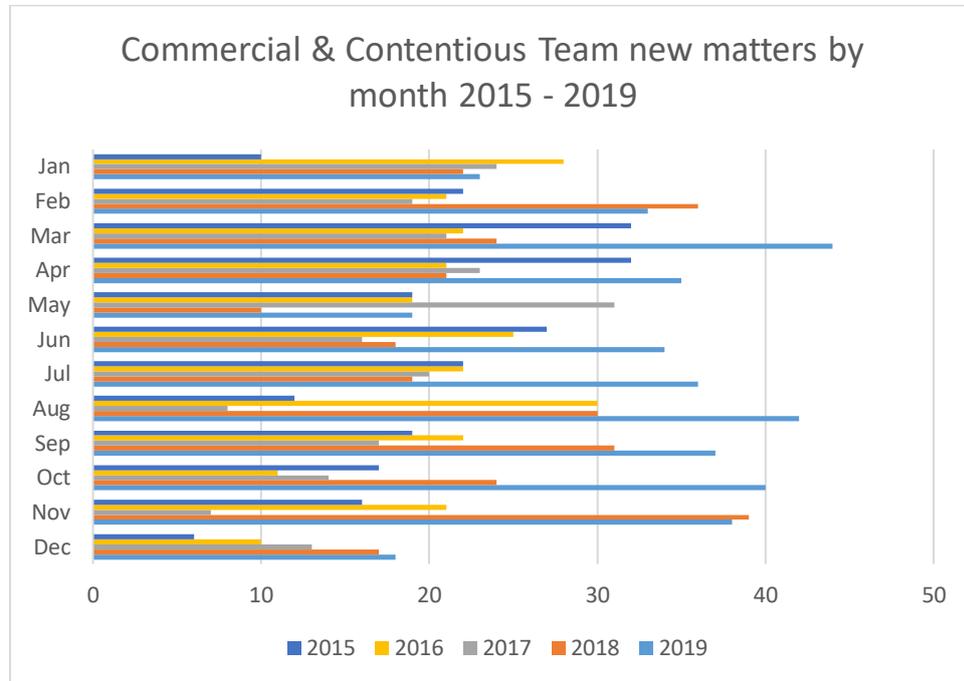
Hague Convention – service of documents

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 2019 the Commercial and Contentious team opened an average of 33 new matters a month. The monthly breakdown of new matters is shown in the table below:



Commercial / Projects

During 2019, 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 contractual/procurement issues and legal advice supporting significant Government of Jersey programmes/initiatives.

The team was bolstered by the welcome addition of a specialist commercial/projects lawyer from a local law firm and has taken the opportunity to forge stronger links with its key client departments under the new governmental structure.

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 2019 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 (and where the recruitment of an additional specialist Legal Adviser is in train);
- e) representation at various Tribunals, including the challenging terrain of discrimination law;
- f) representation in administrative appeals, under for example the Motor Traffic (Jersey) Law 1935 and the Control of Housing and Work (Jersey) Law 2012;
- g) National Risk Assessment: a team Legal Adviser continued to lead 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, including a significant case on the removal of an asylum seeker back to a safe country;
- i) Moneyval 5th round review of Cyprus: a team Legal Adviser was the legal expert on this review which involved a two week on-site visit to Nicosia in May 2019, followed by three separate trips to Strasbourg culminating in the Moneyval plenary in December, where the report on Cyprus was adopted; and
- j) a diverse range of legal problems, many of which are rarely encountered in private practice.

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.

The team also regularly attends the SEB and represents it at the Jersey Employment and Discrimination Tribunal. The team led on a significant JEDT case (focusing on whether public pension provisions were discriminatory on grounds of age). Whilst activity in 2019 was weighted slightly more heavily to advisory/non-contentious work, there was renewed emphasis on the effective use of conciliation/ADR on several contentious matters.

One member of the team gained membership of the Chartered Institute of Arbitrators (CIArb).

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 at Assistant Legal Adviser level), who works closely with colleagues in the Health and Community Services Department, insurers and medical defence organisations in this complex and specialist area.

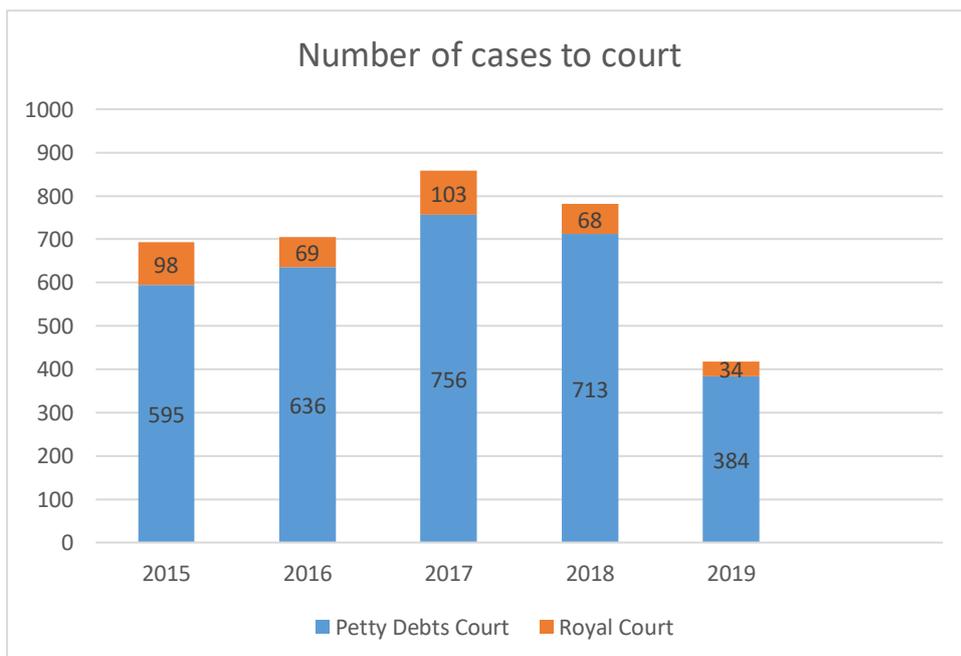
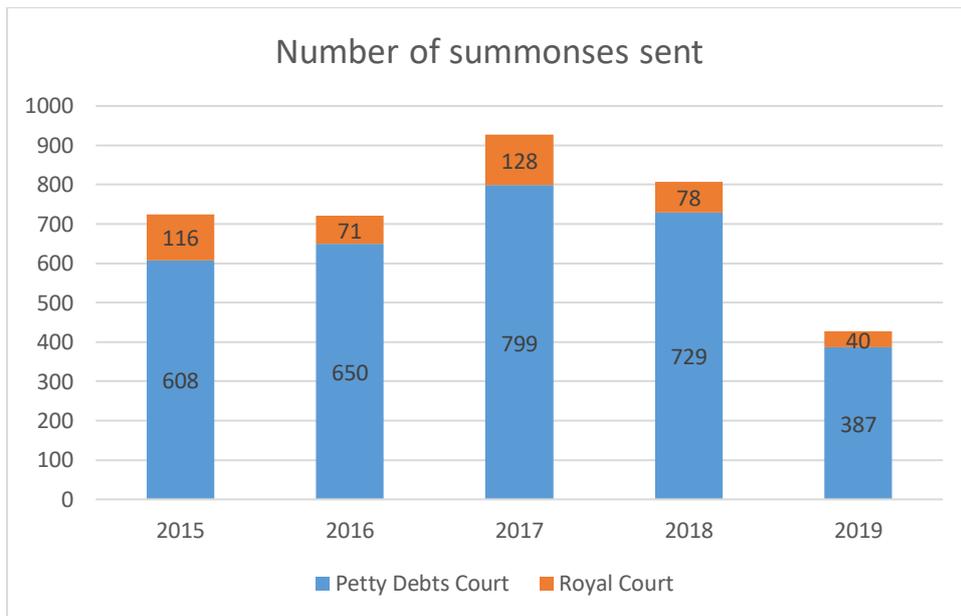
Information and data protection

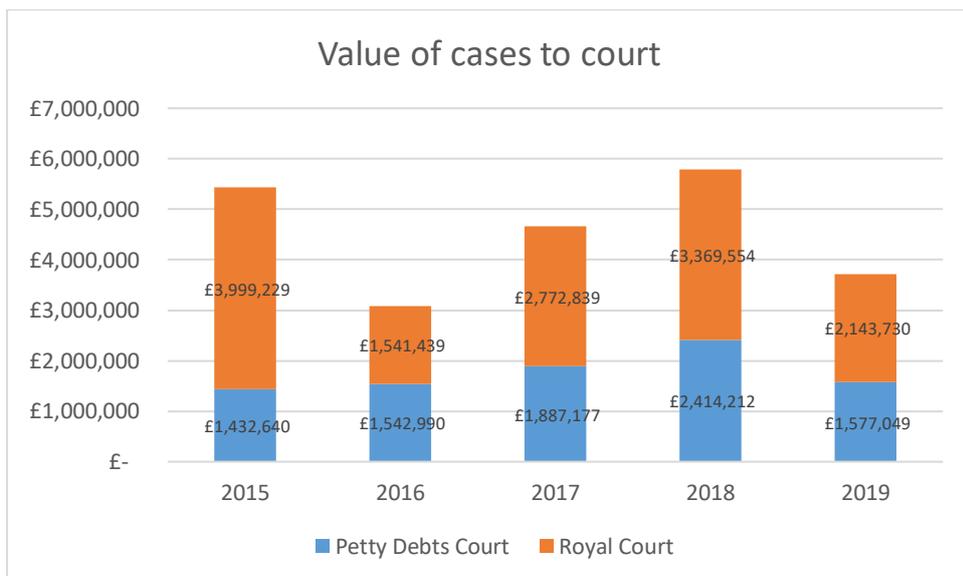
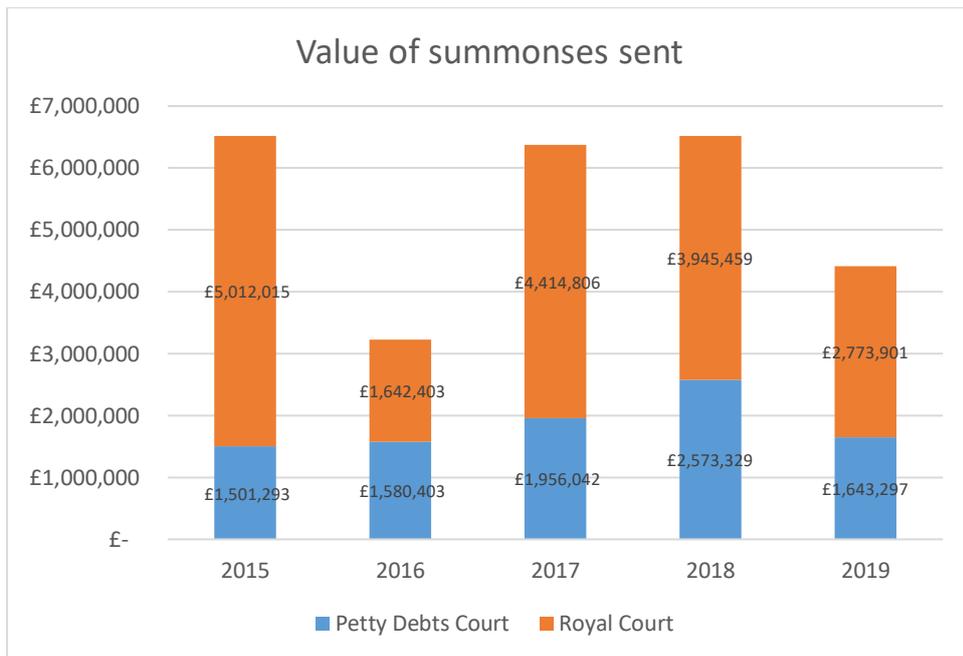
The Commercial and Contentious team has continued to provide legal support to the States Central Freedom of Information Unit in another busy year. The team has also been active in

offering training, in advising in the burgeoning field of subject access requests and continuing to contribute to important cross-Government work on data sharing.

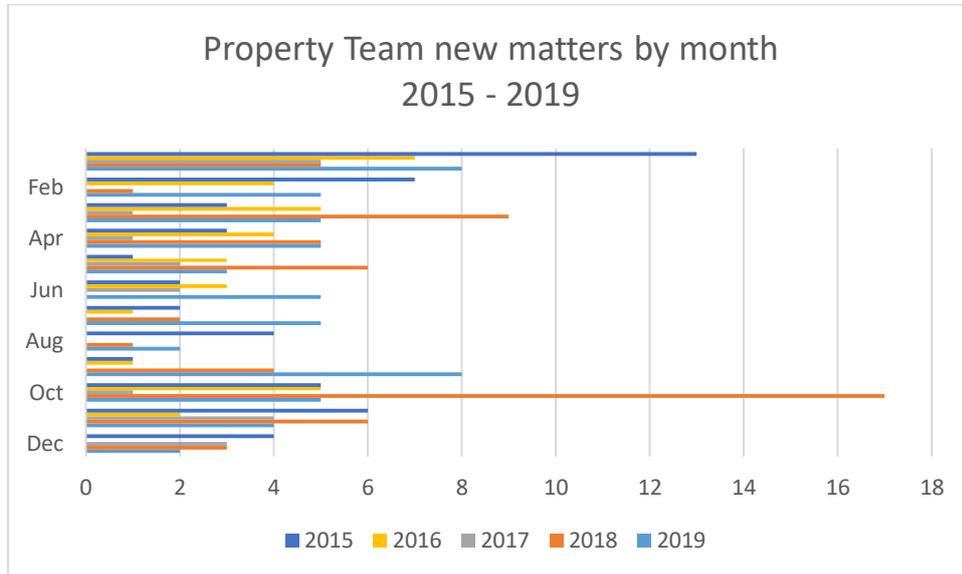
Debts

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	2019
Property sales (inc sale of rights)	42	33	20	5	11
Property purchases	1	3	9	3	1
Deeds of arrangement	7	5	3	5	8
Party to contracts	15	4	10	8	5
JEC contract leases	2	1	0	0	1
Other contract leases	2	3	9	10	4
Gift, cession and transfers	7	8	3	7	7
Exchange and counter-exchange	2	0	0	0	1
Mortgages secured by simple conventional hypothec	13	0	0	0	0
Mortgages registered as judicial hypothecs	0	11	4	0	2
Rembours (reimbursements of States loans)	22	24	15	14	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	£694,288
Purchases completed on behalf of the Public or the Crown	£577,500	£641,500	£1,162,210	£969,976	£168,000
New loans registered – judicial hypothec	£1,105,051	£691,500	£135,900	0	£7,800,000
JEC leases annual receipts	£1,980	£990	0	0	£99
Crown leases annual receipts	£5,000	£99	0	£100	£130
Public leases annual receipts	£150	£443,753	£4,926	£135,448	£22,338
Considerations on deeds of arrangements	£500	£4,500	£10,000	£32,500	-

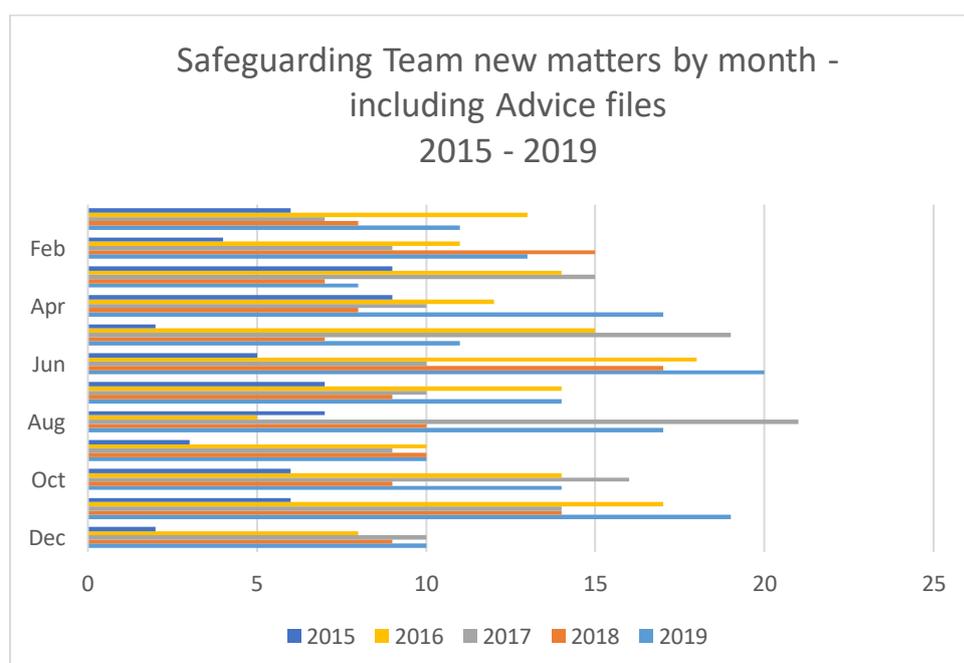
Redress Scheme Team

In July 2019 a new team was set up consisting of a Legal Adviser and an Assistant Legal Adviser in order to administer the Redress Scheme that had been established in response to findings of Independent Jersey Care Inquiry. This scheme is designed to provide redress for people who, as children, were abused or suffered harm in a Government of Jersey Children's Home or foster care or while accommodated at Les Chênes between 1945 and 2005. The Law Officers' Department played an integral role with SPPP in designing the scheme which aims to provide an appropriate balance between damages for those who suffered abuse and the costs of administration of the Scheme. The Redress Scheme closes to new applications at the end of August 2020.

In the first six months of the Scheme, to 31 December 2019, 191 applications had been received. 80% of these applications were concluded in 2019, with 18 applications rejected and 134 claims settled in accordance with the Scheme.

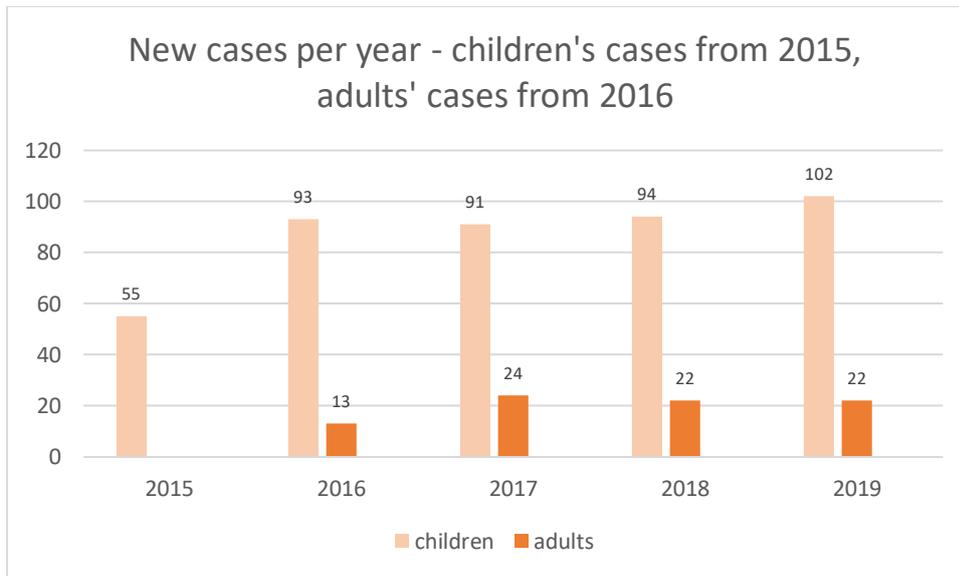
Safeguarding Team

The team provides advice, primarily to the Health and Community Services department, in relation to adult social care and safeguarding, as well as to Children, Young People, Education & Skills in relation to 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.



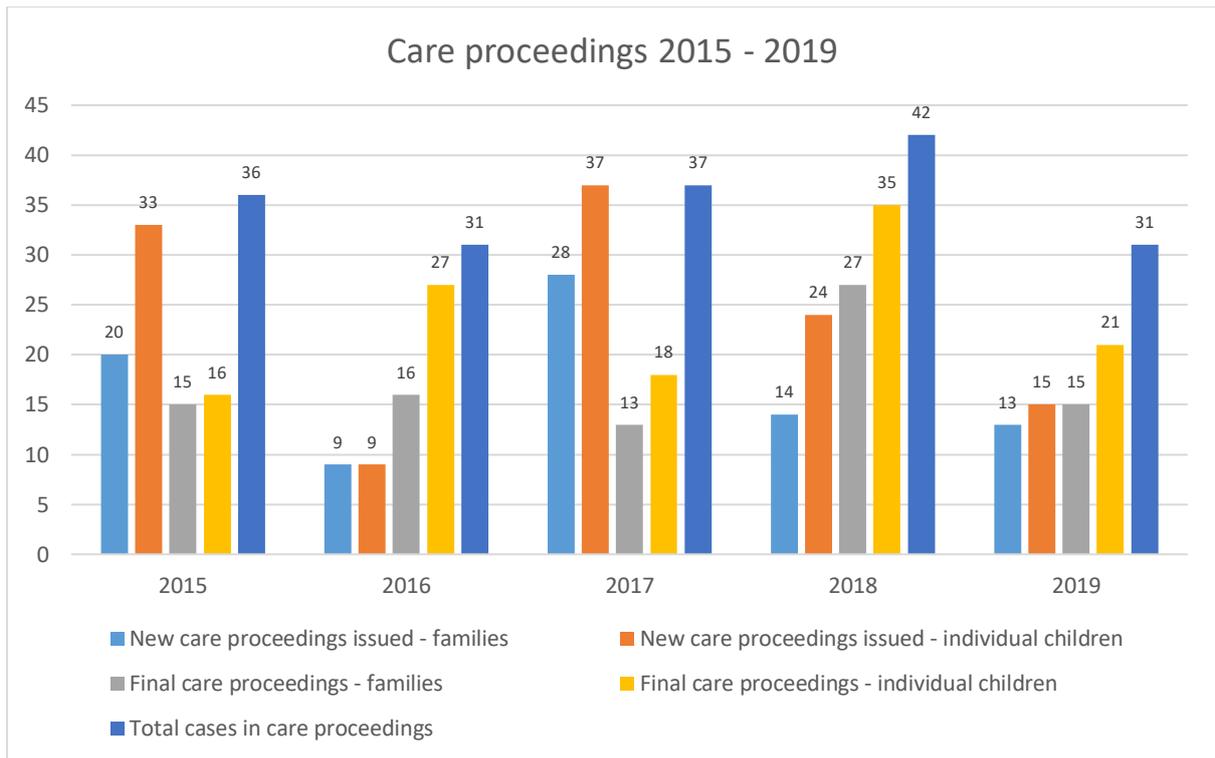
There was a significant increase in referrals relating to specific children in 2016 and this figure has been sustained from 2017 to 2019.

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

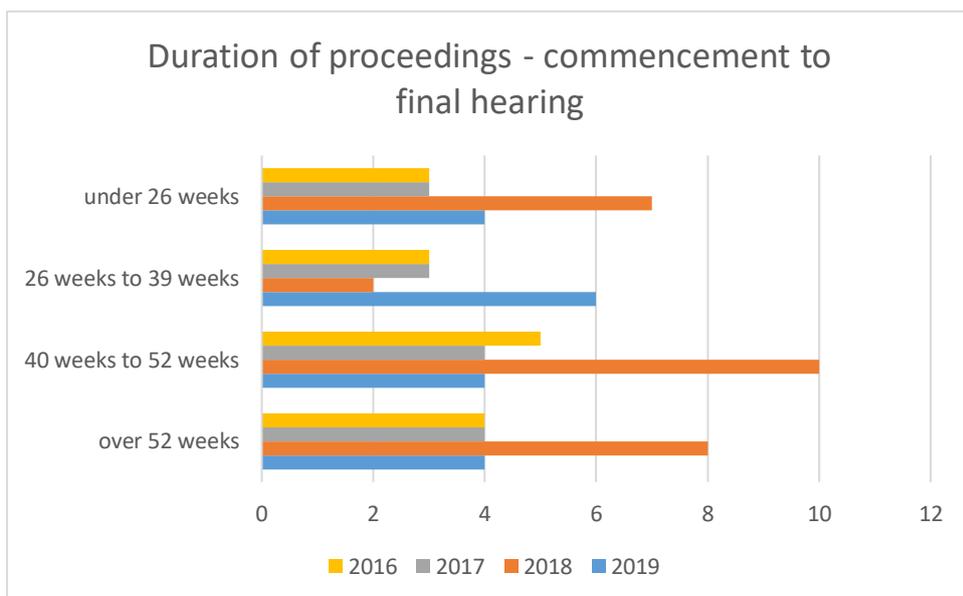


During 2016 the Children's Service adopted a pre-proceedings process, designed to avoid court proceedings. The process is triggered when the Children's Service is considering issuing care proceedings and is designed to ensure that the child and family are clear about the nature of the concerns and about what is expected of them to avoid care proceedings being issued. During 2019 there were nine new cases in pre-proceedings, of which three resulted in proceedings being issued, three were stepped down and three continued in to 2020. This means that the process has been successful in avoiding the need for some children to be made subject to care proceedings.

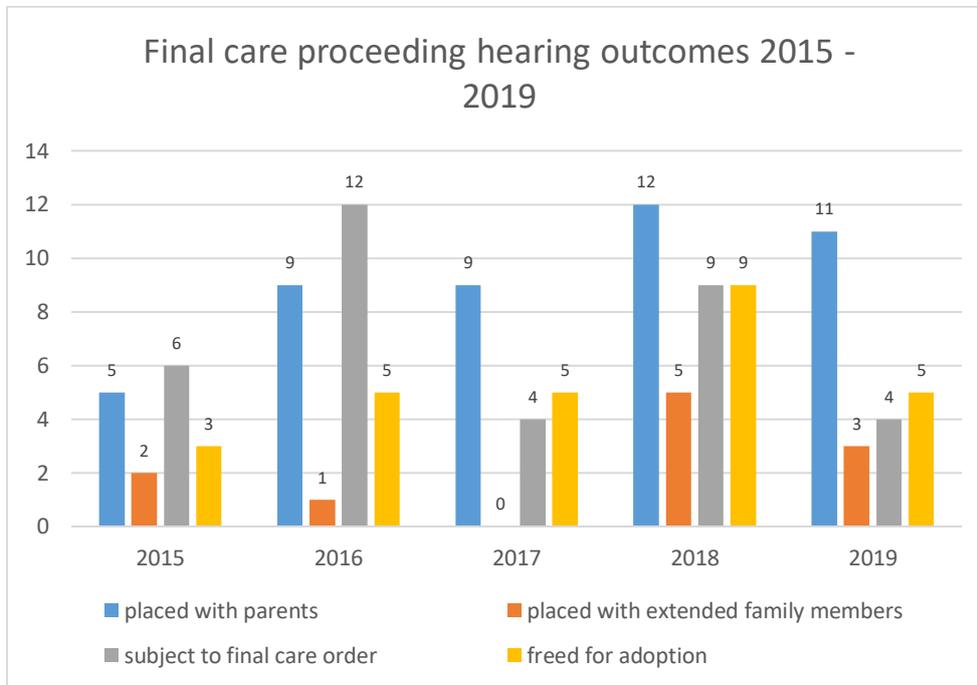
The following table shows the number of new care proceedings, final care proceedings and total cases in care proceedings each year since 2015:



There were 58 Children’s public law hearings in 2019. Of the 18 final hearings (of all types of proceedings), 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 81 weeks. The average period in proceedings was 35.8 weeks. This compares with an average in 2018 of 42 weeks, 2017 of 45.8 weeks and 2016 of 44.6 weeks. In some cases 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 from 2016 to 2019:

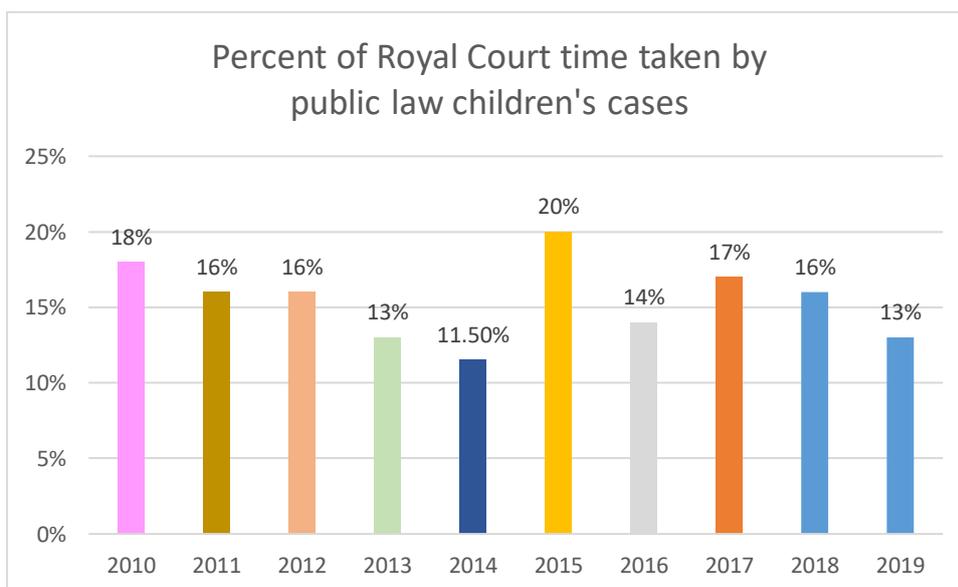


The outcome of a final care proceeding hearing will be the decision to place children either with their parents or extended family members, or for the children to remain subject to a final care order, or to be freed for adoption. The final care proceeding outcomes since 2015 are shown in the following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



Lexcel Accreditation

For a number of years the Department had considered applying for accreditation by Lexcel, the England and Wales Law Society's legal practice quality mark, which provides a framework of standards for 'excellence in practice management' requiring more than 50 best practice policies to be documented and complied with in the following seven areas:

- 1) Structure and Strategy
- 2) Financial Management
- 3) Information Management
- 4) People Management
- 5) Risk Management
- 6) Client Care
- 7) File and Case Management.

The Department applied for accreditation for the first time in 2019, and an independent Lexcel assessor spent three and half days at the Department at the end of September, reviewing Departmental policies and procedures, interviewing staff and reviewing open and closed matters to ensure that the documented policies had been put into practice. Following the independent assessment, Lexcel accreditation was awarded in October 2019 for the Department's 'excellence in practice management and client care'.

The Lexcel assessor concluded that, "the Department is extremely well managed and organised and in particular proved itself to be very strong in the area of people management." Many Lexcel 'areas of good practice' were identified and the assessor observed that "the Department demonstrated a truly supportive wellbeing environment" and that "staff are proud to be working for the Department and are proud of each other's abilities and dedication, which results in the Law Officers' Department's excellent reputation."

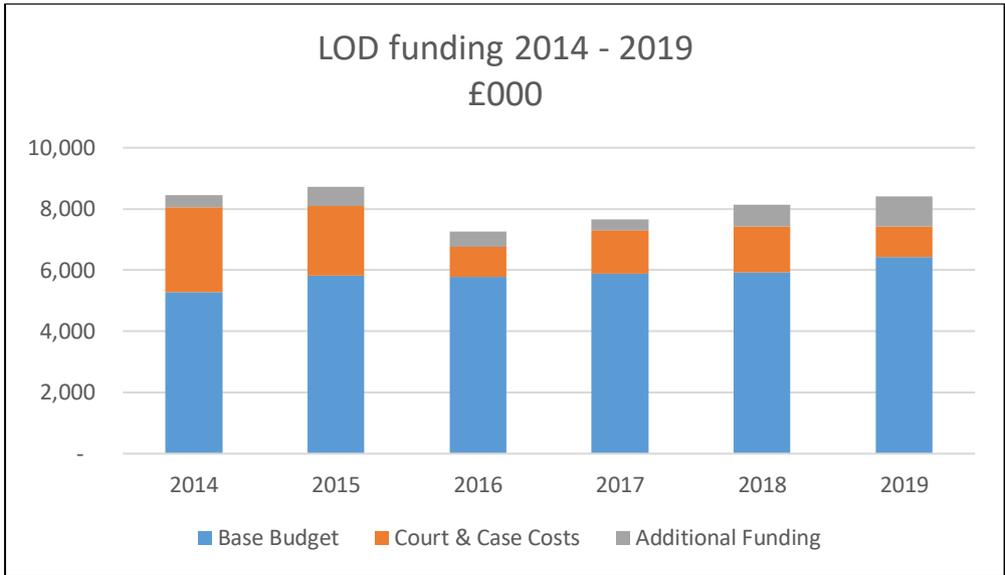
In order to maintain Lexcel accreditation after the first year, the Law Officers' Department must continue to operate at the standards set by Lexcel and will be required to pass an annual assessment.

Financial resources

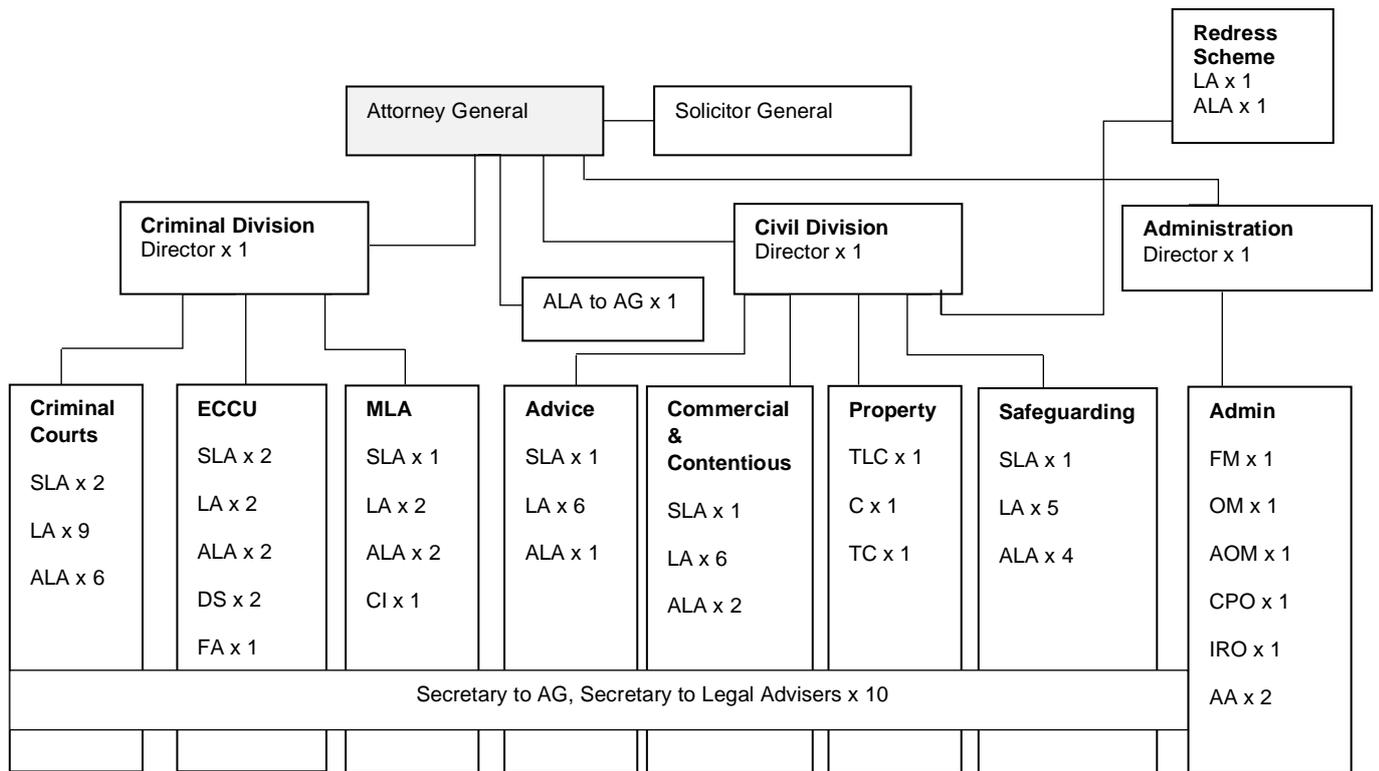
As a non-ministerial department, the Law Officers' Department receives funding from the States and adheres to the Public Finances Manual as set out by the Treasurer of the States under the Public Finances (Jersey) Law 2019.

2019 was the last year of the Medium Term Financial Plan (MTFP2) 2016 – 2019 which saw a substantial increase in work for the Department, including the establishment of the Economic Crime and Confiscation Unit, increased work in Children's and Adult Safeguarding and Brexit preparations. Despite these significant increases in workload during the MTFP, efficiency savings established during this period enabled the Department to operate with less funding than in 2014 and 2015.

The Department's operations in MTFP2 can be summarised as *delivering more for less*. The savings commitment continues into the first Government Plan (2020 – 2023).



Appendix 1 – Law Officers’ Department Organisation Chart 2019



Notes

Headcount in this chart is by individual, not by 'Full Time Equivalent' (FTE). The headcount was correct at 31 December 2019 and does not include authorised vacancies.

- AA: Administration Assistant
- AG: Attorney General
- ALA: Assistant Legal Adviser
- AOM: Assistant Operations Manager
- C: Conveyancer
- 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
- OM: Operations Manager
- SG: Solicitor General
- SLA: Senior Legal Adviser
- TC: Trainee Conveyancer
- TLC: Team Leader - Conveyancing