



# Tribunal Statistics Quarterly, July to September 2019 (Provisional)

*Including statistics on the Gender Recognition Certificate applied for and granted by HMCTS Gender Recognition Panel*

## Main points

This publication gives tribunals statistics for the latest quarter (July to September 2019, Q2 2019/20), compared to the same quarter the previous year. For technical detail about data sources, quality, policy changes and terminology, please refer to the accompanying Guide to Tribunal Statistics.

<p><b>Overall volumes of receipts and caseload outstanding have decreased, and disposals has increased</b></p>	<p>Her Majesty's Courts &amp; Tribunals Service (HMCTS) recorded a <b>decrease of 8% and 1%</b> in <b>receipts</b> and <b>caseload outstanding</b> in July to September 2019, driven by the Social Security and Child Support (SSCS) tribunal. <b>Disposals increased</b> by 4%.</p>
<p><b>SSCS receipts and caseload outstanding continued to decrease, while disposals increased</b></p>	<p>Social Security and Child Support (SSCS) <b>receipts</b> and <b>caseload outstanding decreased</b> (each by 22%), driven by decreases in Personal Independent Payment (PIP) and Employment Support Allowance (ESA) benefit appeals. <b>Disposals increased</b> by 3%.</p>
<p><b>FTTIAC receipts and disposals continue to fall</b></p>	<p>First-Tier Tribunal Immigration and Asylum Chamber (FTTIAC) <b>receipts, disposals</b> and <b>caseload outstanding fell</b> compared to the same period in 2018 (by 6%, 10% and 36% respectively).</p>
<p><b>Single ET claims received continue to rise following the abolition of ET fees</b> <b>The trend in multiple claims is volatile</b></p>	<p><b>Single Employment Tribunal (ET) receipts, disposals</b> and <b>caseload outstanding all increased</b>, by 38%, 4% and 40% respectively, compared to a year ago. <b>Multiple ET receipts decreased</b> over the same period, by 10%, while <b>disposals</b> and <b>caseload outstanding increased</b> by 77% and 7% respectively.</p>
<p><b>22,000 ET fee refund payments have been made as at 30 September 2019</b></p>	<p>From the launch of the <b>ET fee refund scheme</b> to 30 September 2019, there were <b>22,000 applications for refunds received</b> and <b>22,000 refund payments made</b>, with a total value of <b>£18.0m</b>.</p>
<p><b>SEN appeals and disposals up 23% and 18% respectively</b></p>	<p>In the <b>academic year 2018/19</b> HMCTS tribunals recorded 7,000 <b>registered appeals</b> in relation to <b>SEN</b>, an <b>increase</b> of 23% when compared to the prior year. In the same period, 5,900 SEN appeals were <b>disposed</b> of, an <b>increase</b> of 18% on 2017/18.</p>

# 1. Overview of Tribunals

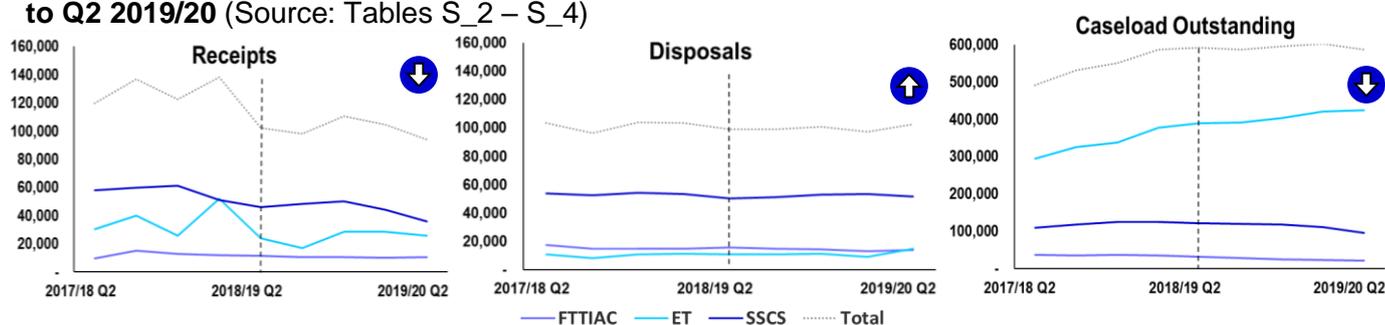
## 94,000 receipts and 103,000 disposals recorded by HMCTS this quarter

In July to September 2019, HMCTS recorded an 8% **decrease** in **receipts** and 4% **increase** in **disposals**, when compared to the same quarter in 2018. **Caseload outstanding decreased** to 586,000, down 1% over the same period. This ended the upwards trend for **caseload outstanding** seen since October to December 2015.

This summary bulletin focuses mainly on the three largest tribunals as they make up the majority (**75%**) of tribunal **receipts** in July to September 2019. These are:

- Social Security and Child Support (SSCS) – **38%** of receipts
- Employment Tribunal (ET) – **27%** of receipts
- First Tier Tribunal Immigration and Asylum Chamber (FTTIAC) – **11%** of receipts

**Figure 1: Receipts, disposals and caseload outstanding<sup>1</sup> for all tribunals, Q2 2017/18 to Q2 2019/20** (Source: Tables S\_2 – S\_4)



The charts above show the trends in receipts, disposals and caseload outstanding over the last three years for the three main tribunals and all tribunals overall. In July to September 2019, overall receipts decreased 8% compared to July to September 2018, driven by decreases in ET multiple cases and SSCS of 11% and 22%, to 13,000 and 36,000 receipts respectively. Over the past four quarters, overall receipts initially rose from Q3 2018/19 to Q4 2018/19, then declining from Q4 2018/19 to the current quarter.

Overall, HMCTS tribunals disposed of 4% more cases in July to September 2019 (103,000 disposals), compared to July to September 2018. FTTIAC disposed of 10% fewer cases in the same period. The SSCS tribunal (which makes up almost half of all tribunal disposals) and ET disposals increased by 3% and 38% respectively.

There were 586,000 cases outstanding at the end of September 2019, down 1% compared to a year ago. The 9% increase in ET caseload outstanding (which makes up over two thirds of all HMCTS outstanding caseload and has been increasing since the abolishment of ET fees) being offset by a 36% and 22% decrease in FTTIAC and SSCS respectively. This is the first fall seen in caseload outstanding since July to September 2015 (when comparing to the same quarter in the previous year).

<sup>1</sup> Outstanding caseload is based on a snapshot in time based on the last day of each quarter.

## 2. Social Security and Child Support

### SSCS receipts continue to decrease, while disposals increased

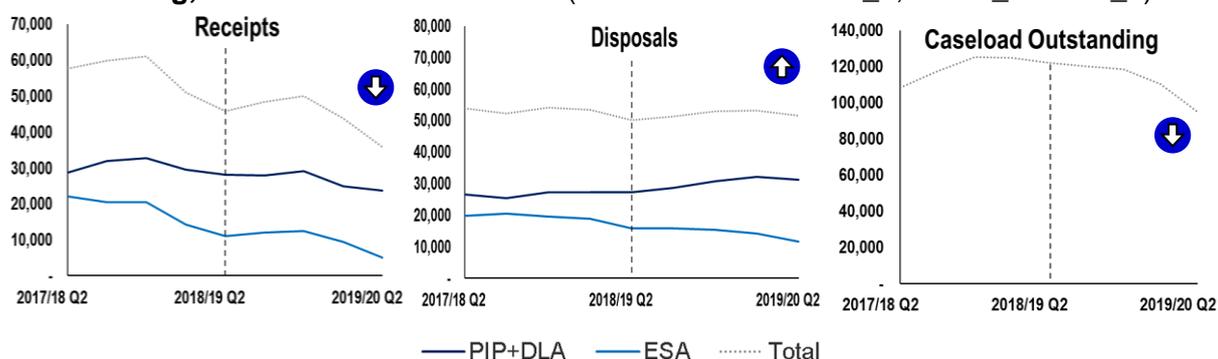
Social Security and Child Support **receipts** has **decreased** when compared to July to September 2018, by 22%. **Disposals increased** by 3% over the same period.

**Caseload outstanding decreased** by 22%.

### 74% of disposals were cleared at hearing with a 71% overturn rate

Of the 51,000 **disposals** in July to September 2019, **74%** were **cleared at a hearing** and of these, **71%** had the initial decision **revised in favour of the claimant** (up from 68% in the same period in 2018).

**Figure 2: Social Security and Child Support receipts, disposals and caseload outstanding, Q2 2017/18 to Q2 2019/20** (Source: Tables SSCS\_1, SSCS\_2 and S\_4)



SSCS tribunal receipts decreased by 22% this quarter, to 36,000 appeals, when compared to July to September 2018. This was driven by Employment Support Allowance (ESA) and Personal Independence Payments (PIP), which have decreased by 54% and 15% respectively, compared with a year ago. ESA and PIP appeals accounted for 14% and 60% of all SSCS receipts respectively in July to September 2019. Within the last year, SSCS receipts initially rose – from 48,000 in Q3 2018/19 to 50,000 in Q4 2018/19, before falling in Q1 2019/20 (to 44,000) and again in the current quarter (to 36,000).

PIP also made up over half of SSCS disposals (56%), a proportion that has been steadily rising since July to September 2018. In July to September 2019, there were 51,000 SSCS cases disposed of, a rise of 3% when compared with the same period in 2018. Like receipts, SSCS disposals rose between Q3 2018/19 and Q4 2018/19 (from 51,000 to 53,000). SSCS disposals fell between Q1 2019/20 and Q2 2019/20 (from 53,000 to 51,000).

Of the disposals made by the SSCS Tribunal, there were 38,000 (74%) cleared at hearing, and of these 71% were found in favour of the customer (up from 68% on the same period in 2018). This overturn rate varied by benefit type, with ESA at 77%, PIP 76%, Disability Living Allowance 69% and Universal Credit 61%. ESA and PIP have driven the overall increase in the overturn rate, having risen five and three percentage points respectively on July to September 2018.

There were 95,000 SSCS cases outstanding at the end of September 2019, down 22% compared to the same period in 2018. This continues the fall that began in Q4 2018/19 (when comparing to the same quarter in the previous year). Since Q4 2017/18, caseload outstanding has been gradually decreasing (from a peak of 125,000), reversing the consistent rising trend seen since Q4 2015/16.

Of those cases disposed of by the SSCS tribunal in July to September 2019, the mean age of a case at disposal was 30 weeks, one week more than for the same period in 2018 (see tables T\_2).

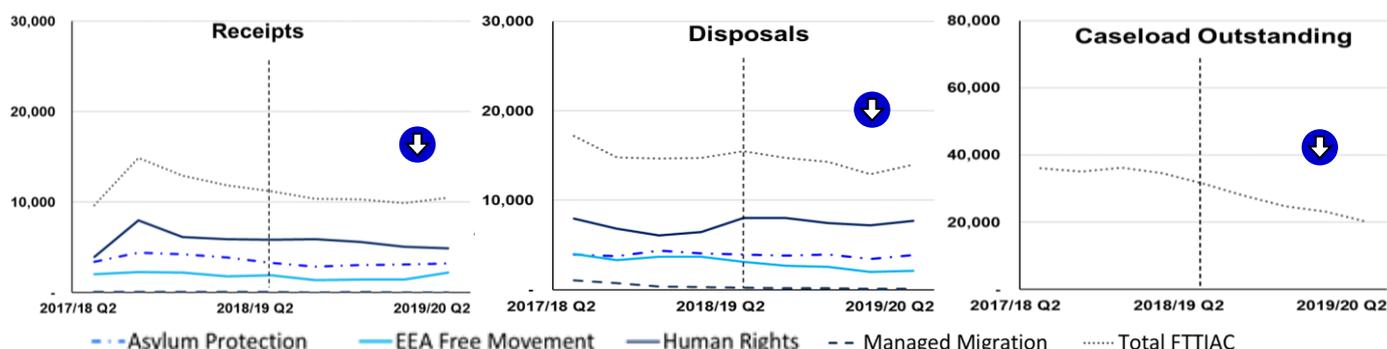
### 3. Immigration and Asylum

#### First-tier Tribunal Immigration and Asylum Chamber (FTTIAC)

In July to September 2019, FTTIAC **receipts** and **disposals** decreased by 6% (to 11,000) and 10% (to 14,000) respectively, compared to the same period in 2018.

In the same period, **caseload outstanding** decreased by 36% (to 20,000), continuing the downward trend seen since the peak in April to June 2016, due to the volume of disposals being consistently higher than that of receipts since this peak.

**Figure 3: First-tier Tribunal Immigration and Asylum Chamber receipts, disposals and caseload outstanding, Q2 2017/18 to Q2 2019/20** (Source: Tables FIA\_1, FIA\_2, S\_4)



In July to September 2019, Human Rights (HR) receipts proportionally represented 47% of all FTTIAC receipts (down from 52% a year ago), and they drove the overall downward trend in FTTIAC receipts. HR receipts have decreased by 16% (to 4,900) in July to September 2019, compared to the same period in 2018.

Asylum/Protection (AP) receipts also decreased this quarter (by 1%, to 3,200 appeals), while EEA Free Movement receipts increased (by 15%, to 2,200), when compared to the same period in 2018. This is the first time EEA receipts has seen a rise since July to September 2016 (when comparing to the previous year). EEA and AP proportionally represented 21% and 31% of all FTTIAC receipts respectively (up 4% and 2% respectively from a year ago).

The FTTIAC disposed of 14,000 appeals in July to September 2019, a 10% decrease on the same period in 2018. This fall was driven by a 3%, 4% and 32% fall in AP, HR and EEA respectively. As with receipts, Human Rights appeals continue to make up the largest proportion (55%) of all FTTIAC disposals in July to September 2019, up from 52% a year ago.

Of the disposals made in the FTTIAC this quarter, 80% were determined i.e. a decision was made by a judge at a hearing or on the papers; 16% were withdrawn; 2% were invalid or out of time, and 2% were struck out for non-payment of the appeal fee. Just over half (51%) of the 11,000 cases determined at a hearing or in papers were allowed/granted, although this varied by case type (48% of Asylum/Protection, 53% of Human Rights and 50% of EEA Free Movement appeals were allowed/granted).

In the FTTIAC, the mean time taken to clear appeals across all categories has decreased by five weeks to 34 weeks this quarter compared to the same period a year ago. Asylum/Protection took the least time to clear with 29 weeks, whilst Human Rights and EEA had mean times taken of 35 weeks and 33 weeks respectively.

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## **Upper Tribunal Immigration and Asylum Chamber (UTIAC)**

In July to September 2019, UTIAC **receipts, disposals** and **caseload outstanding all decreased**, by 35%, 23% and 55% respectively, when compared to the same period in 2018.

UTIAC **judicial review receipts and disposals** continue to **fall** - down 21% and 12%, to 1,500 and 2,100 respectively, compared to July to September 2018.

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At the UTIAC, there were 1,200 appeal receipts in July to September 2019, down 35% on the same period in 2018. AP, HR and EEA receipts drove the decrease in receipts, falling 19%, 30% and 75% to 500, 520 and 68 appeals respectively. Legacy appeal types – Managed Migration, Entry Clearance and Family Visit Visa – continued to fall and now make up only 1% of all UTIAC receipts (down from 5% in July to September 2018).

Over the same period, UTIAC disposals decreased 23% to 1,500. Although UTIAC disposals have decreased in the last year, they have however fluctuated within the year, first rising from 1,800 in Q3 2018/19 to 2,300 in Q4 2018/19, then falling to 1,800 in Q1 2019/20, before falling again this quarter (see table UIA\_2).

At the end of September 2019, the UTIAC caseload outstanding stood at 1,200, a 55% decrease on the end of September 2018.

## **UTIAC Immigration and Asylum Judicial Reviews**

In July to September 2019, there were 1,500 Immigration and Asylum Judicial Review receipts and 2,100 disposals, down 21% and 12% respectively on July to September 2018.

Of the 2,100 Immigration and Asylum Judicial Reviews disposed of in the UTIAC in July to September 2019, 64% were determined and 1% were transferred to the Administrative Court. The remaining 35% were in the 'Other' category, which includes cases that were withdrawn or not served.

During July to September 2019, 1,400 UTIAC Judicial Review applications were determined by paper hearing, of which 10% were allowed to continue to the substantive hearing stage. A further 840 were reconsidered at an oral renewal, of which 30% were allowed to continue to the substantive hearing stage. There were 49 substantive hearings which were determined in July to September 2019, of which 27% were granted in favour of the appellant (see table UIA\_3).

## 4. Employment Tribunals

### Employment Tribunal Fee (ET) Refunds

From the launch of the **ET fee refund scheme** in October 2017 to 30 September 2019, there were **22,000 applications** for refunds received and **22,000 refund payments made**, with a **total monetary value of £18.0 million**.

Between 1 July 2019 and 30 September 2019, **59 refund applications** were received (down from **140** in Q1 2019/20) and **170 refund payments<sup>2</sup>** were made with a **total value of £364,000**.

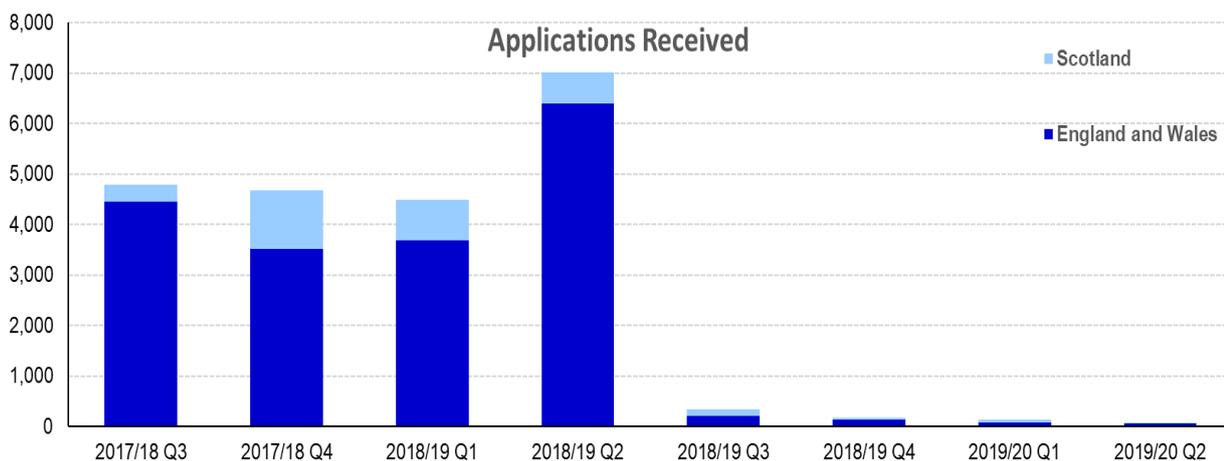
The ET fee refund scheme<sup>3</sup> was introduced as a phased implementation scheme in October 2017 following the abolition of ET fees on 26 July 2017. Since the introduction of the scheme, a total of 22,000 applications for refunds have been received and 22,000 payments have been made, with a total value of £17,963,000 as at 30 September 2019.

Of the applications received between July to September 2019, 98% (58 applications) related to cases initially brought forward in England and Wales, up from 64% in the quarter to 30 June 2019. The remaining 2% of applications received this quarter (one application) related to cases initially brought forward in Scotland.

In the quarter July to September 2019, 170 refund payments were made by the MoJ, with a total monetary value of £364,000. Of these 170 refund payments made:

- 92% (150 refunds) related to England, 4% (seven refunds) to Scotland and the remaining 4% (six refunds) related to Wales<sup>4</sup>.
- 90% (150 refunds) related to single claims, 5% (eight refunds) related to multiple claims. As each refund payment may relate to several fees paid by the claimant for several cases, 5% (nine refund) relate to both single and multiple claims.

**Figure 4.1: Employment Tribunal fees – refund applications received, Q3 2017/18 – Q2 2019/20** (Source: Tables ETFR\_1)

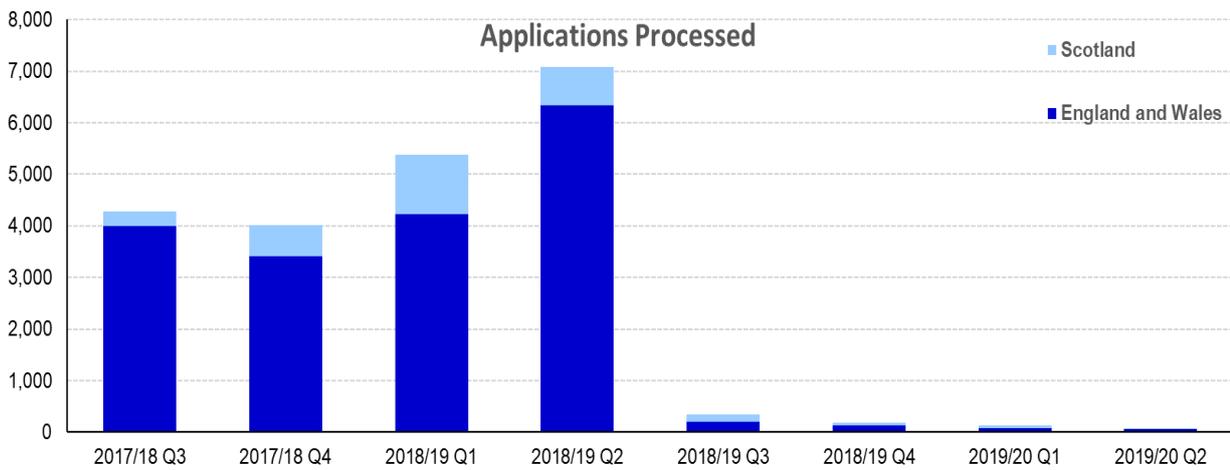


<sup>2</sup> Note that refund payments may relate to applications made in previous quarters.

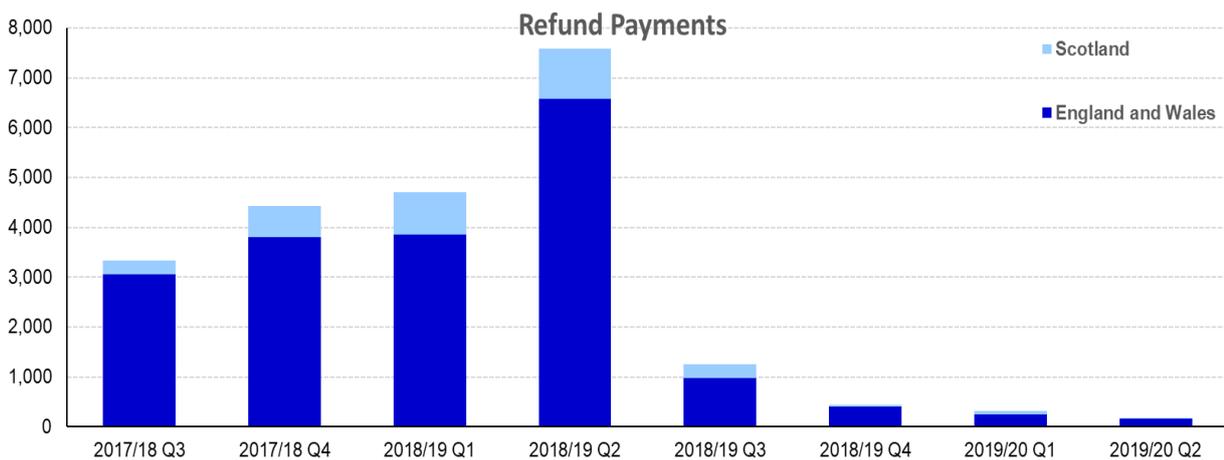
<sup>3</sup> More information on the scheme is available here <https://www.gov.uk/government/news/opening-stage-of-employment-tribunal-fee-refund-scheme-launched>

<sup>4</sup> Totals do not sum to 100% due to rounding

**Figure 4.2: Employment Tribunal fees – refund applications processed, Q3 2017/18 – Q2 2019/20** (Source: Tables ETFR\_1)



**Figure 4.3: Employment Tribunal fees – refund payments made, Q3 2017/18 – Q2 2019/20** (Source: Tables ETFR\_2)



The large drop seen between Q2 and Q3 2018/19 follows the mailshot campaign which culminated in July 2018 and resulted in exceptionally high receipts initially, particularly in England and Wales.

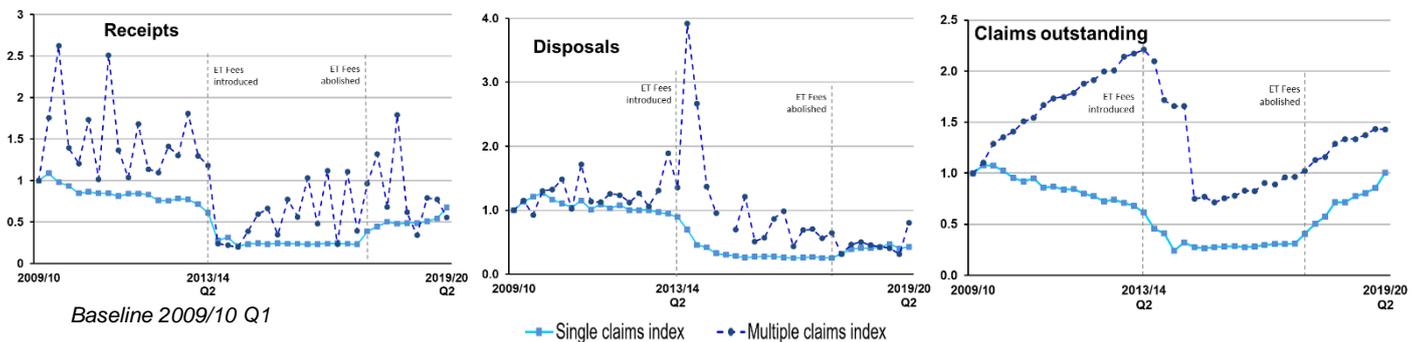
## Employment tribunal single cases

In July to September 2019, single claim **receipts, disposals and outstanding caseload all increased** (by 38%, 4% and 40% respectively) when compared to the same period in 2018. **Mean age** at disposal was 34 weeks, six weeks more than in July to September 2018.

## Employment tribunal multiple cases

**Receipts** fell 10% this quarter when compared to the same period in 2018. **Disposals and caseload outstanding rose**, by 77% and 7% respectively. **Mean age** at disposal **rose** from 106 weeks to 112 weeks over the same period.

**Figure 4.4: Index of Employment Tribunals single and multiple claim receipts, disposals & claims outstanding, Q1 2009/10 – Q2 2019/20** (Source: Tables S\_2 – S\_4)<sup>5</sup>



The number of single claim receipts has increased by 38% to 12,000 in the current quarter, when compared to the same period in 2018, most likely due to the continued effect of the abolition of ET fees on 26 July 2017 and the inclusion of 1,700 cases that will be reclassified as multiple claims once fully vetted. Since ET fees were abolished, single claims have been steadily increasing quarter on quarter, only falling from 8,900 in Q4 2017/18 to 8,500 in Q1 2018/19. Caseload outstanding (at 33,000) has almost reached the peak levels seen in 2009/10 (when it was 36,000 in both Q2 and Q3 of that year), driven by the increase seen in single claim receipts.

There were 13,000 multiple claims received this quarter, down 10% on the same period last year. Multiple claims tend to be more volatile as they can be skewed by a high number of claims against a single employer. The multiple claims received this quarter related to 560 multiple claim cases (averaging 18 claims per multiple case). This is down from 640 multiple cases in the same period a year ago, which had an average of 17 claims per case.

The Employment Tribunal disposed of 15,000 claims during July to September 2019, up 38% on the same period in 2018. This was mostly due to a 77% increase in multiple claim disposals, to 8,700. Single claim disposals also increased (by 4%), to 6,000. The multiple claims disposed of relate to 460 multiple cases, up from 380 cases in July to September 2018.

In July to September 2019, 33% of disposals were dismissed upon withdrawal (the most common outcome this quarter), 19% were ACAS<sup>6</sup> conciliated settlements, 17% were withdrawn, 13% were struck out (not at a hearing) and 9% were successful at hearing. The most common jurisdictional complaint disposed of between July to September 2019 was

<sup>5</sup> The Q3 2014/15 disposals data point is not included for disposals, in order to aid comparability. This figure was a disproportionately high outlier (index: 24.2) due to the disposal of a large multiple claim against an airline.

<sup>6</sup> Advisory, Conciliation and Arbitration Service (ACAS)

'Unauthorised deductions'; this was also the most common complaint in July to September 2018.

## 5. Gender Recognition Certificate

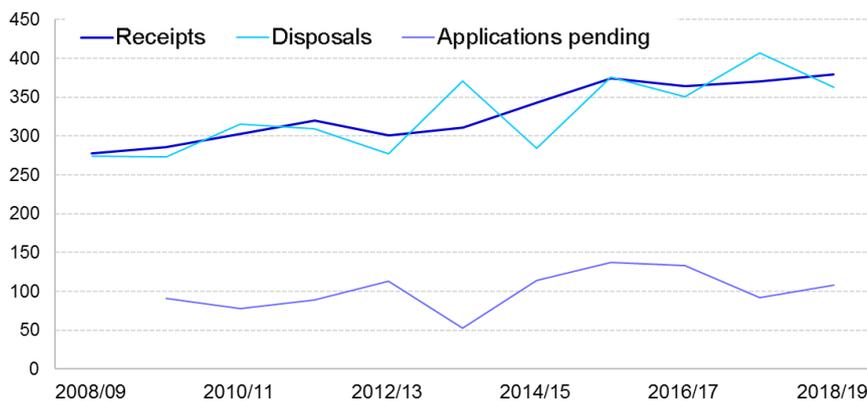
**110 Gender Recognition Panel (GRP) applications were received and 90 were disposed of between July to September 2019; 130 applications were pending by the end of September 2019**

12 more applications were received by the GRP this quarter, compared to July to September 2018. Of the 90 applications disposed of, a full Gender Recognition Certificate (GRC) was granted in 88% of cases (79 full GRCs), three percentage points higher than in the same period in 2018 (where 70 full GRCs were granted out of 82 disposals).

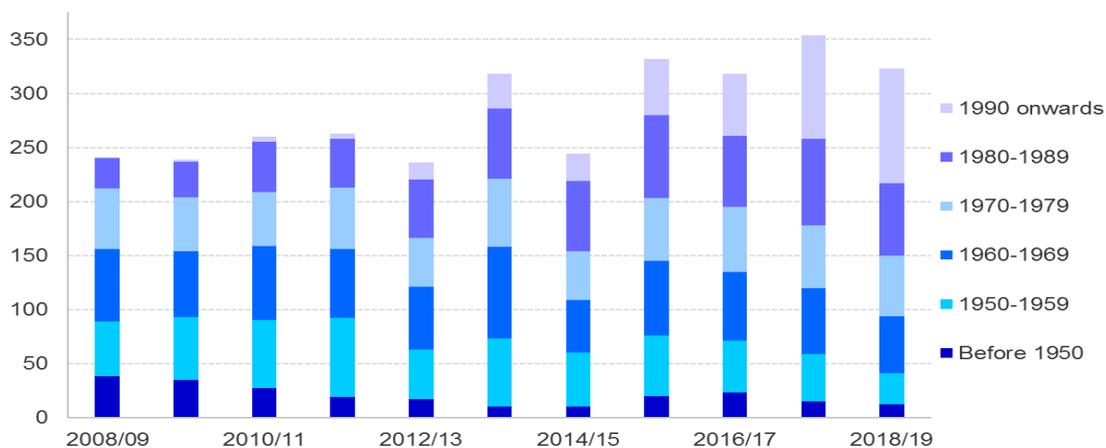
Since April 2005/06, when the Gender Recognition Act 2004 came into effect, 73% of interim certificates (160<sup>7</sup> of the 220 interim GRCs granted) have been converted to a full GRC. No interim certificates were converted to full GRCs between July to September 2019.

Of the 79 full certificates granted in July to September 2019, 8 were for married applicants and 71 for single applicants. 43 (54%) of the individuals granted full certificates were registered male at birth while 36 (46%) were registered female at birth.

**Figure 5.1: Applications for Gender Recognition Certificates received, disposed of and pending, 2008/09 to 2018/19** (Source: Tables GRP\_1 and GRP\_2)



**Figure 5.2: Full Gender Recognition Certificates granted by year of birth, 2008/09 to 2018/19** (Source: Table GRP\_4)



<sup>7</sup> This figure has been revised, but remains provisional, from last quarter's publication following a review of the process for recording interim certificates and their conversion to full certificates.

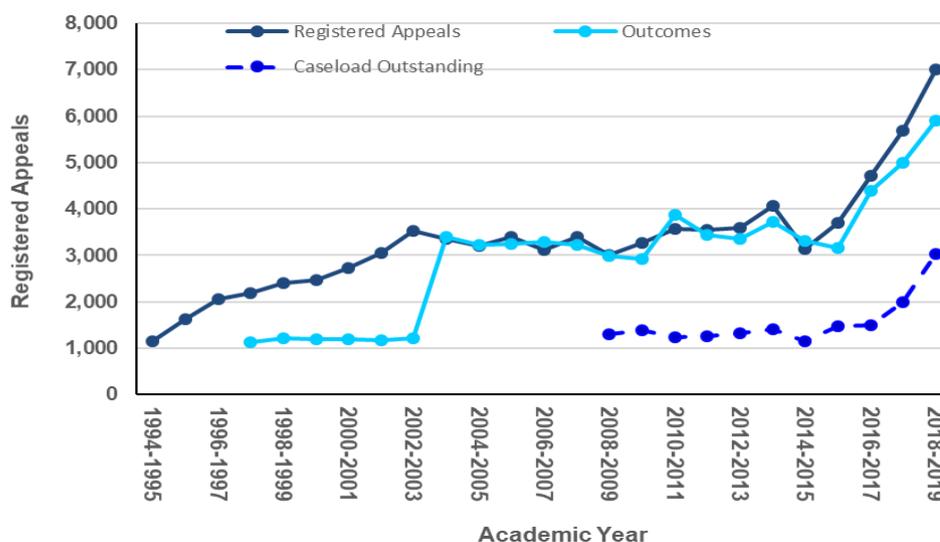
## 6. Special Educational Needs and Disability (SEND)

### Increase in registered SEN appeals, up 23% when compared to 2017/18

In the academic year 2018/19 HMCTS tribunals recorded 7,000 registered appeals in relation to SEN, an increase of 23% when compared to the prior year. In the same period, 5,900 SEN appeals were disposed of, an increase of 18% on 2017/18.

The increase in appeals registered is likely a continued effect of the 2014 SEN reforms which introduced Education Health and Care plans (EHC) and extended the provision of support from birth to 25 years of age.

**Figure 6.1: Registered SEND appeals, 1994/95 to 2018/19 academic years** (Source: Tables SEND\_1 and S\_4)



SEND reforms, which came into effect from 1 September 2014, introduced Education Health and Care (EHC) plans and extended provision of support from birth to 25 years of age for those in education (excluding Higher education).

Of the 7,000 registered SEND appeals in 2018/19, about a third (31%) were against 'refusal to secure an EHC assessment', while over half (54%) were in relation to the content of EHC plans. The most common type of educational need identified in appeals continues to be Autistic Spectrum Disorder, accounting for 45% (3,100) of all SEN appeals.

SEND caseload outstanding reached a new high of 3,000 cases in Q2 2019/20, driven by the previously-noted rising trend in SEND appeals registered.

In 2018/19, ethnicity data was 'not completed' for any of the appeals registered, therefore it is not possible to provide analysis of SEN appeals by child ethnicity. As the table on ethnic origin (SEND\_4) provides no new information, it is likely to be removed in the next set of SEND Tribunal tables, covering the academic year 2019/20 (due to be published in December 2020).

In 2018/19, HMCTS recorded 5,900 outcomes in relation to SEN appeals, an increase of 18% compared to 2017/18. Of these outcomes, 44% (2,600) of cases were decided by the tribunal, a decrease of two percentage points on 2017/18. Of the cases decided, 92% (2,400) were in favour of the appellant, an increase of four percentage points on 2017/18.

In 2018/19, there were 170 registered appeals in relation to disability discrimination, 34 more than the previous year (25% rise). Of these appeals, 19 cases (11%) were related to permanent exclusion from school and the remainder were uncategorised.

The SEND tribunals disposed of 130 Disability Discrimination claims in 2018/19, up from 110 in the previous year (19% rise). Of these disposals, 70 claims (55%) were decided at hearing, 55 appeals (43%) were withdrawn prior to the hearing taking place, and the remaining 3 appeals (2%) were conceded. Of those decided at hearing, 50% were dismissed and 50% upheld – compared to 53% and 47% respectively in 2017/18.

## **Further information**

### **Rounding convention**

Figures greater than 10,000 are rounded to the nearest 1,000, those between 1,000 and 10,000 are rounded to the nearest 100 and those between 100 to 1,000 are rounded to the nearest 10. Less than 100 are given as the actual number.

### **Accompanying files**

As well as this bulletin, the following products are published as part of this release:

- A supporting document providing further information on how the data is collected and processed, as well as information on the revisions policy and legislation relevant to trends and background on the functioning of the tribunal system.
- A set of overview tables, covering each section of this bulletin, an annual set of tables covering further breakdown of Special Educational Needs and Disability statistics for the Academic Year 2018/19 and two additional sets of tables on Employment Tribunals (for ET Fee Refunds and ET Management information – Annex C).
- A set of CSV files including data on each of the three large tribunals (SSCS, Employment and Immigration and Asylum) and an overall receipts and disposals CSV, covering all tribunal types.
- Additional releases this quarter:
  - Update to the statistical notice on Immigration and Asylum (I&A) Detained Immigration Appeals (DIA) to include data to Q2 2019/20.

### **Future publications**

Our statisticians regularly review the content of publications. Development of new and improved statistical outputs is usually dependent on reallocating existing resources. As part of our continual review and prioritisation, we welcome user feedback on existing outputs including content, breadth, frequency and methodology. Please send any comments you have on this publication including suggestions for further developments or reductions in content.

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**Next update: 12 March 2020** (URL: [www.gov.uk/government/collections/tribunals-statistics](http://www.gov.uk/government/collections/tribunals-statistics))

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