Experimental statistics on Failure to Appear warrants in the magistrates' courts

Introduction

A Failure to Appear (FTA) warrant is an arrest warrant issued during criminal proceedings when a defendant fails to appear in court. It is a type of bench warrant and is issued at the discretion of the court. Failure to appear in court is an offence for which defendants can be punished, for example with a fine or prison sentence. Ministry of Justice (MoJ) and Her Majesty's Courts and Tribunal Service (HMCTS) are publishing these figures, initially as experimental statistics, to address user needs and meet public demand for quantitative evidence on this topic.

Experimental statistics are newly developed or innovative official statistics undergoing evaluation. They are developed under the guidance of the Head of Profession for Statistics and are published in order to involve users and stakeholders in the assessment of their suitability and quality at an early stage.

Potential users have expressed demand for these figures through direct requests under the Freedom of Information Act, Parliamentary Questions, public discourse and our own engagement with users.

Content and presentation of these statistics

The statistical tables published with this document present numbers of FTA warrants issued in the magistrates' courts since January 2010, together with numbers of magistrates' court hearings. They are based on data from HMCTS magistrates' courts operational case management system, known as Libra, and are broken down in the following ways:

- Calendar year and quarter
- HMCTS Local Criminal Justice Board (LCJB) area (42 across England and Wales)
- Case initiation type (charge; postal charge; summons, single justice notice and other)
- Offence type (indictable-only; triable either-way; summary non-motoring; summary motoring)

In presenting the figures in this way we aim to maximise the value of the statistics to the public debate, taking into account user demand, contextual information and the detail and quality of the available data. Further information on methodology, definitions and data quality is provided later in this document.

We would welcome feedback from users on the value, methodology and presentation of these statistics. Users can contact us as follows:

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Key findings

The numbers of FTA warrants issued in magistrates' courts across England and Wales has fallen from around 92,000 in 2010 remaining broadly level at around 75,000 and falling to 62,000 in 2020. Over the same period, the volume of hearings in the magistrates' courts also fell, initially from 2.99 million in 2010 to 2.04 million in 2020.

In the first half of 2020 (January to June) the number of FTA warrants were impacted by the response to the Coronavirus (COVID 19) outbreak and fell sharply. However, in the latest quarter (October to December 2020) the number of FTA warrants (22,000) increased and were 38% greater compared to the same quarter in 2019. This exceeded the pre-Covid volumes and is the highest quarterly total in the published time series since the same quarter (Q3) in 2011. In the latest quarter (October to December 2020) the number of hearings listed (507,000) also increased 8% more compared to the same quarter in 2019 (468,000).

The recent increase in activity is a result of the Crime Recovery Plan, and efforts to safely increase capacity numbers.

Throughout the period from 2010, FTA warrants were concentrated in cases in the triable either-way offence type with this category accounting for nearly 60% of those issued but 30% of hearings. Of the remainder, most were issued in summary cases with 1% relating to indictable-only cases.

Trends in the Initiation Types used to bring cases to court have seen substantial changes over the period from 2010 to 2020, with postal charging and summary justice notice both being introduced during the period and the use of various Initiation Types changing differently for different geographic areas and Offence Types. This, together with the data quality issues discussed below, means that users should be cautious when drawing comparisons over time and forming conclusions on this basis.

In the 12 months to December 2020 cases initiated by postal charge accounted for 30,000 (49%) of the FTA warrants issued and 460.000 (23%) of all hearings. Over the same period, cases initiated by a charge accounted for 27,000 (44%) of the FTA warrants issued and 575,000 million (28%) of all hearings. These Initiation Types are more often used in the more serious cases and are less prevalent in summary cases, for which the court is more likely to proceed in the absence of the defendant rather than issue an FTA warrant.

Publication history

Statistics on FTA warrants received and executed in each police force area in England and Wales, by category of warrant, were included in Criminal Justice System Statistics Quarterly until the March 2015 bulletin. These figures were based on data collected from police forces under the Home Office Annual Data Requirement.

These statistics were discontinued from June 2015. Data supplied to MoJ during 2015 became increasingly incomplete, making it impossible to continue to supply robust data on the previous basis and the requirement for police forces to supply the data was abolished.

In early 2016, MoJ consulted users[1] on whether they wanted statistics published on a breakdown of court data on failures to appear, subject to data quality proving sufficient. Having received a positive response, MoJ published experimental statistics for the year ending December 2015 alongside the Criminal Justice Statistics Quarterly: June 2016[2] bulletin. These included warrants issued in Crown Courts as well as magistrates' courts. After publishing these statistics MoJ decided further investigation of the quality of the data

[1] https://www.gov.uk/government/consultations/changes-to-criminal-justice-statistics

[2] https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-june-2016

was necessary, and have been working with HMCTS to develop a new methodology for robust statistics on FTA warrants.

In February 2018, HMCTS released figures on FTA warrants in its responses to two[3] Freedom of Information (FoI) requests. These were for magistrates' courts only, for England and Wales, and covered the period from January 2010 to September 2017.

In December 2019 we began publishing these experimental statistics, using a newly developed methodology, alongside the MoJ Criminal Court Statistics Quarterly: July to September 2019 bulletin with the intention of developing a regular publication to meet the continuing user demand on this topic.

Methodology

These statistics are based on data from HMCTS magistrates' courts operational case management system, known as Libra. In developing them we have investigated the quality and definitions of the data available, and as a result they are based on a different methodology from the figures released before 2019. Below are some of the most important features of this methodology and a comparison with the most recent pre-2019 figures:

- Figures for the Offence Type 'breach' have been excluded. The data recorded in Libra for breach cases are a mixture of warrants issued for failure to appear and those issued to commence court proceedings, and it is not possible to separate these. We have judged it better therefore to exclude warrants relating to breach cases altogether to give a clearly-defined measure, rather than to include them, which would give a comprehensive but more diluted and ambiguous measure.
    - The figures released in the 2018 Freedom of Information responses included breach cases.
- For cases involving multiple offence types on the same hearing date (or multiple hearing dates), we have included the most serious 'live' offence at the hearing.
    - The figures released in the 2018 Freedom of Information responses were based on the most serious offence type on the case, and therefore in circumstances where the most serious offence on the case was withdrawn and an FTA warrant was issued on a lesser offence, this FTA warrant would not have been counted.
- Following consultation with HMCTS operational staff on the recording of FTA warrant results on Libra, we have restricted the categories of results included in these figures to the following.
    - Warrant for arrest with bail (dated)
    - Warrant for arrest without bail
    - Warrant for arrest with bail (undated)
    - Warrant for Breach of a Court Order (where applied to non-breach offences)
- An individual case in the magistrates' courts can have multiple FTA warrants issued against it at various hearings throughout the life-cycle of the case.
- These figures represent a count of each criminal case where a hearing took place and also where a FTA warrant was issued in the period specified, rather than a count of defendants. Hence, where a defendant has more than one case for which a hearing took place or a FTA Warrant was issued, each case will count separately, and where more

[3] https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/statistics#freedom-of-information-responses (180223001 and 180706009)

than one FTA Warrant was issued for the same case in the same reporting period, each issuance will be counted separately.

- We have used the Case Hearing Date held in Libra to allocate each hearing and warrant to a quarterly period.

Definitions

Case: A case is counted based on a unique case number. This case may include multiple offences and/or offence types.

Failure to Appear warrant: This is an arrest warrant issued during criminal proceedings when a defendant fails to appear in court. Also known as an FTA warrant, it is a type of bench warrant and is issued at the discretion of the Court. Failure to appear in court is an offence for which defendants can receive a fine, be sent to prison, or both.

Hearing: The consideration of a case. A hearing is counted each time a case has been listed in a courtroom session, regardless of whether the defendant is required to attend the hearing, or of whether the hearing took place as scheduled. For example, single justice notice cases listed for first hearing do not require defendant attendance or a physical hearing in a courtroom. Also, where a case is listed for a hearing in a morning session and is adjourned to an afternoon session at the same court on the same day, each hearing will be counted.

Initiation Type: Criminal proceedings can be instigated in the magistrates' courts by a range of methods, called Initiation Type:

- **Charge:** A criminal charge is a formal accusation made by the police or other prosecutor asserting that somebody has committed a crime. The defendant will either be released on bail to attend court or held in custody to appear at the next sitting of the court.

- **Postal charge:** A postal charge, or more formally a 'postal charge and requisition' may be issued by an authorised prosecutor. This replaces the summons procedure or minor charges where the defendant has been released on unconditional bail. It advises when attendance at court is required and what the offences are that the defendant is being accused of. Postal charges can cover serious criminal offences which require the defendant's attendance or routine traffic matters, which can be dealt with in the defendant's absence.

- **Summons, single justice notice and other:** This category includes all cases with the initiation types summons, single justice notice, remittal and other, described below. We have chosen to combine these into a single category because of the issues discussed in the data quality section later in this document.

    - **Summons:** magistrates' courts can issue a summons to instigate criminal proceedings. There is no limitation as to the seriousness of the offence that may be the subject of a summons. However, the lack of the ability to deal with questions of bail or custody means that these tend to be for the more minor offences such as speeding or TV Licence evasion. The summons will advise the person to whom it is directed that legal proceedings have been started, and requires the defendant to appear before the issuing magistrates' court at the time stated in it. For the more minor proceedings the defendant may be offered a process whereby they can enter a guilty plea by post rather than attend court.

    - **Single Justice Notice:** In April 2015, the single justice notice procedure was introduced for adults charged with summary-only, non-imprisonable offences such as speeding or TV Licence evasion. Single justice notice procedure cases are designed to be heard outside of a traditional courtroom, including online, but may

be brought into a courtroom if the defendant pleads not guilty or otherwise elects to attend a hearing in court.

- **Remittal:** This Initiation Type is generally used for cases remitted from one LCJB area to another (which became an automated process across the HMCTS court databases in June 2018). The case may have started out with the 'Initiation Type' – 'charge', 'postal charge', 'summons' or 'single justice notice' but will appear in the receiving courts database with the Initiation Type 'remittal'. From the first quarter of 2011 to the fourth quarter of 2013, remittal hearings numbered fewer than 2,000, but numbers increased to over 7,000 in recent quarters, which reflects the increased willingness of courts to consolidate cases from a number of LCJB areas to get them dealt with on the same day.
- **Other**: As well as being used for the single justice notice procedure cases as described in the data quality section below (Data Quality – Initiation Type), the 'other' Initiation Type has historically sometimes been used to manually enter cases remitted from another LCJB area. It is also used for other matters such as European Arrest Warrants, Applications to Vacate a Trial date, Applications to Reopen a case and Statutory Declarations.

Local Criminal Justice Boards (LCJBs): These were originally set up in all 43 Police Force Areas (PFAs) to work in partnership across agencies to improve the efficiency and effectiveness of the Criminal Justice System and to improve the experience of the victims of and witnesses to crime. In most instances, HMCTS LCJB areas match to PFAs, apart from in London, where there is only one LCJB area for the two London PFAs.

Offence Type: Offence types in the criminal courts range from Indictable (the most serious cases, such as murder and rape), Either Way (serious enough to be dealt with either in the magistrates' court or at the Crown Court, for example theft and drugs offences), Summary Non-Motoring (less serious cases such as TV licence evasion and minor assaults) and Summary Motoring (for example speeding and driving without insurance). Where two different offence types are heard at the same hearing, only the most serious offence type has been counted, with Indictable being the most serious, followed by Either Way, then Summary Non-Motoring and finally Summary Motoring.

For Summary Motoring cases, prior to 2013 there were significant differences in practice around the country, with some courts tending more than others to impose driving disqualifications in the absence of the defendant rather than issue a FTA warrant. In 2013 however, national guidance was issued advising that courts should impose driving disqualifications in absence rather than issuing a warrant.

Data quality

The data held on the Libra system are generally of good quality and provide reliable estimates of the magistrates' courts' caseloads. The data recorded must be checked and verified at case level by court staff before being submitted.

Additionally, the centrally collated data are subject to further data quality and completeness checks, including the investigation of apparent anomalies and any unexpected changes in the data.

Data are taken from a live management information system and can change over time.

Excluding historic migrated cases: While conducting quality assurance on the figures, we discovered that the data for the first three months of 2011 contained a number of cases that in fact related to the period prior to 2010. Investigation revealed that there had been a migration of data from a legacy system (Equis) into Libra of 1,969 outstanding FTA warrants. These warrants and the hearing data related to offence dates between 1997 and 2009 and were spread across all 4 Offence Types.

In addition to this a further 931 adjourned cases were also migrated across but none of these had an outstanding FTA warrant. These hearings related to offence dates between 1996 and 2008.

To ensure that the number of FTA warrants and hearings are accurately reflected in the appropriate period, we have excluded these migrated cases from the published figures. This issue has affected only the January to March 2011 quarter.

Initiation Type: the use of the range of Initiation Types available to instigate criminal proceedings has changed over the period from 2010 to 2019. There are also some issues to do with the quality of the data that users should be aware of when interpreting the statistics.

When the postal charge Initiation Type was originally introduced in 2011 (after pilots in a number of courts from 2007-08 onwards), it was generally used as a replacement for summonses for summary motoring cases (such as speeding) as well as for some summary non-motoring cases (such as Vehicle Excise Licence offences), with other summary non-motoring cases (such as for TV Licensing offences) continuing to be instigated by summons.

Then, from the second quarter of 2015 the single justice notice procedure for adult summary non-imprisonable cases was gradually rolled out across the courts, resulting in a decline in the number of hearings for summary motoring and summary mon-motoring cases that were instigated by both postal charge and by summons from the first quarter of 2016.

At first, computer systems in some Police Force Areas could not accommodate the new single justice notice Initiation Type, and this resulted in an increase in the use of the Initiation Type ‘other’ to record these for a period of time until the police systems were updated.

We have therefore determined that the most reliable and meaningful way to present and interpret the data on Initiation Type is to combine summons, single justice notice, ‘other’ and remittal cases into a single category, ‘summons, single justice notice and other’.