

Judicial Review Statistics 2007-2011

Ministry of Justice
Ad-hoc publication

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Executive Summary

This ad hoc statistical release aims at expanding the current understanding on Judicial Reviews to the informing current discussion. This particular publication looks at case progression from applications lodged 2007 and 2011. Between 2007 and 2011 there was:

- An increase of 70 per cent in applications lodged with the growth driven by Judicial Reviews on immigration and asylum.
- Around 15 per cent of all applications each year are granted permission to proceed and around 50 per cent refused. Of the refused ones, around 40 per cent apply for an oral renewal.
- Around five per cent of all applications each year reach a final hearing and less than three per cent decided in favour of the claimant.
- For cases reaching a final hearing the total average time taken from date lodged to final hearing was around one year. This time has shown a decrease over the years; however this may reflect the fact that longer, more complex cases, have not yet been resolved.

Introduction

This ad-hoc statistical notice presents information on the progression of Judicial Reviews (JRs) through the civil justice system. This has been done to address increasing interest in reliable JR figures and to inform the current proposed reforms.

The data used in this publication was taken from an administrative system (COINS¹) as a snapshot in January 2013 and it tracks the progress of JRs lodged between 1 January 2007 and 31 December 2011. The permits a cohort analysis that provides information on:

- the number of JR applications that are accepted or refused;
- the number of JR applications that apply for an oral renewal;
- the number of JR applications that reach a final hearing; and,
- timeliness figures for JRs applications at each stage.

However, these figures are unlikely to be the final figures on case progressions, particularly for applications lodged in 2011, since cases need time work their way through the Administrative Court system. For example the 2011 data relates to cases where an application for permission was lodged in 2011. If a final hearing for any of these cases has not yet taken place then this will not be reflected in the current 2011 figures. Once any outstanding final hearings for these cases have taken place they will be reflected in future editions of the 2011 figures. Therefore, the figures published here are likely to be an under count of the final figures².

These statistics do not reflect all Administrative Court activity in relation to Judicial Reviews between 2007 and 2011. Workload figures are available in [Judicial and Court Statistics](#).

Figures for 2012 on total Administrative Court workload and JR case progression will be published June 2013.

Data breakdowns

The Administrative Court system allows statistics to be shown by different sub groups:

1. type or 'Nature of review' - cases broken down by whether JR applications concerns criminal or civil law;

¹ COINS stands for "Crown Office Information Network System". The Administrative Court Office was formerly known as the Crown Office.

² For example there is an Immigration and Asylum case that was lodged in May 2007 that did not receive a hearing decision until early 2012, this case would be over 1,700 days (over four and half years).

2. topic area (for civil law JRs only) – around 75 categories covering areas from immigration/ asylum, prison, and town and country planning;
3. defendant type - a free text field in the database where similar defendant types were group together. Mostly these are Government departments, schools, Universities and Local Authorities (which include county, city, borough, district and metropolitan councils). Where defendant type is unknown, it was allocated to 'other' category.

For general information on the definitions of terms used in this statistical notice on Judicial Reviews please consult the current edition of [Judicial and Court Statistics publication](#).

Judicial Reviews

JR is a process by which individuals, businesses and other affected parties can challenge the lawfulness of decisions or actions³ of the Executive, including those of Ministers, local authorities, other public bodies and those exercising public functions. It is a largely judge-developed procedure and can be characterised as the rule of law in action, providing a key mechanism for individuals to hold the Executive to account. It is, however, intended to operate quickly and proportionately. Certain protections are in principle provided against spurious claims: only those with sufficient interest are able to bring a case and they must first obtain permission for their case to be heard.

There are three main grounds on which a decision or action may be challenged:

1. **illegality:** for example, it was not taken in accordance with the law that regulates it or goes beyond the powers of the body;
2. **irrationality:** for example, that it was not taken reasonably, or that no reasonable person could have taken it;
3. **procedural irregularity:** for example, a failure to consult properly or to act in accordance with natural justice or with the underpinning procedural rules

JR is often described as a remedy of last resort: the courts will normally expect parties to use other avenues, including a right of appeal, where they are available.

The Judicial Review process

Judicial Review application

Before bringing JR proceedings, parties should normally adhere to the Pre-Action Protocol,⁴ which encourages them to seek to settle their differences without reference to the Court.⁵ JR proceedings are commenced by filing a claim form with the Court, setting out the matter the claimant wants the Court to decide and the remedy sought. The claim must be submitted promptly and in any event within three months of the grounds giving rise to

³ This may include both action and inaction.

⁴ See: www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_jrv (the pre-action protocol does not apply to immigration or asylum judicial reviews).

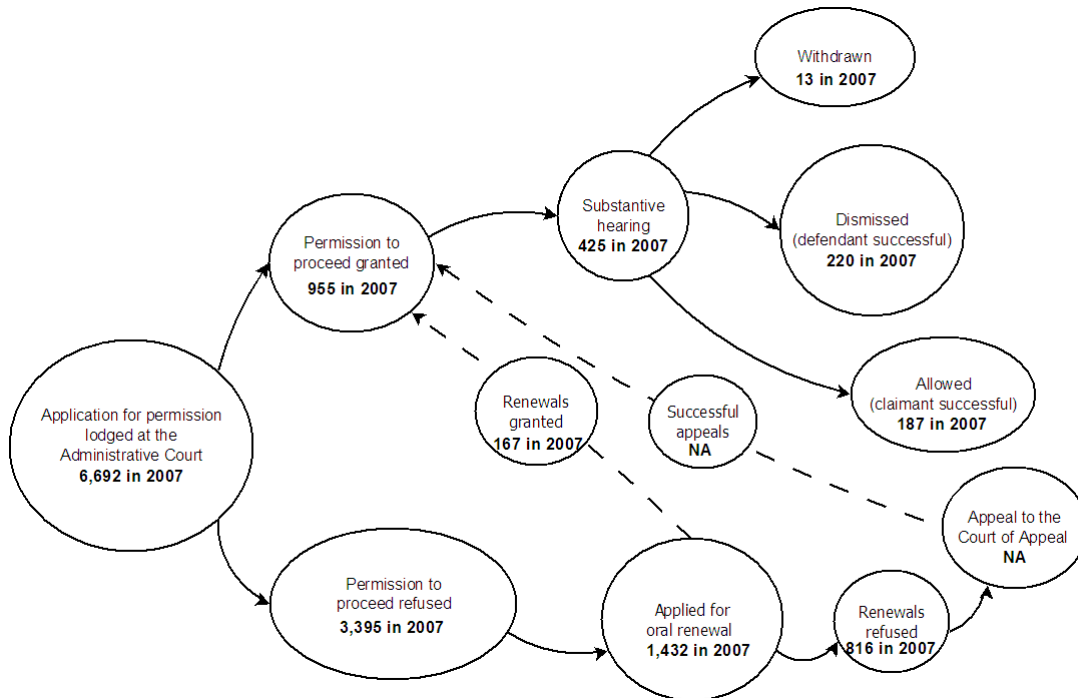
⁵ Judicial review proceedings are generally heard in the Administrative Court, which forms part of the Queen's Bench Division of the High Court. Some Immigration and Asylum Judicial Reviews are heard in the Upper Tribunal.

the claim. The Court’s permission is required for a claim for JR to proceed⁶. This can be in the form of an oral or paper hearing; with an oral hearing taking generally longer.

Oral renewal

In cases where the Court refuses permission (either in full or in part) the claimant may request that the decision be reconsidered at a hearing (referred to in this publication as an “oral renewal”). The oral renewal is a full reconsideration of the decision on permission, supported by oral submissions. Where permission is granted, the claim will continue to a hearing. Where it is refused, the claimant may consider whether he or she wishes to appeal to the Court of Appeal. This publication does not cover statistics from the Court of Appeal (see Figure 1 shows a simplified Judicial Review process).

Figure 1: Flow chart showing a simplified Judicial Review process, with 2007 case progression figures



Applications can be withdrawn at any stage in the process where cases may be on court waiting lists, withdrawn by the claimant or settled privately. As Figure 1 shows, these cases tend to count for the majority of the cases.

⁶ Section 31(3) of the Senior Court Act 1981 (c 54).

Results

Applications for permission to apply for Judicial Review

In 2011, there were 11,359 applications for permission to apply for Judicial Review, a 70 per cent increase since 2007. Immigration and Asylum cases have been driving this increase, and Figure 2 shows that over three quarters of all applications were concerning Immigration and Asylum, which fall under the Home Office.

Figure 2: Applications to apply for Judicial Review, by nature of review



In 2007, 14 per cent all applications were granted permission to proceed to a final hearing and 51 per cent refused. The remaining 35 per cent had other outcomes such as withdrawal, adjournment and resubmission. Similar values were found for applications lodged in 2008. Between 2009 and 2011, the percentage of application granted permission to proceed decreased to 11 per cent in 2011 as these cases have had less time to work their way through the court system.

Criminal JRs are twice more likely to be granted permission to proceed than civil JRs (30 per cent versus 14 per cent in 2007). Most of this is driven by the low rate of permissions granted to proceed for Civil (Immigration or Asylum); which was only nine per cent in 2007.

For all defendants, the Home Office had the lowest percentage of applications been granted permission to proceed (nine per cent in 2007), reflecting the fact that most applications concern immigration and asylum. This percentage remains the same between 2008 and 2011 despite Home Office share of all JR applications increasing.

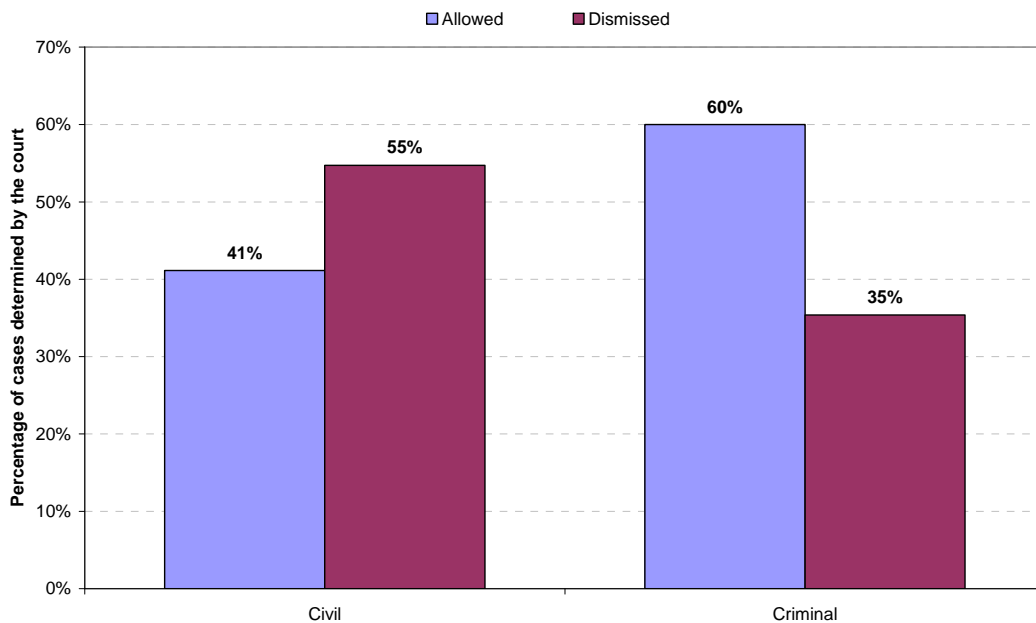
Local Authorities and Ministry of Justice had just over ten per cent of all applications and a rate of applications granted to proceed of between 22 per cent and 28 per cent in 2007.

Final hearing

In 2007, 425 applications for Judicial Review reached a final hearing at court (6 per cent of all applications). Of these, 44 per cent were allowed (claimant successful) and, 52 per cent were dismissed (defendant successful). As explained above, many other cases are withdrawn or settled prior to a final hearing and cases between 2008 and 2011 have had less time to work their way through the court system.

Criminal JRs are more likely to be disposed of by the court at a final hearing than civil JRs (22 per cent versus six per cent in 2007). The percentage allowed is 41 and 60 per cent for civil and criminal law cases respective (Figure 3). Again, the figures for civil law cases are driven by the low rate of permissions granted to proceed for Immigration or Asylum with two per cent in 2007.

Figure 3: Judicial Reviews disposed of by the court, 2007



For all defendants the pattern for disposal is similar to the pattern for applications. The Home Office had the lowest percentage of applications that reach a final hearing, with three per cent in 2007. In 2007, the claimant was successful (allowed) in ten per cent of JRs against the Ministry of Justice at final hearings; in particular, 25 and 17 per cent against Magistrates and Coroners respectively.

Oral renewals

In 2007, 42 per cent of applications refused applied for an oral renewal and 12 per cent of these were granted. The majority of oral renewals are refused; the figure in 2007 was 57 per cent.

Refused applications from criminal law cases were more likely to apply for an oral renewal with 49 per cent in 2007 versus 42 per cent for civil law cases.

Timeliness

In 2007, the average time taken to reach a decision on whether to grant permission to proceed was 112 days and it took 351 days from lodging an application to a final hearing. Civil law cases took 378 days from lodging an application to a final hearing; the figure for criminal law cases was 194 days.

The average time taken to reach a decision on whether to grant permission to proceed has reduced over the last few years, from 112 in 2007 to 83 in 2011⁷. The average time taken from lodging an application to final hearing has also reduced.

The average time taken from application for renewal to renewal decision was 145 days in 2007. This time has fluctuated over the last few years from 91 to 153 days.

Table 7 shows that time from lodging to final hearing is potentially decreasing between 2007 and 2011; however this may reflect the fact that longer, more complex cases, have not yet been resolved in the most recent years.

Table 7: Average time taken for each stage of the Judicial Review process, 2007 to 2011

Stage	2007	2008	2009	2010	2011
Lodging to permission	112	88	103	88	83
Renewal time	145	91	110	153	107
Lodging to final hearing	351	307	297	307	275

Source:

Extract from COINS database, Administrative Court Office

Notes

1. Please be aware these figures are unlikely to be the final figures on case progressions, particularly for applications the most recent applications, since cases need time work their way through the Administrative Court system.
2. Timeliness figures only for applications granted, refused, or allowed or dismissed at final hearing. Including time spent "stood out" of the list.

⁷ Please be aware these figures are unlikely to be the final figures on case progressions, particularly for applications lodged in 2011, since cases need time work their way through the Administrative Court system

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