



Ministry
of Justice

Tribunals Statistics Quarterly

July to September 2013

Includes SEND information for the
academic year 2012/13

12th December 2013

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Executive Summary

This report presents the latest statistics on type and volume of Tribunal cases that are received, disposed of or outstanding as of the second quarter of the financial year 2013/14 (July to September 2013).

Receipts

- HMCTS Tribunals recorded 214,300 receipts in the period July to September 2013. This is stable when compared with the same period of 2012, but down 16% on the previous quarter.

Disposals

- There were a total of 218,700 cases or claims disposed of in July to September 2013. This represents an increase of 21% on those cases disposed of in the same period in 2012, and is the highest volume of disposals in a quarter since the start of this statistical series in 2008/09.

Caseload outstanding

- For all tribunals combined, the caseload outstanding at the end of September 2013 was 928,300.

Timeliness

- For Social Security and Child Support Tribunals, in July to September 2013 half of all cases were cleared in 17 weeks or less. For Immigration and Asylum, this was 21 weeks or less, and for Employment Tribunals, it was 48 weeks or less¹

Special Educational Needs and Disability

- In the academic year 2012/13 there were 3,600 Special Educational Needs appeals; this is a similar number to the previous year.
- In the academic year 2012/13 only 24% of cases were decided by the tribunal, of these 84% decided in favour of the appellant. The remainder were withdrawn or conceded.

¹ Timeliness differs by Tribunal jurisdiction, which reflects the different processes and types of cases. As such, direct comparisons across different types of Tribunals are difficult and should be treated with caution.

Introduction

Her Majesty's Courts and Tribunals Service (HMCTS) was created on 1st April 2011. It is an agency of the Ministry of Justice (MoJ) and is responsible for the administration of the criminal, civil and family courts and tribunals in England and Wales and non-devolved tribunals in Scotland and Northern Ireland. Employment Tribunal statistics cover England, Wales and Scotland. For historic publications of all Tribunals Statistics please see:

www.gov.uk/government/organisations/ministry-of-justice/series/tribunals-statistics

In this report, total figures are used although users should be aware different Tribunals have been created or joined HMCTS at different points in time. A list of tribunals is in Table B.1.

Further information on HMCTS statistics, including information on the data sources and terminology used in this report can be found in the Guide to Court and Administrative Justice Statistics.

www.gov.uk/government/publications/guide-to-court-and-administrative-justice-statistics

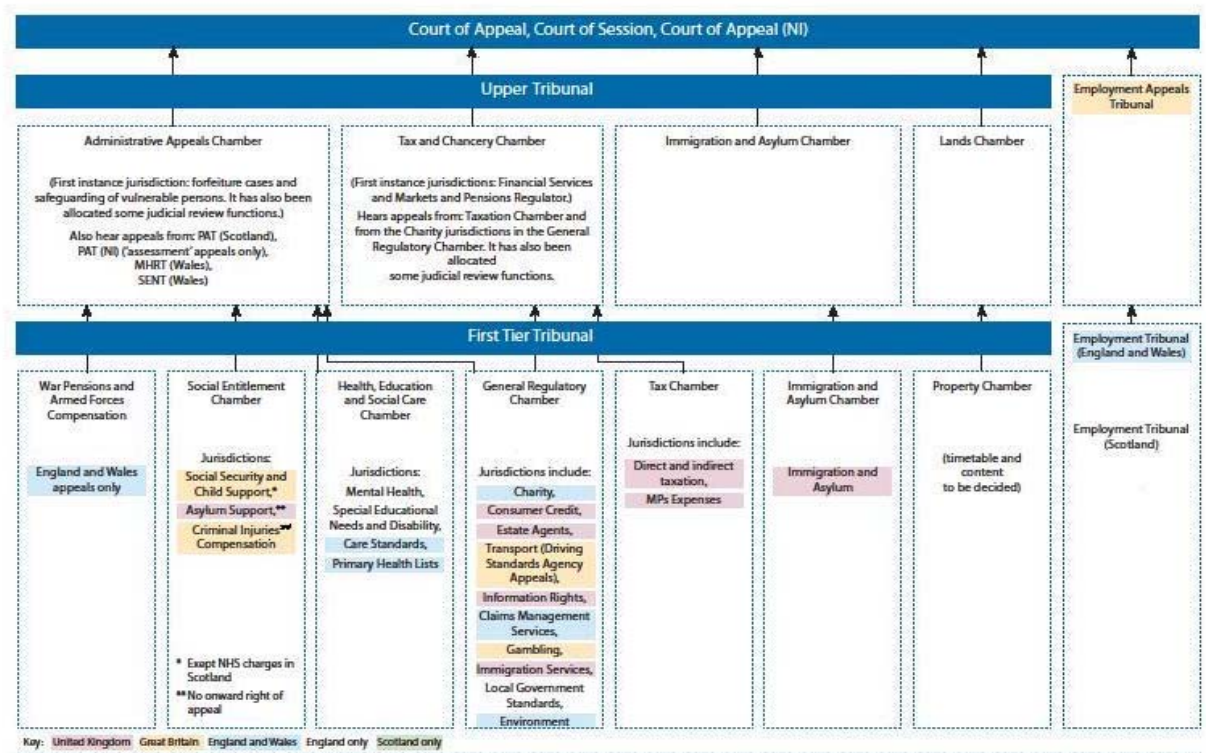
Comparisons are typically made with the same quarter in the previous year. Some time series information is also given. For further information please see the Excel tables that accompany this report. These also contain details of the smaller volume tribunals which are not covered in the text presented here.

This report focuses on information on receipts (e.g. the acceptance of a case by HMCTS), the outcome of cases by category (e.g. cases disposed of at hearing) and the caseload outstanding for the three largest Tribunals (Employment (ET), Immigration and Asylum (IA) and Social Security and Child Support (SSCS)). The three largest Tribunals account for over 90 % of Tribunal receipts.

Statistics on the work of the civil, family and magistrates' courts the Crown Court in England and Wales during July to September 2013 will be published by the MoJ on 19th December. These quarterly courts statistics, along with annual statistics, can be found in separate reports on the Gov.uk website, at:

www.gov.uk/government/organisations/ministry-of-justice/series/courts-and-sentencing-statistics

Figure 1: First tier and Upper Tribunal chambers



For more information on the context for this publication please see the information below:

Tribunal judgements: www.bailii.org/databases.html#uk

Employment Tribunals

Fees for Employment Tribunals and the Employment Appeals Tribunal were introduced on 29th July 2013, alongside wider reform of procedural rules (following the Underhill Review of Employment Tribunal Rules). Given that these changes were implemented part way through the quarter (July to September), these figures should be treated with caution.

For background information on the reforms please see:

www.justice.gov.uk/tribunals/employment

www.gov.uk/government/publications/employment-tribunal-receipt-statistics-management-information-july-to-september-2013

www.gov.uk/government/consultations/employment-tribunal-rules-review-by-mr-justice-underhill

Social Security and Child Support

The Department for Work and Pensions (DWP) have carried out analysis on the overturn rates for Employment and Support Allowance (ESA) by region and health condition, for further information see:

www.gov.uk/government/publications/employment-and-support-allowance-6

Special Educational Needs and Disability

www.justice.gov.uk/publications/corporate-reports/tribunals/send

www.gov.uk/government/publications/children-with-special-educational-needs-an-analysis-2013

Scotland Tribunals (non-MoJ)

www.mhtscotland.gov.uk/mhts/Annual_Reports/Annual_Reports_main

www.asntscotland.gov.uk/asnts/181.25.141.html

www.prhpscotland.gov.uk/prhp/128.html

Northern Ireland Tribunals (non-MoJ)

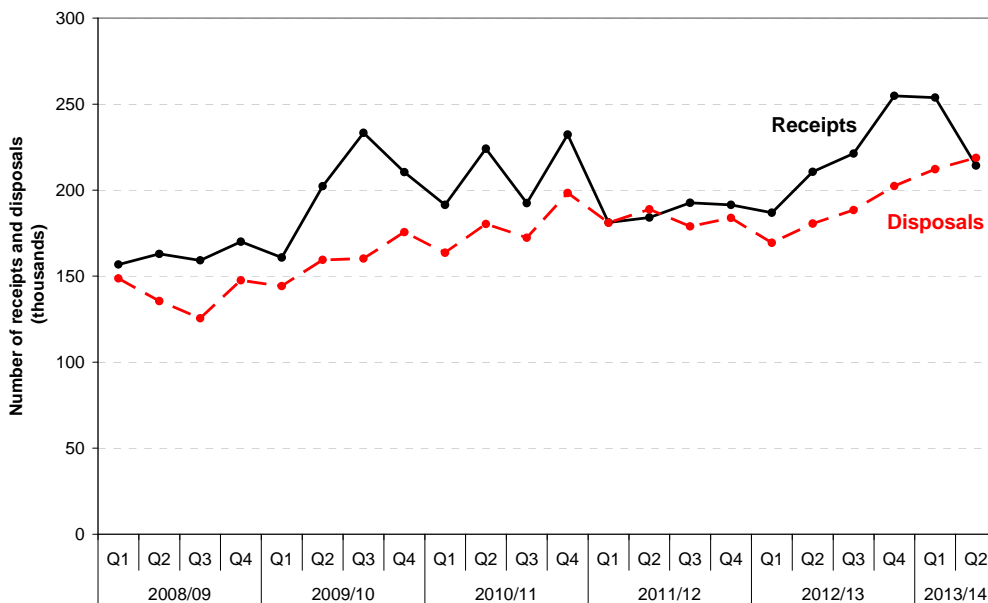
www.courtsni.gov.uk/en-GB/Services/Statistics%20and%20Research/Pages/default.aspx

Receipts

HMCTS Tribunals² recorded 214,333 receipts in the period July to September 2013. This is down 16% on the previous quarter, but stable when compared with the same period of 2012. The majority (60%) of these were in Social Security and Child Support (SSCS), a further 18% were Employment Tribunals (ET) and 13% Immigration and Asylum (IA).

Figure 2 shows trends in both receipts and disposals since Q1 2008/09. Typically the number of receipts is greater than the number of disposals. This quarter is the second time in five years where HMCTS disposed of more tribunal claims than it received. Note that these figures are receipts and disposals in the quarter, rather than following the same cases through the system.

Figure 2: Receipts and disposals for all Tribunals, 2008/09 to 2013/14

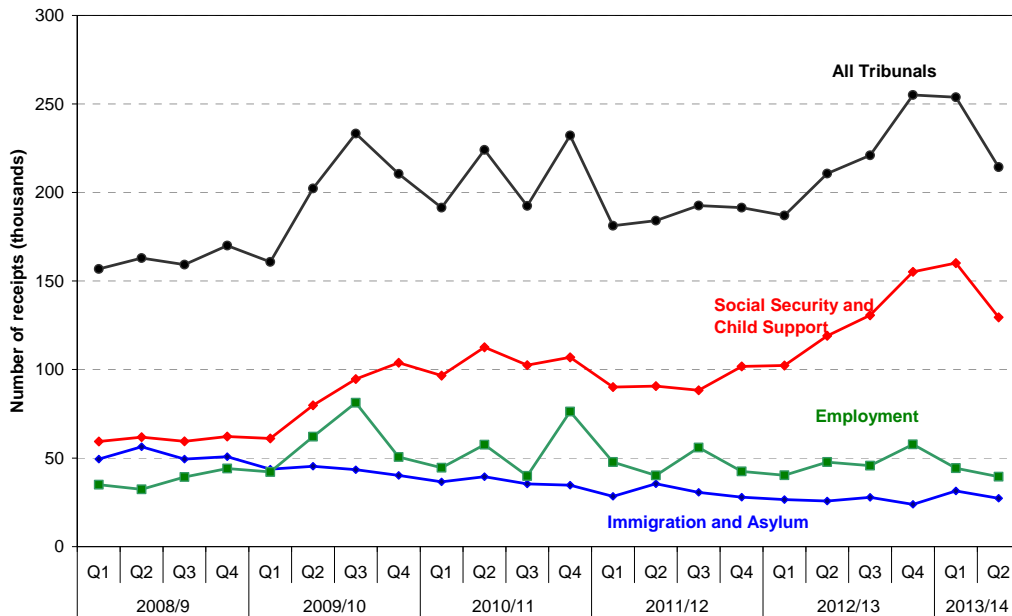


What has driven this?

Figure 3 illustrates the receipts by the largest jurisdictions. As SSCS comprises nearly two thirds of receipts, this drives the overall trend. Fewer appeals against decisions made by the DWP were received by the tribunal in July to September 2013 (19% lower than April to June, but similar to the same period last year). Whereas the increase in recent quarters was due to appeals in relation to Employment and Support Allowance (ESA), the decrease seen since last quarter was driven by a fall in these receipts.

² These statistics do not cover the Upper Tier Immigration and Asylum Chamber

Figure 3: Tribunal receipts by jurisdiction, 2008/09 to 2013/14



Employment Tribunals (Table 1.2)

Claims in employment tribunals can be classified into either single³ or multiple⁴ claims. Single claims are made by a sole employee/worker, relating to alleged breaches of employment rights. Multiple claims are where two or more people bring proceedings arising out of the same facts, usually against a common employer. As with singles claims, multiple claims can involve one or more jurisdictional complaints. Where claims are grouped as multiples, they are processed administratively and managed judicially together. We call these groups of claims ‘multiple claims cases’.

To illustrate these differences please see the case studies below.

³ A claim may be brought under more than one jurisdiction or subsequently amended or clarified in the course of proceedings, but will be counted only once.

⁴ Multiple cases are where two or more people bring claims, involving one or more jurisdiction(s) usually against a single employer but not necessarily so, for instance in Transfer of Undertakings (Protection of Employment) Regulations (TUPE) cases, and always arising out of the same or very similar circumstances. As a multiple, the cases are processed together.

Single claim - *Bob works for a Building Company and has done so for a number of years. He is just over 50 years old and was recently overlooked for promotion. Those promoted were much younger. Bob decided to issue a claim to the Employment Tribunal alleging age discrimination.*

In this instance the claim issued would be categorised as a '**single**' claim with one jurisdiction complaint. If Bob also included a complaint in respect of unpaid wages in his claim, the tribunal would still categorise it as a single claim, but there would be two jurisdictional complaints within it that would need to be processed, managed and disposed of. As a rule of thumb, the greater the number of jurisdictional complaints within a claim, the more work it represents for the tribunal to hear and determine.

Multiple claim (simple scenario) - *Two Hundred individuals who work for Sunnydale Council bring claims to the Employment Tribunal for failure to provide equal pay for equal work. They present their claims jointly on one claim form and are all represented by the same lawyer.*

In this instance, the tribunal would formally issue 200 claims, recognising 200 claimants and assigning 200 claim numbers. Given that each of the claimants presented a sole ground of complaint (equal pay), the tribunal would also recognise 200 jurisdictional complaints.

In this scenario, the 'workload' generated by the 200 claims would be most unlikely to equate to the workload generated by 200 single claims for equal pay. Accordingly, a better measure of the workload before the tribunal in respect of these proceedings is as a **Multiples Claims Case.**

Multiple claim (more complex scenario) - *Katie was dismissed by her employer and brings a claim for unfair dismissal. Sue was also dismissed in relation to the same incident and brings a separate claim (on a separate claim form) for unfair dismissal, against the same employer. Sue also includes a complaint unlawful deduction of wages prior to her dismissal. Although the claims were presented separately, an Employment Judge subsequently directs that the claims be joined as a multiple, and are from that point processed and managed together.*

In this instance the official statistics would show:

- a. One multiple claim case receipt
- b. Two multiple claim receipts (with Katie and Sue as the claimants)
- c. Three jurisdictional complaints (2 x unfair dismissal, 1 x unlawful deduction)

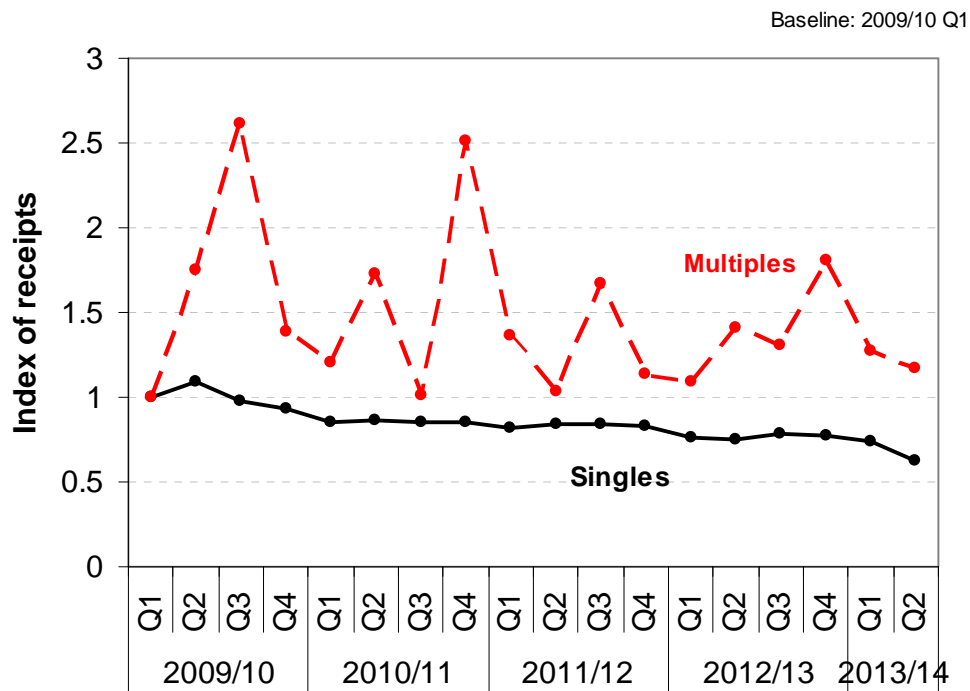
In Employment Tribunals, the number of claims received in July to September 2013 was 39,514 – 17% fewer than in the same period of 2012. This was driven by a 17% decrease Working Time Directive claims, which is the largest jurisdiction⁵. There were also large decreases in Unfair Dismissal (42%), and Redundancy (failure to inform and consult)

⁵ There is a large group of multiple Working Time Directive claims that have fuelled the rise in multiple claims over recent years. This is mainly due to the fact that the claims have to be resubmitted every quarter. These are legitimate duplicates, and have to be registered with new case numbers each time they are resubmitted

(36%). The largest increases were in Equal Pay (39%) and Sex Discrimination (35%).

The trend in single claims is broadly steady, while the trend in multiple claims is more volatile due to large numbers of claims against a single employer which can skew the national figures. This is illustrated in Figure 4 below. As the numbers of single and multiple claims are so different, they have been indexed with a baseline of Q1 2009/10 = 1.

Figure 4: Index of ET multiple and single claim receipts⁶



The number of multiple claims cases has been falling over the last few quarters, from around 1,500 in July to September 2012 to around 1,000 in July to September 2013. This indicates that the volatility in multiple claims is due to the number of people within each claim not the number of cases.

A claim (either single or multiple) can be brought under one or more of different jurisdictions, for example under Age Discrimination and Equal Pay. Therefore the number of jurisdictional complaints is always greater than the total tribunal claims accepted. On average in July to September 2013, there were 1.7 jurisdictional complaints per receipt, consistent with previous quarters.

⁶ The index compares the number of receipts with the baseline quarter. It shows the trend in single and multiple receipts but does not enable comparisons of the *numbers* of each.

Immigration and Asylum⁷ (Table 1.3)

In the period July to September 2013, there were 27,267 Immigration and Asylum receipts; an increase of 6% when compared with the same period of 2012. The longer term trend is a decrease in Immigration and Asylum receipts (see Figure 3).

Managed Migration drove this increase, more than doubling from 5,493 receipts in July to September 2012, to 13,694 receipts in July to September 2013. Managed Migration appeals are generated by people already in the UK who have been refused permission to extend their stay. This type of case comprises half of all Immigration and Asylum receipts. This rise is due to a higher level of Home Office decisions on immigration applications. Appeals are expected to continue at this higher level during 2013/14 and will impact on disposals, timeliness and caseload outstanding.

Entry Clearance appeals fell by 24% since the same period last year. There was also a decrease in the Family Visit Visa category, which has halved since last July to September. There have been two changes to Family Visit Visa appeal rights in this period. Firstly, the Immigration Appeals (Family Visitor) Regulations 2012 which came into force on 9 July 2012, which restricted the right of appeal to a narrower definition of family visitor⁸. Secondly, the Crime and Courts Act 2013 removed the full right of appeal for family visitors and this change came into effect for new visa applicants on 25 June 2013. A limited right of appeal still remains on Human Rights or Race Discrimination grounds.

Social Security and Child Support (Table 1.4)

Despite falling by a third since April to June, Employment Support Allowance (ESA) still comprises the highest number of appeals (59% of the total). As these volumes are so large, they drive the overall trend in receipts. After this, the next highest number was for Job Seeker's Allowance (JSA) (18%) and Disability Living Allowance (11%). Of these, JSA increased the most (75%) since July to September 2012, from 13,051 claims to 22,885 claims.

Please note that Table 1.4 includes rows for Universal Credit (UC)⁹ and Personal Independence Payments (PIP)¹⁰ from this quarter. The first

⁷ All references to Immigration and Asylum refer to the First-tier Tribunal (Immigration and Asylum Chamber). It is an independent Tribunal dealing with appeals against decisions made by the Home Secretary and Home Office officials in immigration, asylum and nationality matters

⁸ www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2012/june/25-family-visit-visa-appeal

⁹ Universal Credit was introduced on 29 April 2013 in selected areas of Greater Manchester and Cheshire. It will gradually be rolled out to the rest of the UK from October 2013.

receipts for PIP have started in this quarter, although they have not yet reached a hearing.

¹⁰ Personal Independence Payment (New Claim Appeals) which replaces Disability Living Allowance was introduced on 8 April 2013.

Disposals

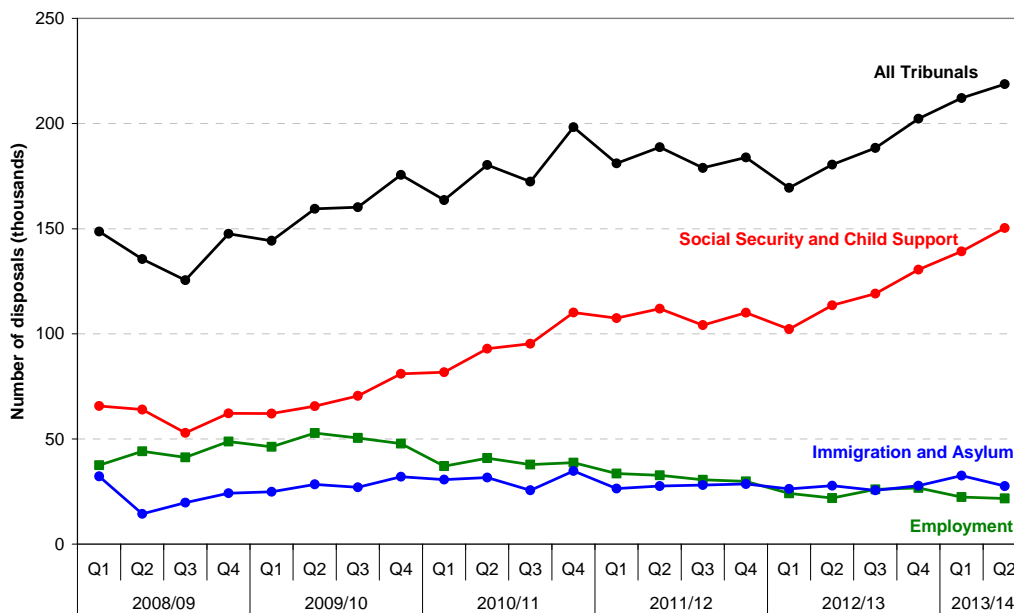
A disposal is the closure of a case when work is complete. This can be through a claim being withdrawn, settled, dismissed or being decided at a hearing (either orally or on paper).

There were a total of 218,732 cases or claims disposed of in July to September 2013. This represents an increase of 21% on those cases disposed of in the same period in 2012, and is the highest volume of disposals in a quarter since the start of this statistical series in 2008/09.

What has driven this?

Figure 5 shows disposals by the main tribunals. The increase in the overall number of disposals was driven by SSCS (an increase of 32% since July to September 2012 and part of a rising trend from 2009/10) which accounted for two thirds of all disposals in July to September 2013. The increase in SSCS tribunal disposals coincides with HMCTS running hearings on Saturdays, and recruiting more judges and medical members.

Figure 5: Disposals by Tribunal, 2008/09 to 2013/14

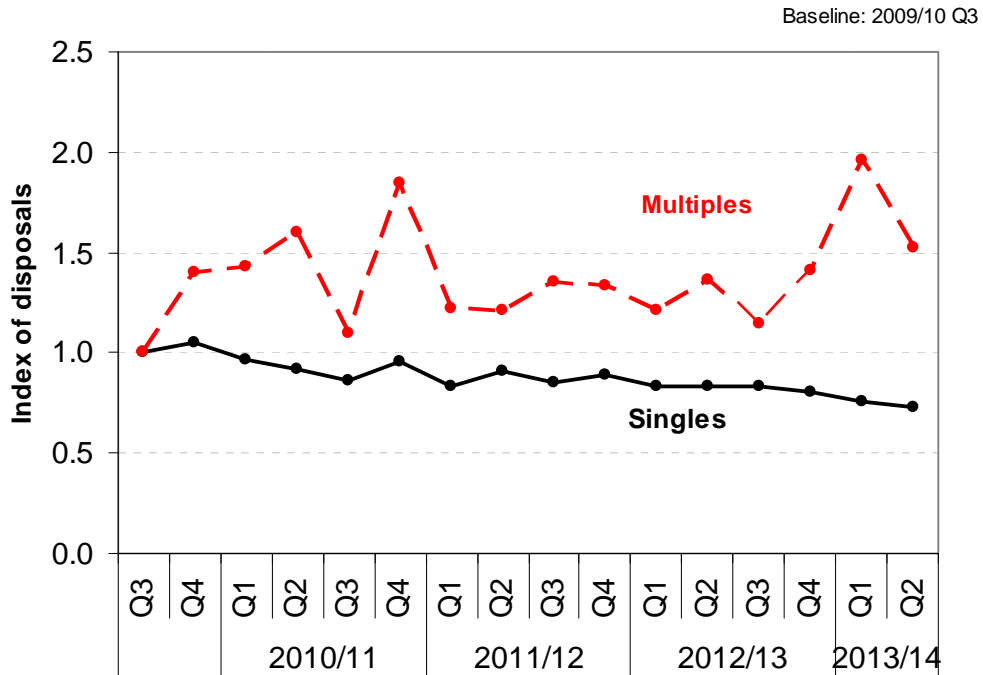


Employment Tribunals (Tables 2.1, 2.2 and 2.3)

Employment Tribunals disposed of 27,581 claims during July to September 2013, similar to the same period of 2012. The numbers of disposals for single claims decreased by 13% while the number for multiple claims increased by 12%. The multiple volumes are more volatile, and can be affected by disposals of one or two large cases. The 15,249

multiple claims in July to September 2013 actually related to 1,487 multiple claim cases. This is 10 claims per case based on a simple mean, although in reality there is likely to be a large number of smaller cases and a few large cases, such as the Working Time Directive airline cases.

Figure 6: Index of ET single and multiple disposals



Between July and September, 57,392 jurisdictional claims were disposed of (similar to the same period of the previous year). This means that on average, 2.1 jurisdictions were disposed of per claim, in line with previous quarters.

Of the 57,392 jurisdictional complaints that were disposed of:

- 18% were for unauthorised deductions;
- 18% were for unfair dismissal;
- 14% were for equal pay;
- 15% were associated with discrimination (age, race, sex, sexual orientation, religion or disability)

Three new outcome types came into effect this quarter, as a result of the Underhill Review of Employment Tribunal Rules (see Introduction). These were:

- Dismissed Rule 27 – complaints dismissed by an Employment Judge after initial consideration of claim and response¹¹.
- Dismissed upon withdrawal – under new rule 52, an employment tribunal shall issue a judgment dismissing a claim where the claimant withdraws it, unless certain criteria are satisfied¹².
- Case discontinued – this records complaints dismissed under rule 40(1) where a party has not satisfied requirements in respect of paying a tribunal fee or demonstrating a case for remission¹³.

‘Dismissed upon withdrawal’ accounted for five per cent of all disposals in July to September 2013. ‘Dismissed Rule 27’ and ‘Case Discontinued’ combined accounted for less than one per cent.

Immigration and Asylum (Tables 2.4 and 2.5)

The First-tier Immigration and Asylum Chamber (FTIAC) disposed of 21,750 appeals in July to September 2013, similar to July to September 2012.

Managed Migration accounted for a third of these, with a quarter being Entry Clearance and further quarter being Family Visit Visas. Of the 21,750 disposals in July to September 2013, 14,546 (67%) were determined (i.e. a decision was made by a judge at a hearing) at a hearing or on the papers; 22% were withdrawn; 6% were invalid or out of time, and 5% were struck out. Rules to allow cases to be struck out¹⁴ were introduced following the introduction of fee charging.

Of the 14,546 cases that were determined between 1 April and 30 June 2013, 55% were dismissed and the remaining 45% were allowed.

Social Security and Child Support (Tables 2.6 and 2.7)

Of the 150,336 SSCS cases disposed of in July to September 2013; 67% were for ESA (up from 56% from July to September 2012); 12% for Disability Living Allowance and 11% for JSA.

¹¹ Under Rule 27, an Employment Judge can dismiss a claim, or any part of a claim, if s/he considers that it has no reasonable prospect of success, or that the tribunal has no jurisdiction to hear the claim (or part thereof). This is a new provision introduced on July 29th 2013.

¹² Again, this provision is new to the rules of procedure. Its operation is being monitored through these statistics to monitor impact of the rule.

¹³ See footnote [12].

¹⁴ Appeal closed administratively where the fee has not been paid, remitted or exempted.

Between April and June 2013, 82% of all SSCS cases were cleared at a hearing, a similar proportion to last year. Of these the overturn rate¹⁵ was 39%, i.e. 39% had the initial decision revised in favour of the claimant.

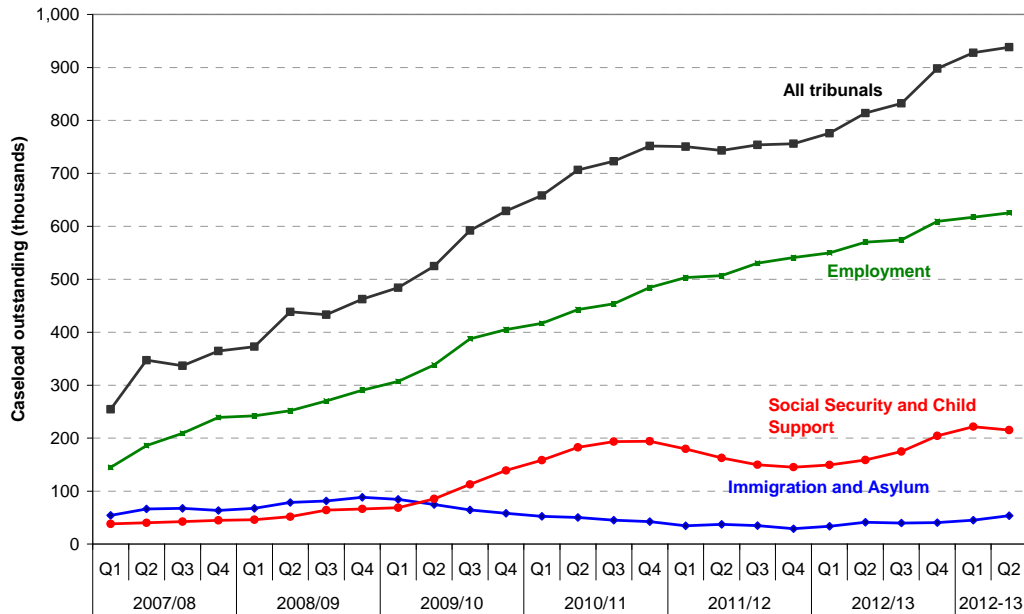
The overturn rate varies by benefit type with 18% of JSA cases, 40% of Disability Living Allowance and 43% of ESA cases cleared at hearing having the original decision revised in favour of the claimant.

¹⁵ The overturn rate is the rate of decisions by the original body that are reversed

Caseload Outstanding

At the end of September 2013, the caseload outstanding was 938,316. This is an increase of 15% on the same period last year (see Figure 7).

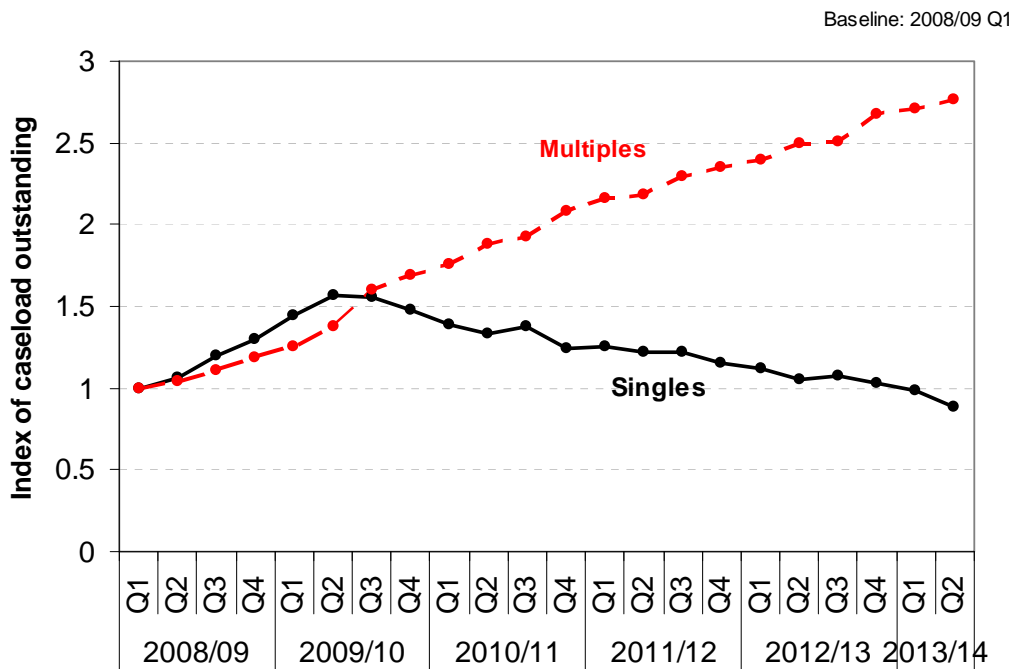
Figure 7: Caseload outstanding at end of September 2013



Around two thirds (67%) of the outstanding caseload at the end of the quarter related to 'multiple' claims in Employment Tribunals. Multiple claims are often legally and factually complex and it is common for action on such claims to be deferred ('stayed', or 'sisted' in Scotland), for example pending the outcome of proceedings in appellate courts/tribunals on case management or other interim matters. This means that such claims are not yet ready to have a final hearing in the employment tribunal, and so the claim cannot be progressed to disposal. Resubmitting some large multiple claims on a quarterly basis also skews the data.

Figure 8 clearly shows the increase of multiples building up in the system, remaining outstanding where previously the vast majority of cases were not stayed.

Figure 8: Index of ET single and multiple claims outstanding



Caseload Outstanding (Table 3.1)

There were increases in caseload outstanding for a number of tribunals, specifically SSCS saw an increase of 36% and IA saw an increase of 31%, related to the increased receipts discussed above.

There were decreases in caseload outstanding for other tribunals, including a 15% reduction for single ET claims and 19% for Mental Health.

The published statistics cover receipts, disposals and caseload outstanding in the tribunal service over a specific period of time. Tribunals cover a range of different jurisdictions and work with a number of different live case management databases. The live caseload (caseload outstanding) is based on a snapshot of live cases at a specific point in time, once taken it cannot be revised or revisited. Because of this approach the caseload outstanding is currently based on a snapshot of the caseload on a specific day, and is not simply calculated by subtracting receipts and disposals.

Timeliness

This section provides information about the operation of tribunals to assist users to assess the efficiency and effectiveness of public services. The timeliness measures generally examine the process from receipt to the point at which the appellant is notified of the outcome of the hearing (or when they are notified of a settlement, withdrawal or strike out). When examining the measures, a number of points should be noted:

- The clearance times (expressed in weeks or years) are highly dependent upon the processes that take place within a Tribunal and the type and complexity of a case. In some instances, appeals can be stayed because a judgement is awaited from another body (for example European Courts), or may be legally complex.
- The measures can not be directly compared between one Tribunal and another because of the different processes and very diverse nature and requirements of individual jurisdictions. Thus, it is better to compare a specific Tribunal over time.

The information provided is based on the age (expressed in weeks or years) at which cases were cleared. There are differences by case or tribunal types, please see supplementary tables for more information.

Summary of Timeliness Measures (Tables 4.1 – 4.3)

The measures examine the age of a case when it is cleared or disposed of and gives the point at which 25%, 50% (the median), and 75% of cases were cleared, along with the mean. For example, in Immigration and Asylum, 75% of cases that were cleared in July to September were aged 34 weeks or less.

Table 1: Cumulative percentage of clearances in July to September 2013, by age of case at clearance

Tribunal	25% point	50% point	75% point	Average (mean)
Immigration and Asylum (all)	13 weeks or less	21 weeks or less	34 weeks or less	26 weeks
Employment (single)	11 weeks or less	17 weeks or less	27 weeks or less	26 weeks
Employment (multiple)	52 weeks or less	3 years or less	5 years or less	168 weeks
SSCS (all)	9 weeks or less	17 weeks or less	25 weeks or less	19 weeks

Employment Tribunals

For Employment Tribunals, the timescale recorded is from receipt by the tribunal to when details of the final judgement are given. The distribution for all ET cases is heavily influenced by the age of multiple cases (which can be stayed or await decisions from Higher Courts). The mean age of a single claim at disposal was 26 weeks, whereas this was 168 weeks for multiple claims. Overall the mean age was 114 weeks, up from 84 weeks in July to September 2012.

Clearances for Employment Tribunals were also examined by broad jurisdictional group. The results for the July to September 2013 showed that Equal Pay cases had average of over four years (229 weeks), while Working Time Regulations and National Minimum Wage cases had the shortest average clearance time of 27 weeks.

Immigration and Asylum

The time is recorded from receipt by the tribunal to the time that a decision was notified to the appellant. The mean age of a case at disposal was 26 weeks in July to September 2013, seven weeks longer the same period last year, and mainly due to the large increase in Managed Migration cases discussed above.

Variations in clearance times between case types are due to different processing timescales which apply to each of the Immigration and Asylum jurisdictions. For example in July to September 2013, three quarters of Asylum cases are completed by 12 weeks or less, whereas for Entry Clearance Officer appeals it is 42 weeks or less.

Social Security and Child Support

For SSCS the time is recorded from receipt by the tribunal to the time that a decision was notified to the appellant.

Of those cases disposed of by SSCS between July and September 2013, the mean age of a case at disposal was 19 weeks, the same as than July to September 2012.

The composition of the Tribunal panel varies for each benefit and there are some differences in length of clearance time for each type of appeal. Those appeals which can be heard by a Judge sitting alone (such as appeals against decisions on Job Seekers' Allowance) take less time to clear than appeals where a panel including specialist Medical, Financial or Disability panel members is required (see Table 4.3).

Special Educational Needs and Disability (SEND)

This chapter focuses on Special Educational Needs and Disability cases. Data is presented in academic years, from the 1st of September to 31st August. As such figures presented here differ from the information in the other tribunals' tables. This information is only presented on an annual basis.

The chapter is divided into two sections;

1. Special Educational Needs
2. Disability Discrimination claims

Further information on HMCTS and other court statistics, including information on the data sources and terminology used in this report can be found in the Guide to Court and Administrative Justice Statistics.

The first-tier special educational needs and disability (SEND) jurisdiction hears appeals against local authorities in England against decisions relating to statements of Special Educational Needs. It also hears disability discrimination claims against schools.

This chapter focuses on information on the appeals and decisions in relation to Special Educational Needs, broken down by grounds for appeal, outcomes and ethnicity of the child involved and local authority information. There is also information on Disability Discrimination Claims, broken down by grounds for appeal, outcomes, legal representation and ethnicity of the child involved.

For further information on children with special educational needs please see the publication by the Department for Education below:

www.gov.uk/government/publications/children-with-special-educational-needs-an-analysis-2013

Special Educational Needs (SEN)

The First-tier special educational needs and disability (SEND) jurisdiction hears appeals against decisions of local authorities in England relating to statements of Special Educational Needs.

Pupils with Special Educational Needs are currently¹⁶ classified into three distinct levels of provision for need: School Action, School Action Plus or with statements of special educational needs:

- School Action – where extra or different help is given from that provided as part of the school's usual curriculum.
- School Action Plus – where the class teacher and the school special educational needs coordinator¹⁷ receive advice or support from outside specialists (a specialist teacher, an educational psychologist, a speech or language therapist or other health professionals).
- Statement – a pupil has a statement of special educational needs when a formal assessment has been made. A document setting out the child's needs and the extra help they should receive is in place.

Pupils with Special Educational Needs may need extra help because of their type of need. These include: profound and multiple learning difficulty; behavioural, emotional and social difficulty; and speech, language and communication needs.

Registered SEN appeals

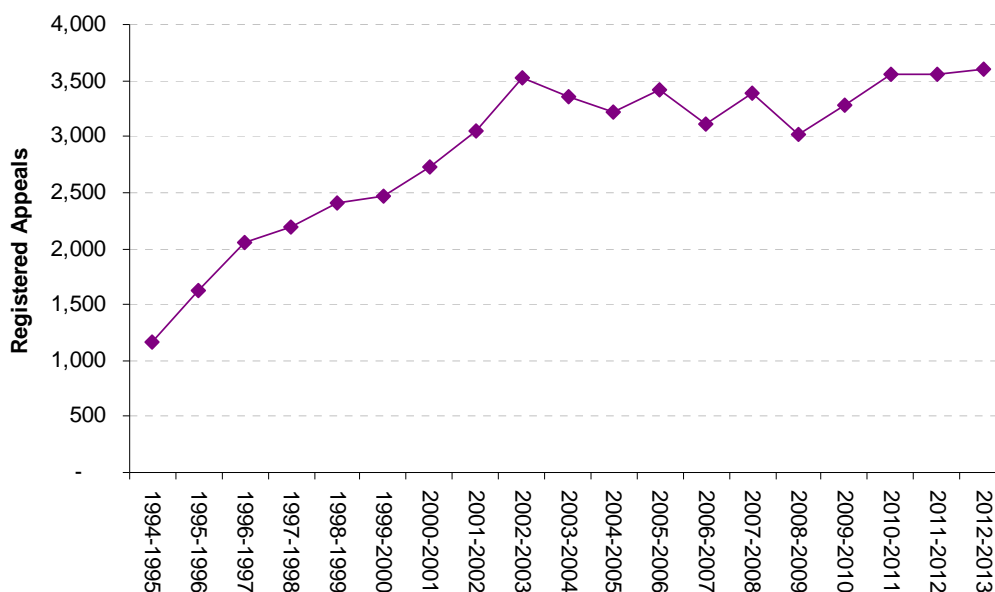
In the academic year September 2012/13 HMCTS Tribunals recorded 3,602 registered appeals in relation to SEN, this is a similar number to the previous year. In the decade from 1994 to 2004 there was a steep increase in the number of registered SEN appeals, from 1,161 in the academic year 1994/95¹⁸ to 3,215 in the academic year 2004/05. Since then the trend has been more stable. There was a small decrease in the number of appeals up until the academic year 2008/09 after which time numbers rose again, and are now back at the 2002/03 level.

¹⁶ Assessments and statements of special educational needs are to be replaced with a single assessment process and combined Education, Health and Care plan. The proposal is that School Action and School Action Plus will be replaced by a single school-based special educational needs category.

¹⁷ A special educational needs coordinator (SENCO) is a member of staff at school who has responsibility for coordinating special educational need provision within that school.

¹⁸ Earlier data has been taken from historic reports on SEND published by, what is now, the Department for Education,

Figure 9: Registered appeals to the SEND Tribunal, September 1994 to August 2013



What has driven this?

There are a number of factors that could have contributed to the risk in SEND appeals between 1994 and 2013. These include;

- Greater understanding of special educational needs
- More provision of services
- Parents more willing to challenge local authorities
- Stronger push to keep children with special educational needs in stage / mainstream schools.

Registered appeals by type (Table 2)

In the academic year 2012/13 the most common type of appeal was 'against refusal to assess', accounting for 36% of appeals. This means the local authority refused to have a child assessed for special educational needs. This has historically been the most common category.

Registered appeals by nature of special educational need (Table 3)

There are a number of different grounds for bringing an appeal under special educational needs. In the academic year 2012/13 the most common nature of SEN cited was Autistic Spectrum Disorder, accounting for 34% of appeals. This category has increased over time, and only

accounted for 13% of appeals in the academic year September 1998 to August 1999. This change may be due to more awareness of this issue.

Ethnicity of children involved in special educational tribunals (Table 4)

In around 46% of the appeals in relation to special educational need the child involved was from a white ethnic background¹⁹. In a further 45% of cases the ethnicity of the child was not reported. In only 7% of cases the child was classed being from a Black or Asian background.

Local Authority Breakdowns (Tables 6 and 7)

SEND appeals can be broken down by local authority in England, however due to the differences in sizes in local authorities a rate of appeals per 10,000 school children is calculated. This is highest in the Isle of Wight with 16.5 appeals per 10,000 school children. Although the rate controls for the number of children in the area it does not control for other factors within local authorities.

Outcomes of SEN appeals

In the academic year 2012/13 HMCTS Tribunals recorded 3,352 outcomes in relation to SEN, this is broadly in line with the previous year.

Outcomes of Special Educational Needs appeals (Tables 8, 9 and 10)

In the academic year 2012/13 only 24% of cases were decided. The remaining 76% of cases were withdrawn or conceded. These proportions vary by the nature of the appeal. Of the cases decided, 84% were decided in favour of the appellant.

¹⁹ Ethnicity is self reported

Disability Discrimination Claims

Disability discrimination claims relate to appeals against a school or academy in England. Schools or academies must not discriminate against a pupil because of disability²⁰ in relation to admissions, the provision of education and access to any benefit, facility or service; or exclusions. It is also unlawful for a school to harass or victimise an applicant or pupil because of disability.

Disability discrimination may be:

- discrimination arising from disability;
- failure to provide a reasonable adjustment for a disabled child;
- direct discrimination;
- indirect discrimination;
- harassment; or
- victimisation.

Received and Registered Disability Discrimination appeals

In the academic year September 2012 to August 2013 there were 135 registered appeals in relation to disability discrimination. Of these 67 were decided by the SEND tribunal.

Most of the appeals are uncategorised in their nature.

²⁰ The Equality Act 2010 defines a disability as a physical or mental impairment which has a substantial (more than minor or trivial) and long-term adverse effect (to last for at least a year or for the rest of their life) on the disabled person's ability to carry out normal day-to-day activities.

Annex A: Data quality and sources

Information presented in this report is management information drawn from a number of different administrative sources. Although care is taken when processing and analysing the data, the details are subject to inaccuracies inherent in any large-scale recording system and it is the best data that is available at the time of publication. HMCTS is examining the quality of management information. Thus, it is possible that some revisions may be issued.

The statistics are based on case management systems where a number of processes are recorded throughout the life of an appeal. In some instances, a case can re-enter the process or have a number of outcomes, meaning that there is not necessarily one receipt or one disposal per case. Thus, care should be taken when comparing receipts and disposals.

Further information on HMCTS and other court statistics, including information on the data sources and terminology used in this report can be found in *A Guide to Court and Administrative Justice Statistics*.

www.gov.uk/government/publications/guide-to-court-and-administrative-justice-statistics

Revisions

All the statistics in this publication have been revised to show unit values rather than the rounded numbers shown previously.

Historic receipt and disposal information for Immigration and Asylum has been revised to include appeals dismissed or withdrawn at the Preliminary Issue stage. This is where an appeal has been submitted outside the prescribed time limit or may be otherwise invalid. Such cases will only proceed to the appeal stage if decided by a Judge. A new disposal category of "Invalid/Out of Time" has been introduced to show appeals dismissed at the Preliminary Issue stage. Cases withdrawn at this stage are included in the "Withdrawn" category.

For 2012/13 a further new outcome category has been introduced for Immigration and Asylum disposals of "Struck Out for Non-Payment". This is as a result of the introduction of fees for certain Immigration and Asylum appeals introduced in 2011. Some of the historic disposal and outcome data has been revised following this.

Please note data from the fourth quarter of 2012/13 (1 January to 31 March 2013) onwards un-rounded figures have been provided. All previously rounded figures have been revised with the original un-rounded data, except some of the historical judicial sitting days.

Explanatory Notes

Notation

The following symbols have been used throughout the tables in this bulletin:

- . = Not applicable
- .. = Not available
- = Small Value
- ~ = No cases dealt with so rate could not be calculated
- 0 = Nil
- (r) = Revised data
- (p) = Provisional data

Spreadsheet files of the tables contained in this document are also available to download.

Contacts

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General information about the official statistics system of the UK is available from www.statistics.gov.uk