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Civil Law Statistics in Scotland 2011-12

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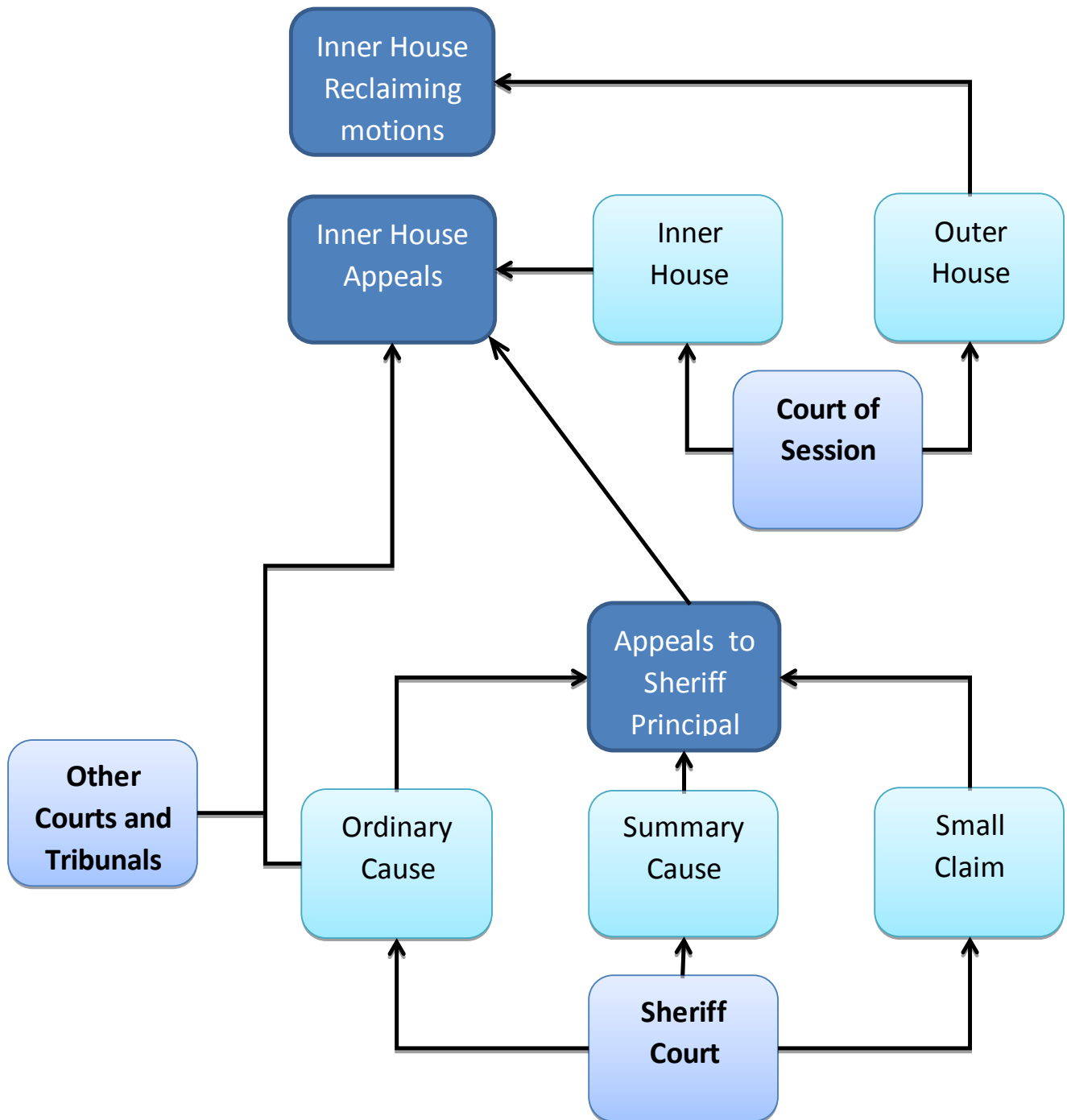
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1. Introduction

- 1.1 The new statistical bulletin Civil Law Statistics in Scotland 2011-12 provides information about cases which have gone through the civil courts in Scotland, together with some wider, contextual information about the extent of civil problems in Scotland. It presents data on first instance cases and appeals which have been heard in both the Court of Session and the Sheriff Courts.
- 1.2 This bulletin replaces [Civil Judicial Statistics](#) which was published in 2010 and 2011, following the comprehensive [Review of Civil Judicial Statistics](#). The main change incorporated in Civil Law Statistics in Scotland 2011-12 is that the information has been presented in chapters relating to specific subjects. The purpose of this is to present all subject-related statistics in one location to make it easier to obtain a fuller understanding of the issues in each area. Additionally, statistics on divorce and dissolution which were previously presented in the [Divorces and Dissolutions in Scotland](#) bulletin have been incorporated within Civil Law Statistics in Scotland and are no longer published separately.
- 1.3 All tables presented in the bulletin are also available on the [Civil Law Statistics in Scotland website](#). Also available on the website are additional tables which cover cases not included within the chapters in the main bulletin. These are mainly presented by court and court procedure and include data on delivery, implement, intellectual property, interdict and succession, as well as more detailed appeals data.
- 1.4 It is important to note that, throughout the bulletin, data are presented on the 'principal crave' only. An individual case can involve a number of different case types. The case type which is listed first on the writ / summons is normally known as the 'principal crave', with the others described as 'ancillary craves'. All the tables in this bulletin show the case type of the 'principal crave' only - information on 'ancillary craves' is not included. This is an area that will be investigated further during 2013, with a view to including analyses of ancillary craves in the next edition of the bulletin.
- 1.5 The data in this bulletin are used within the Scottish Government to inform decision and policy making and to monitor the legislative impacts of policies which have been implemented. They are also made use of in resource allocation in the Scottish Courts and to support third sector activity in terms of lobbying and funding applications. Furthermore, the data are used to inform the public about the business of the Scottish Courts, as well as to facilitate academic research.

2. An outline of the court structure in Scotland

Figure 1: Summary of court structure



Court of Session

- 2.1 The Court of Session is the highest civil court in Scotland. There are three departments within the Court of Session:
- The **General Department**, which deals mainly with cases where one person wants to enforce a legal right against another. The General Department deals with a variety of case types, including: personal injury, family, damages, interdict, intellectual property, debt and commercial;
 - The **Petition Department**, which deals with cases where the authority of the court is sought to deal with a variety of legal issues, other than disputes between people or organisations; and
 - The **Inner House and Extracts Department**, which deals with all cases proceeding before the Inner House and the issue of extracts, which are official court documents allowing judgments of the court to be enforced.
- 2.2 Cases are heard either in the Outer House or the Inner House. The Outer House is where the majority of cases are first heard. In this court, single judges normally preside over cases. The Inner House deals primarily with appeals, although it does hear a small amount of first instance business. At least three judges sit to hear cases in this court, except where the business is procedural in nature when a single judge may sit for most classes of appeal.
- 2.3 Appeals from the Outer House of the Court of Session, known as reclaiming motions, are made to the Inner House;
- 2.4 The **Inner House** also hears appeals from the sheriff courts and certain tribunals and other bodies.
- 2.5 Appeals against judgments of the Inner House of the Court of Session may be made to the [Supreme Court of the United Kingdom](#), which was established on 1 October 2009 and **replaced the House of Lords** in its judicial capacity. There is normally no requirement to obtain the Court of Session's permission, or leave, to appeal to the UK Supreme Court. Statistics on appeals from the Court of Session to the UK Supreme Court are not contained within this publication.

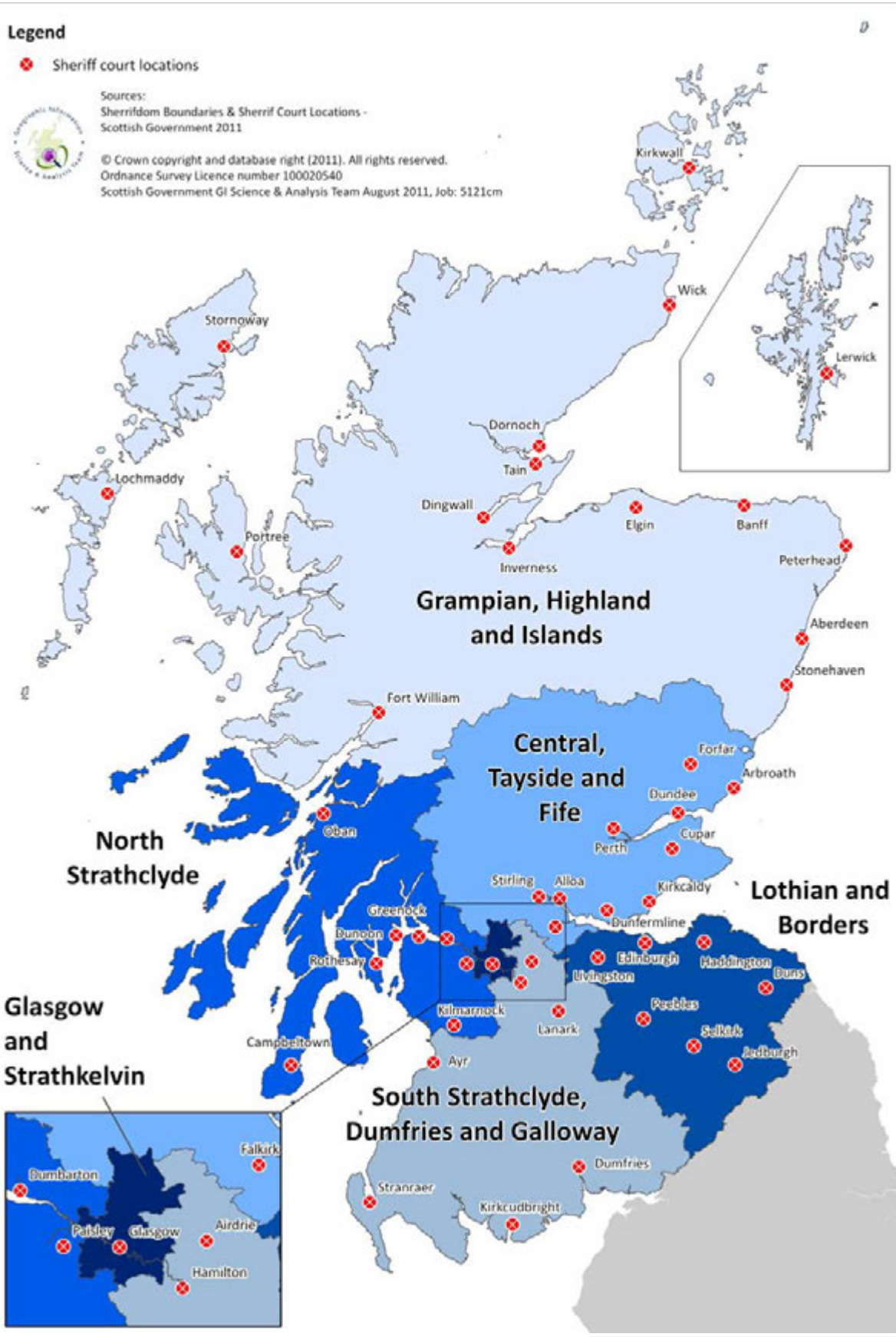
Sheriff Courts

- 2.6 Sheriff courts are local courts of civil jurisdiction in Scotland. They also have jurisdiction in criminal proceedings. There are **49 sheriff courts**, which are grouped into **six sheriffdoms**. Each sheriffdom has a sheriff principal – a senior judicial officer who hears appeals in civil matters, determines certain types of inquiry, performs statutory administrative functions and also has responsibility for the effective and efficient disposal of business in the sheriff

and Justice of the Peace courts within the sheriffdom. Most cases are heard before a sheriff.

- 2.7 Most civil business involves disputes between people or organisations, which are carried out under one of three procedures:
- **Ordinary cause** – This procedure is used where the case involves any monetary claim over £5,000, for cases involving family disputes or for many other cases where more complex legal issues arise.
 - **Summary cause** – This procedure is used where the case involves any monetary claim over £3,000 and up to (and including) £5,000. It is also used for the recovery of rented property, for recovery of moveable property and for personal injury cases up to (and including) £5,000.
 - **Small claims** – This is intended to be a relatively informal procedure for resolving disputes, which is used where the case involves any monetary claim up to (and including) £3,000, except where the claim relates to aliment, defamation or personal injury.
- 2.8 Other civil business in the sheriff courts involves applications which are made mainly under statutes (Acts of Parliament) and are carried out under **summary application procedure**, so-called because these applications can be disposed of in a brief and informal (or summary) manner.
- 2.9 The sheriff courts also deal with **commissary business** relating to succession and access to a deceased person's estate. Commissary work mainly involves issuing confirmations, which are legal documents sometimes required by organisations, such as banks, before they can release money and other property belonging to someone who has died.
- 2.10 **Appeals** of civil cases which have been disposed in the sheriff courts can be made to the sheriff principal or the Inner House of the Court of Session:
- **small claim appeals** must be made to the **sheriff principal**, whose decision is final;
 - **summary cause appeals** must also be made to the **sheriff principal in the first instance**, but the judgment of the sheriff principal may, if they certify the case as suitable, be **appealed to the Inner House of the Court of Session**;
 - **ordinary cause appellants** may in some circumstances choose to appeal to either the **sheriff principal or the Court of Session**, and where the case is appealed to the sheriff principal, it may in some circumstances be **further appealed to the Court of Session**.

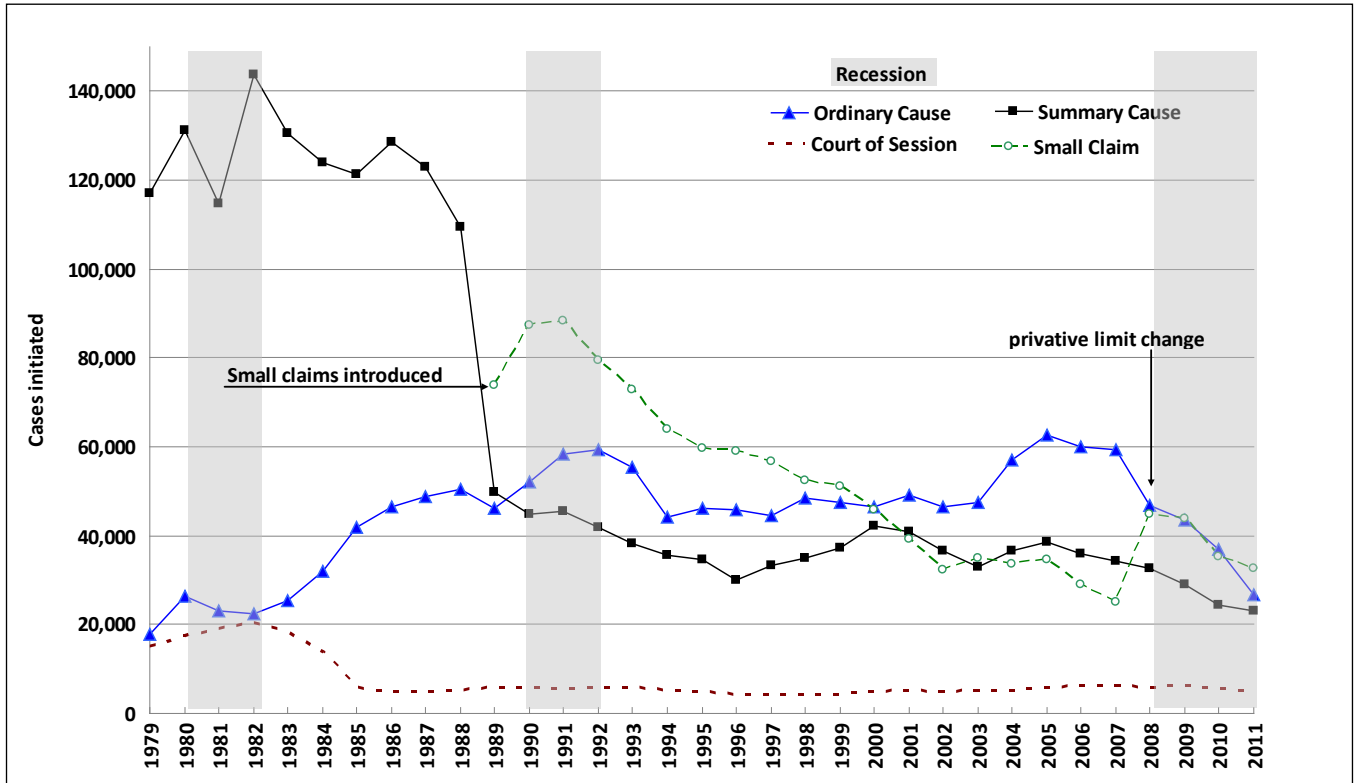
Figure 2: Location of the sheriff courts in Scotland



Historical Time Series

2.11 Figure 3 shows how the volume of civil court cases has changed in Scotland over the last thirty years. The number of cases initiated in the Court of Session has varied between 4,000 and 6,000 since the mid-1980s.

Figure 3: Historical timeseries 1979 - 2011



2.12 There has been greater fluctuation in the volume of cases initiated in the sheriff courts. The volume of summary cause cases reduced substantially in 1989 and, since then, has exhibited a broadly downward trend. This sudden decrease was due to the introduction of the small claims procedure which was designed to make the court process easier and less formal for people making low value claims (originally up to and including £750). Consequently, considerably fewer people had to use summary cause procedure which, until then, had been the least formal procedure available in the sheriff courts.

2.13 The number of small claims cases briefly increased following the procedure’s introduction but subsequently decreased until 2008, when the privative jurisdiction of various sheriff court procedures were increased. Small claims can now be made up to and including the value of £3000 which has led to an increase in the number of cases initiated using this procedure. The number of cases initiated under ordinary cause procedure exhibited an increasing trend, but has been declining since it peaked in 2005. There was a sudden decrease between 2007 and 2008 which is likely to have been a result of the

privative limit increasing to above £5000 and a further decrease during 2011 which seems to be caused by the effects of the [Home Owner and Debtor Protection \(Scotland\) Act 2010](#).

- 2.14 Overall, the total number of cases going through the civil courts has been decreasing since the early 1990s and fell below 100,000 for the first time in 2010.

Recent Civil Legislation Changes

- 2.15 The [Home Owner and Debtor Protection \(Scotland\) Act 2010](#) came into force on 30 September 2010. This Act included a change to the way that repossession cases relating to mortgages and loans related to residential property are raised in court - these are now being raised as summary applications. Previously, nearly all court actions for repossession were made under ordinary cause procedure.
- 2.16 The figures for court actions relating to repossessions are also affected by the [UK Supreme Court judgment in the RBS v Wilson case](#), issued on 24 November 2010. This resulted in all repossession cases being withdrawn from the courts and resubmitted as summary applications following the completion of the two month waiting period required by the judgment. The statistics for court actions relating to repossessions are likely to be skewed for a few months from December 2010 onwards as a result.
- 2.17 The figures for asbestos-related pleural plaques in 2008-09 were affected by the impact of a [House of Lords decision](#) in October 2007, which upheld a majority decision of the Court of Appeal in England (and which was not binding on the courts of Scotland) that the existence of pleural plaques did not constitute actionable damage¹.
- 2.18 The subsequent increase in asbestos-related pleural plaques in 2009-10 was mainly due to the [Damages \(Asbestos-related Conditions\) \(Scotland\) Act 2009](#), which came into force in June 2009 and allows individuals with asbestos-related pleural plaques etc. to raise a court case for personal injury. There have been relatively few disposals of these cases, as many were sisted (suspended) pending the UK Supreme Court's decision as regards a petition challenging the validity of the legislation which was lodged on behalf of a consortium of insurers². That challenge was successfully defended in the Outer House, Inner House and the Supreme Court in January 2010, April 2011 and October 2011 respectively.

¹ Prior to this decision, individuals had been able to bring claims for compensation for pleural plaques since the 1980s.

² Axa General Insurance & Others v The Lord Advocate, October 2011

http://www.supremecourt.gov.uk/decided-cases/docs/UKSC_2011_0108_Judgment.pdf

3 Main Points

3. Main Points

- 3.1 This section presents the key findings from each of the chapters included in the bulletin. Further information about each area and wider contextual information is included within each subject-specific chapter.

General Trends

- 3.2 There were 85,256 **civil cases initiated** across both the Court of Session and the sheriff courts in 2011-12 (not including summary applications), a drop of 13 per cent on 2010-11 and 35 per cent on 2008-09. [Table 1] [Table 2].
- 3.3 There is a **large variation in the number of civil cases** dealt with by the individual sheriff courts, with Glasgow having over 16,000 cases initiated in 2011-12 compared to the smallest courts which handled fewer than 100 civil cases. [Figure 7].
- 3.4 Sheriff court cases made up almost three quarters (72 per cent) of all gross **civil legal aid** costs in 2010-11. [Table 6].

Family

- 3.5 Very few family cases are raised in the Court of Session (**one per cent** of all family cases). [Table 8].
- 3.6 The majority of family cases raised in the civil courts related to **divorce or dissolution of a civil partnership** (78 per cent). [Table 7].
- 3.7 The total number of **divorces and dissolutions** of civil partnerships **granted** during 2011-12 was 9,503, a decrease of two per cent compared to 2010-11. [Table 11] [Table 12].
- 3.8 The number of cases relating to parental responsibilities and rights **decreased by 16 per cent** during 2011-12 to 2,272. [Table 7].

Debt

- 3.9 The number of debt cases initiated in the sheriff courts **decreased by 11 per cent** during 2011-12 to 40,242. This is a decrease of 39 per cent since 2008-09. [Table 13].
- 3.10 Most of the debt cases initiated (72 per cent) were raised using the **small claims procedure**. [Table 13].
- 3.11 The vast majority of debt cases were **undefended** (91 per cent). [Table 14].

Personal Injury

- 3.12 Overall, 7,792 personal injury cases were initiated in the civil courts during 2011-12, a **decrease of 15 per cent** compared to 2010-11. [Table 16].
- 3.13 The majority of these related to **road traffic accidents** (59 per cent) and a further fifth related to **accidents at work** (22 per cent). [Table 16].

- 3.14 Personal injury cases accounted for **76 per cent of business** in the General Department of the Court of Session. [Table 1] [Table 17].

Damages

- 3.15 The number of damages cases initiated in the civil courts during 2011-12 **decreased by 11 per cent** to 3,684. This is a decrease of 20 per cent since 2008-09. [Table 20].
- 3.16 The majority of damages cases (64 per cent) were initiated under **small claims procedure**. [Table 20].
- 3.17 A **decree of absolvitor** was the most common disposal type across all procedural types, apart from small claims procedure. [Table 21].

4 General Trends

4. General Trends

Summary of General Trends:

- Almost three in ten adults (27 per cent) had experienced at least one of the **civil law problems** asked about in the 2010-11 Scottish Crime and Justice Survey in the *last three years*
- There were 85,256 **civil cases initiated** across both the Court of Session and the sheriff courts in 2011-12 (not including summary applications), a drop of 13 per cent on 2010-11 and 35 per cent on 2008-09.
- There is a **large variation in the number of civil cases** dealt with by the individual sheriff courts, with Glasgow having over 16,000 cases initiated in 2011-12 compared to the smallest courts which handled fewer than 100 civil cases.
- Sheriff court cases made up almost three quarters (72 per cent) of all gross **civil legal aid** costs in 2010-11.

Scottish Crime and Justice Survey: Civil Module

4.1 The **Scottish Crime and Justice Survey (SCJS)**³ included questions on the experience of **civil law problems by adults** in Scotland and their response to these problems. Respondents were asked about civil problems which may raise a legal issue or which, if not resolved earlier, could ultimately result in legal proceedings, for example, **welfare rights, debt, housing, employment, divorce or separation and consumer issues**. Respondents were asked about their experiences of problems in different realms of their life in the *three years* prior to interview⁴. The problems examined were grouped into four different areas:

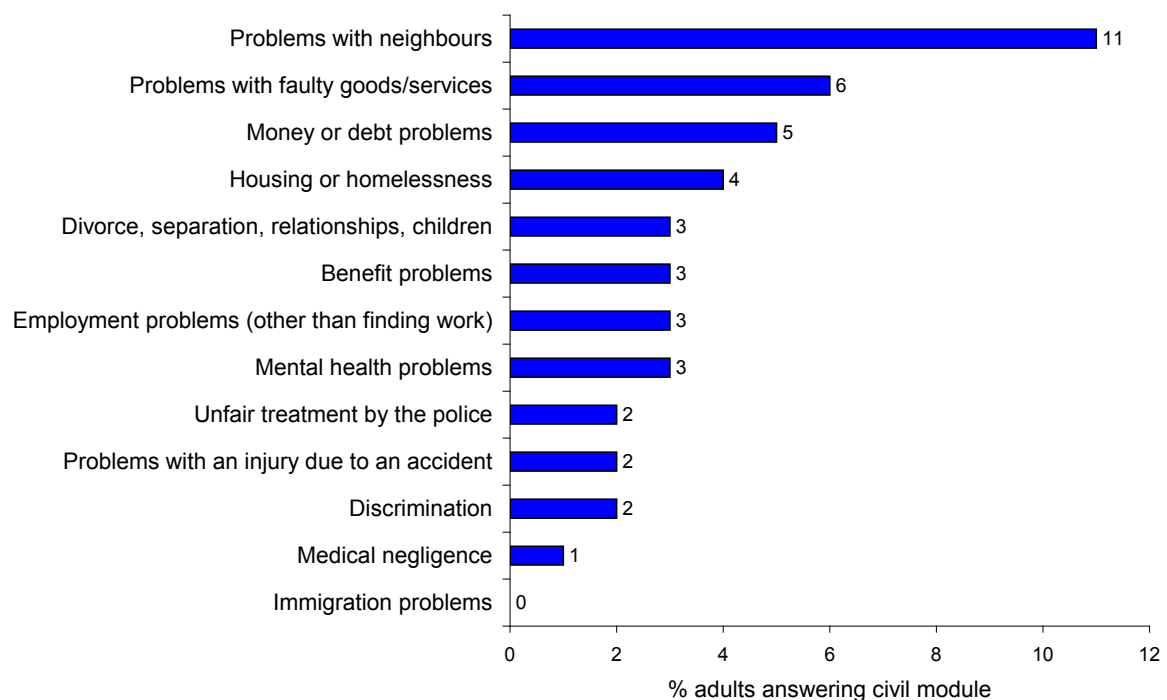
- Home, family or living arrangements;
- Money, finance or anything paid for;
- Unfair treatment; and
- Health and well-being.

³ For more information on the SCJS see <http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/Publications/publications>. This survey is now biennial; the next results will be published around November 2013.

⁴ Respondents are asked to think about any problems or disputes they might have had concerning their home, family or living arrangements in the past 3 years. Respondents asked only to tell the interviewer about problems that they found difficult to deal with or could not be easily solved. Respondents are then shown a screen with a list of problems. For more information see <http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/Publications/publications/1011Quest>

- 4.2 Results from the 2010-11 SCJS show that almost three in ten adults (27 per cent) had experienced at least one of the civil law problems asked about in the past three years:
- 4.3 Sixteen per cent of adults had experienced problems with home, family or living arrangements; 12 per cent had experienced problems with money, finance or things they had paid for; 6 per cent had been treated unfairly in some respect; 6 per cent had experienced health or well-being problems.
- 4.4 The most common single problem was with neighbours, which 11 per cent had experienced. Six per cent of adults had experienced problems with faulty goods or services and 5 per cent of adults had experienced money or debt problems.

Figure 4: Types of civil law problems experienced: Scottish Crime and Justice Survey 2010-11



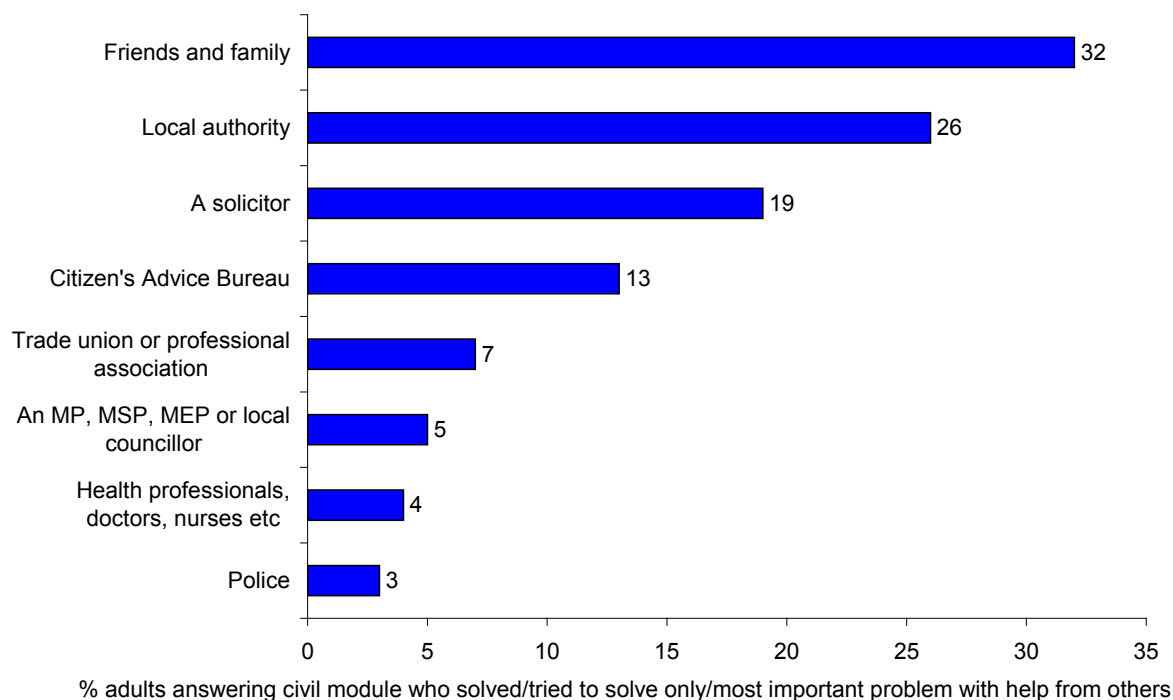
- 4.5 Those people who had experienced a problem were asked what the current situation was with their problem⁵: 53 per cent had solved the problem; 33 per cent were still trying to solve the problem; 8 per cent had tried to solve the problem but had given up; 7 per cent were not planning to do anything to solve the problem.
- 4.6 When the problem had been solved, most were satisfied with the results; 51 per cent said they were very satisfied and 31 per cent said they were quite

⁵ If there was more than one problem then the question was asked only in relation to the problem they perceived as the most important.

satisfied. Six per cent were quite dissatisfied and seven per cent very dissatisfied with the outcome. As satisfaction was only asked of those who had solved the problem, it is not possible to assess the level of satisfaction or dissatisfaction of the other groups with the outcome.

- 4.7 Where adults had solved the problem or tried to, 63 per cent had done so with help or advice from others, while 36 per cent said they had done so without any help or advice.

Figure 5: Main sources of providing help or advice to solve/try to solve only/most important problem: Scottish Crime and Justice Survey 2010-11



- 4.8 The prevalence of civil problems experienced by vulnerable groups tends to be greater than for the general population (27 per cent in the 2010-11 SCJS). For example, those who live in rented (as opposed to owner occupied) accommodation (36 per cent), those who live in areas of multiple deprivation (35 per cent) and victims of crime (40 per cent) all suffered a higher prevalence of civil justice problems in 2010-11.
- 4.9 Similarly, people with added social and economic difficulties are in some cases less likely to have solved their problems than the general population (53 per cent). For example, 48 per cent of those who live in rented (as opposed to owner occupied) accommodation and 49 per cent of those who live in areas of multiple deprivation had solved their problem at the time of the 2010-11 SCJS.

Court data

- 4.10 There were 85,256 civil cases **initiated** across both the Court of Session and the sheriff courts in 2011-12 (not including summary applications), a drop of 13 per cent on 2010-11 and 35 per cent on 2008-09. The reasons for the continued decrease in overall civil business are unclear but may be partly due to the current financial climate inhibiting litigation. There is also a corresponding drop in overall **disposals** over the same period in the sheriff courts. [Table 1] [Table 2].
- 4.11 The fall in civil cases initiated is mirrored by a fall in the number of cases registered in the criminal courts⁶ across the same period; however, the decrease in criminal business may have been affected by summary justice reforms⁷ implemented as part of the [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007](#).
- 4.12 There were 4,754 first instance cases initiated in the Court of Session in 2011-12, 8 per cent lower than the number of cases initiated in 2010-11, and 11 per cent lower than in 2008-09. Conversely, the number of cases disposed of increased by 13 per cent between 2010-11 and 2011-12 to 4,856. The reason for this increase is likely to be related to a corresponding increase in cases initiated in 2009-10. [Table 1].

Table 1: Cases initiated and disposed of¹ in the Court of Session, 2008-09 to 2011-12

Department	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
General Department					
Initiated	3,736	4,479	3,723	3,390	-9
Disposed ³	2,961	3,167	3,187	3,455	8
Petition Department					
Initiated	1,473	1,555	1,358	1,223	-10
Disposed	988	1,094	1,035	1,299	26
Inner House²					
Initiated	120	118	95	141	48
Disposed	73	95	73	102	40
Total					
Initiated	5,329	6,152	5,176	4,754	-8
Disposed ³	4,022	4,356	4,295	4,856	13

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

2. First instance business only – excludes appeals and reclaiming motions.

⁶ Sheriff summary, Sheriff and Jury, and High Courts.

⁷ <http://www.scotland.gov.uk/Topics/Justice/legal/criminalprocedure/19008>

3. A new method was introduced by the Scottish Government in 2012 to process data received from the Court of Session which resulted in a slight change being made to the total number of cases disposed of in the General Department for 2010/11. In [Civil Judicial Statistics 2010-11](#), the total number of cases disposed of was 3,183. This has now been amended to 3,187.

4.13 In 2011-12 there were 80,502 cases⁸ initiated in the **sheriff courts**, a fall of 13 per cent on 2010-11 and 36 per cent since 2008-09. The number of cases disposed also fell, to 77,147. This represents a 12 per cent drop since 2010-11 and a 31 per cent drop since 2008-09. [Table 2].

Table 2: Cases¹ initiated and disposed of² in the sheriff courts, by procedure, 2008-09 to 2011-12

Procedure	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
Initiated					
Ordinary Cause	46,477	42,823	34,123	26,021	-24
Summary Cause	32,736	27,464	23,799	22,783	-4
Small Claim	47,091	41,450	34,386	31,698	-8
Total	126,304	111,737	92,308	80,502	-13
Disposed					
Ordinary Cause	38,902	33,911	29,768	23,410	-21
Summary Cause	31,231	27,568	24,036	22,434	-7
Small Claim	41,408	43,352	33,700	31,303	-7
Total	111,541	104,831	87,504	77,147	-12

1. Excludes summary applications.

2. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

Variation across courts and Sheriffdoms

4.14 The drop in the number of cases initiated is seen across all Sheriffdoms, with North Strathclyde recording the largest drop between 2010-11 and 2011-12 (18 per cent), and Glasgow and Strathkelvin the lowest (8 per cent). [Table 3] [Figure 6].

4.15 Similarly, the drop in the number of cases disposed is seen across all Sheriffdoms in 2011-12. North Strathclyde recorded the largest drop between 2010-11 and 2011-12 (19 per cent), and Glasgow and Strathkelvin the lowest (3 per cent). [Table 3].

⁸ These do not include Summary Application cases because there are known issues with the accuracy of the summary application data. See paragraph 11.8 for further details.

Table 3: Cases¹ initiated and disposed of² in the sheriff courts, by sheriffdom, 2008-09 to 2010-11

Sheriffdom	2008-09	2009-10	2010-11	2011-12	% change on 2010-11	2011-12 cases per 1,000 population ³
Initiated						
Glasgow & Strathkelvin	24,919	22,389	17,784	16,305	-8	23
Tayside, Central & Fife	22,456	20,204	16,816	14,759	-12	14
South Strathclyde, Dumfries & Galloway	22,949	19,457	16,869	14,171	-16	16
Lothian & Borders	24,469	21,439	16,211	14,148	-13	15
North Strathclyde	17,177	14,907	12,954	10,577	-18	14
Grampian, Highlands & Islands	14,334	13,341	11,674	10,542	-10	12
Scotland	126,304	111,73	92,308	80,502	-13	15
Disposed						
Glasgow and Strathkelvin	21,315	20,059	16,134	15,630	-3	22
Tayside, Central and Fife	20,160	18,730	16,081	14,343	-11	13
South Strathclyde, Dumfries and Galloway	20,829	18,759	15,979	13,749	-14	16
Lothian and Borders	20,384	20,948	15,957	13,494	-15	14
North Strathclyde	15,687	13,455	12,218	9,921	-19	13
Grampian, H ighlands and Islands	13,166	12,880	11,135	10,010	-10	12
Scotland	111,541	104,83	87,504	77,147	-12	15

1. Excludes summary applications

2. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

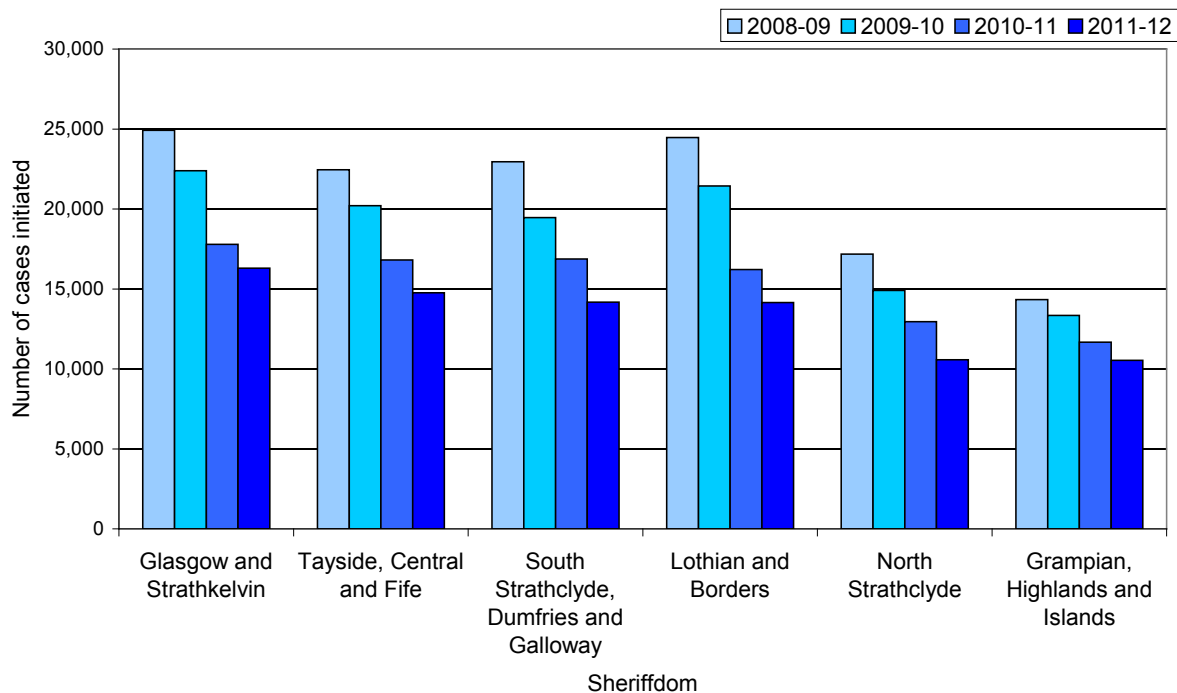
3. Based on 2011 mid-year population estimates [Table 25].

4.16 The 2011 mid-year population estimates have been used to determine the number of cases initiated and disposed in each sheriffdom per 1,000 population. Glasgow and Strathkelvin has the most cases initiated per 1,000 population (23 cases per 1,000 population), and Grampian, Highlands and Islands has the least (12 cases per 1,000 population). It is not possible from the data to determine why Glasgow and Strathkelvin should show a higher number of cases per 1,000 population compared to the other sheriffdoms (12-16 cases per 1,000 population). [Table 3].

4.17 There is a large variation in the number of civil cases dealt with by the individual courts, with Glasgow having over 16,000 cases initiated in 2011-12, compared to the smallest courts which handled fewer than 100 civil cases. There were fewer cases initiated in 2011-12 than in 2010-11 in all of the sheriff

courts, with 45 (out of 49) courts disposing of fewer cases in 2011-12 than in 2010-11. [Figure 7].

Figure 6: Number of cases initiated, by sheriffdom, 2008-09 to 2011-12



- 4.18 The Scottish Court Service has suggested that these reductions in the number of cases being initiated and disposed may be affected by several factors. The economic downturn is thought to be affecting the number of debt-related cases being initiated, as the increase in the number of personal insolvencies may cause some creditors to feel that there is no value in raising a debt action where there is little chance of recovering any money. The [Home Owner and Debtor Protection Act \(Scotland\) 2010](#) may also be responsible for part of the reduction (see paragraph 2.15 for more information).

Commissary Business

- 4.19 In 2011-12 the number of ordinary estates confirmed increased by one per cent from 21,038 to 21,329, with the average amount of ordinary estates confirmed increasing by one per cent to £205,000. These figures are broadly consistent with the 2008-09 figures, following a dip in 2009-10.
- 4.20 There were 2,348 small estates confirmed in 2011-12, a fall of eight per cent from the 2,553 confirmed in 2010-11. The average amount of small estates confirmed, however, rose by three per cent from £19,100 to £19,700. [See additional tables on [Civil Law Statistics in Scotland website](#)].

Legal aid spending⁹

- 4.21 In 2011-12, the total number of civil legal aid **applications** decreased by six per cent to 20,015. Legal aid was **paid** in 14,915 civil court cases in 2011-12, a five per cent increase compared to 2010-11. In 2011-12, total civil legal aid spending across all courts was almost £46m, an increase of 17 per cent on 2010-11.
- 4.22 The number of civil legal aid **applications** relating to the Court of Session decreased by 11 per cent during 2011-12 to 1,191 while the number of cases **paid** legal aid relating to the Court of Session increased by seven per cent from 930 in 2010-11 to 995 in 2011-12. Civil legal aid spending relating to the Court of Session increased by over a third (38 per cent) to £12.3m during 2011-12.
- 4.23 The number of cases **paid** civil legal aid relating to the sheriff courts rose by 5 per cent between 2010-11 and 2011-12. In 2011-12, civil legal aid spending relating to the sheriff courts was £32.9m, an increase of 10 per cent since 2010-11. Civil legal aid paid out for sheriff court cases accounted for almost three quarters of total civil legal aid spending in 2011-12.

Table 4: Civil Legal Aid applications, by court, 2008-09 to 2011-12¹

Court	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
Court of Session	1,171	1,299	1,339	1,191	-11
Sheriff Court	16,549	20,662	19,847	18,778	-5
Other Courts	18	67	65	46	-29
Total	17,738	22,028	21,251	20,015	-6

1. The figures in this table are not Official Statistics.

Table 5: Number of civil cases where Legal Aid was paid, by court, 2008-09 to 2011-12¹

Court	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
Court of Session	1,000	1,222	930	995	7
Sheriff Court	11,757	11,917	13,301	13,900	5
Other Courts	17	12	10	20	100
Total	12,774	13,151	14,241	14,915	5

⁹ Further information about civil legal assistance is available in Appendix 3 of the Scottish Legal Aid Board Annual Report 2011-12:

http://www.slab.org.uk/about-us/what-we-do/annual-report/reports/Annual_Report_2011-2012.html

1. The figures in this table are not Official Statistics.

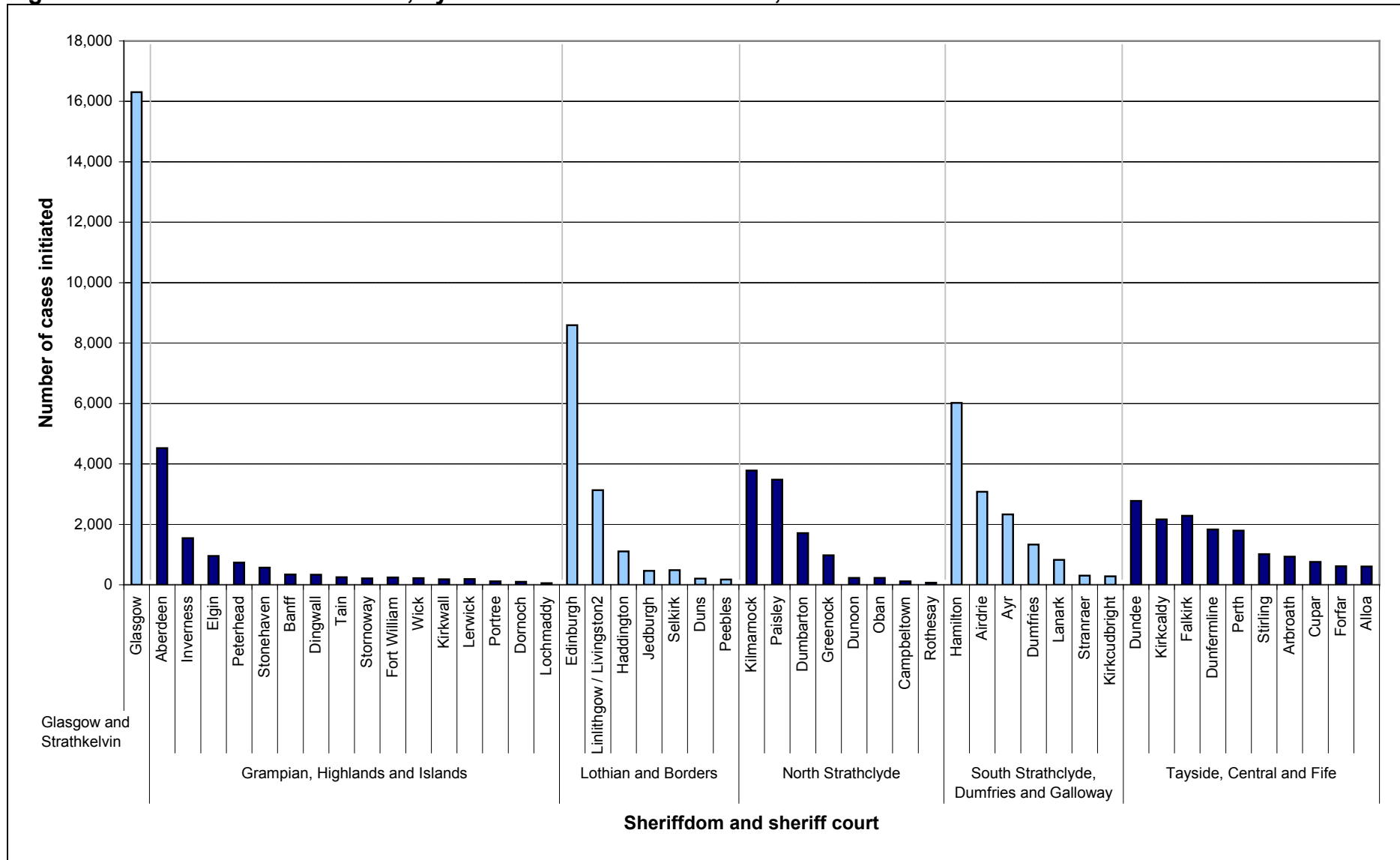
Table 6: Total Civil Legal Aid paid out (£000), by court, 2008-09 to 2011-12^{1,2}

Court	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
Court of Session	7,752	8,656	8,944	12,346	38
Sheriff Court	23,701	25,821	29,765	32,877	10
Other Courts	288	535	124	366	195
Total	31,741	35,011	38,834	45,589	17

1. The figures in this table are not Official Statistics.

2. The monetary amounts relating to 2008-09 and 2009-10 were taken from the 2010-11 Annual Report. These figures were restated on a consistent basis with the 2010-11 figures, so will not be the same as the equivalent figures published in previous annual reports.

Figure 7: Number of cases initiated, by sheriffdom and sheriff court, 2011-12



5 Family

5. Family

Summary of Family:

- Very few family cases are raised in the Court of Session (**one per cent** of all family cases).
- The majority of family cases raised in the civil courts related to **divorce or dissolution of a civil partnership** (78 per cent).
- The total number of **divorces and dissolutions** of civil partnerships **granted** during 2011-12 was 9,503, a decrease of two per cent compared to 2010-11.
- The number of cases relating to parental responsibilities and rights **decreased by 16 per cent** during 2011-12 to 2,272.

Introduction to family law in Scotland

- 5.1 Family law covers a wide range of areas including divorce, dissolution of a civil partnership, parental responsibilities and rights (PRRs) and residence of and contact with children. The majority of family cases that proceed to court are raised in the sheriff courts.

Extent of family law problems in Scotland

Scottish Crime and Justice Survey Results

- 5.2 In the 2010-11 Scottish Crime and Justice Survey, three per cent of respondents who responded to the civil module, reported experiencing a problem with divorce, separation or involving relationships or children in the last three years. Of these, 97 per cent felt that their issue was 'very or quite important', with 71 per cent stating that it was the most important civil issue they were facing.
- 5.3 Amongst those for whom the issue was considered to be most important, almost half (49 per cent) had already solved the problem, while 42 per cent were still trying to solve it. 72 per cent had sought help or advice from others, with the majority (69 per cent) contacting a solicitor for help.
- 5.4 Results show that problems with family or relationships are more likely to be reported by women (58 per cent) than men (42 per cent) and by those aged between 35 and 44 years (seven per cent – at least three percentage points higher than any other age category).

Family law in the courts

- 5.5 It should be borne in mind that the courts data presented in this bulletin relate to principal craves only. Work will be carried out during 2013 to examine data on ancillary craves with a view to including additional information in the Civil Law Statistics in Scotland 2012-13 bulletin.

- 5.6 In total, 13,679 family cases were **initiated** in the civil courts during 2011-12, a decrease of six per cent on 2010-11 and a decrease of eight per cent compared to 2008-09. Divorces and dissolutions accounted for the majority of cases initiated in 2011-12 (78 per cent), with parental responsibilities and rights cases accounting for 17 per cent. [Table 7].
- 5.7 The total number of family cases **disposed** of in the civil courts during 2011-12 was 11,864, a decrease of two per cent on 2010-11 and a decrease of ten per cent compared to 2008-09. [Table 7].

Table 7: Family cases initiated and disposed of¹ in the civil courts², by case type, 2008-09 to 2011-12

Case Type	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
Initiated					
Aliment	82	88	89	69	-22
Divorce / Dissolution	11,752	11,159	11,018	10,678	-3
Exclusion order – matrimonial	7	18	26	14	-46
Interdict	381	409	262	329	26
Nullity of marriage / CP	-	-	2	1	-50
Parental Resp's / Rights	2,364	2,742	2,713	2,272	-16
Other	250	317	386	316	-18
Total	14,836	14,733	14,496	13,679	-6
Disposed					
Aliment	55	46	50	64	28
Divorce / Dissolution	11,538	10,750	10,115	9,879	-2
Exclusion order – matrimonial	11	4	8	6	-25
Interdict	93	134	140	137	-2
Nullity of marriage / CP	-	-	2	2	-
Parental Resp's / Rights	1,276	1,416	1,596	1,542	-3
Other	177	198	216	234	8
Total	13,150	12,548	12,127	11,864	-2

¹ Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details

² Includes Court of Session and Sheriff Court

Court of Session

- 5.8 In 2011-12, there were 153 family cases initiated in the General Department of the Court of Session, representing 5 per cent of all cases initiated in this court. Of these, **divorce and dissolution of a civil partnership** accounted for 94 per cent of initiations and 89 per cent of disposals. [Table 8].

Table 8: Family procedure cases initiated and disposed¹ of in the General Department of the Court of Session, by case type 2011-12

Case Type	Initiated	Disposed									Total
		Dismissed			For Pursuer		Expenses Only			Other	
		Absolvitor	Defended	Undefended	Defended	Undefended	Defended	Undefended			
Aliment	1	1	-	-	1	-	-	-	-	2	4
Divorce/ Dissolution	144	1	-	3	6	95	-	-	12	117	
Exclusion order ²	-	-	-	-	-	-	-	-	-	-	
Nullity of Marriage / CP	1	-	-	1	-	1	-	-	-	2	
Parental Responsibilities & Rights	4	-	-	-	1	-	-	-	-	1	
<i>Contact</i>	-	-	-	-	-	-	-	-	-	-	
<i>Residence</i>	3	-	-	-	1	-	-	-	-	1	
<i>Other</i>	1	-	-	-	-	-	-	-	-	-	
Other	3	-	2	-	1	-	-	-	4	7	
Total	153	2	2	4	9	96	-	-	18	131	

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

2. Exclusion orders which suspend the right of a spouse, civil partner or cohabitant to occupy the family home.

Sheriff Court

- 5.9 There were 13,526 ordinary cause - family procedure cases initiated in the sheriff courts during 2011-12, a decrease of six per cent compared to 2010-11. The majority of family procedure cases were for **divorce or dissolution of a civil partnership** with 78 per cent of cases initiated and 83 per cent of cases disposed of this type. [Table 9]. For further information on divorce and dissolutions see paragraph 5.20.
- 5.10 Over three quarters of the remaining family cases initiated in 2011-12 related to **parental responsibilities and rights**, with 2,268 cases of this type initiated, a decrease of 16 per cent compared to 2010-11. Of the cases initiated in 2011-12, 43 per cent related to contact, 31 per cent to residence and 26 per cent to other parental responsibilities and rights. [Table 9].
- 5.11 As in previous years, there were relatively few disposals of parental responsibilities and rights cases in 2011-12 (1,541 compared to 2,268 initiated). One possible reason for this is that these cases can be sisted (suspended), whilst sheriffs seek further information, and parties can resolve their issues outside court during this time. These cases are not then brought back to court and finally disposed of. [Table 9].
- 5.12 Summary applications for a **warrant to keep a child in a place of safety** continued to increase, up from 1,550 in 2010-11 to 2,084 in 2011-12 (34 per cent). Nearly all of the 1,214 applications recorded as being disposed were granted (96 per cent). [Table 10].
- 5.13 In 2011-12 the number of applications for a **referral to the sheriff** where the result of a Children's Hearing is not understood or denied by the child or relevant person involved continued to fall, from 4,059 in 2010-11 to 3,840 in 2011-12 (five per cent). Of the 2,755 applications recorded as being disposed of in 2011-12, 78 per cent were granted and established the grounds for referral, with the case being referred back to the Children's Hearing to dispose of the case. [Table 10].
- 5.14 There were 522 **Adoption Petitions** initiated in 2011-12, an increase of 15 per cent on 2010-11. The number of adoption petitions fell during 2009-10 and have increased each year since then. Of the 475 cases disposed of in 2011-12, 97 per cent were granted, 0.6 per cent were withdrawn and 0.2 per cent were refused. There were 292 applications for **Permanence Orders with Authority to Adopt** initiated in the same period. The volume of these orders (previously known as adoption freeing orders) have also increased each year since 2008-09 (by 85 per cent over the three year period). Of the 220 applications disposed of, 94 per cent were granted, four per cent were withdrawn and none were refused. [Table 10].

Table 9: Family procedure cases initiated and disposed¹ of in the sheriff courts, by case type 2011-12

Case Type	Initiated	Disposed								Total
		Dismissed			For Pursuer		Expenses Only			
		Absolvitor	Defended	Undefended	Defended	Undefended	Defended	Undefended	Other	
Aliment	68	4	25	3	14	8	-	-	6	60
Divorce/ Dissolution	10,534	-	63	39	432	8,970	3	-	255	9,762
Exclusion order ²	14	-	3	1	1	1	-	-	-	6
Interdict	329	1	36	11	35	42	-	-	12	137
Parental Responsibilities & Rights	2,268	3	420	69	529	400	7	-	113	1,541
<i>Contact</i>	977	3	230	29	197	46	5	-	48	558
<i>Residence</i>	708	-	88	23	167	165	2	-	48	493
<i>Other</i>	583	-	102	17	165	189	-	-	17	490
Other	313	13	57	7	36	103	1	1	9	227
Total	13,526	21	604	130	1,047	9,524	11	1	395	11,733

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

2. Exclusion orders which suspend the right of a spouse, civil partner or cohabitant to occupy the family home.

Table 10: Family-related summary application cases initiated and disposed of ^{1,2}, by case type and final disposal, 2011-12

Case Type	Initiated	Disposed						Total
		Granted	Dismissed	Refused	Dropped from Roll	Withdrawn	Other	
Adoption Petitions	522	463	5	1	-	3	3	475
Child in Place of Safety	2,084	1,160	29	4	10	7	4	1,214
Children's Hearings – Appeal	1,000	260	226	155	68	40	67	816
Children's Hearings – Referral	3,840	2,154	173	6	83	9	330	2,755
Exclusion Order – Child's Home	10	6	-	-	-	-	-	6
Permanence Orders with Authority to Adopt	292	206	3	-	-	8	3	220

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.
2. The number of cases disposed of is almost certainly an underestimate. See paragraph 11.8 for further details.

Divorce and Dissolution of a Civil Partnership

Introduction to Divorce and Dissolution in Scotland

- 5.15 Divorce and dissolution cases can be raised in either the Court of Session or the sheriff courts.
- 5.16 There are two grounds for divorce, which are:
- The irretrievable breakdown of the marriage, which can be established by:
 - Adultery committed by the defender;
 - Unreasonable behaviour by the defender;
 - One year non-cohabitation and the defender consents to the divorce;
 - Two years non-cohabitation.
 - Either party being issued with an interim gender recognition certificate.
- 5.17 The [Civil Partnership Act 2004](#) came into force on 5 December 2005, allowing legal relationships between two people of the same sex to be formed. The first civil partnerships in Scotland were registered on 20 December 2005. A civil partnership can be ended on dissolution, which is similar to a divorce although adultery does not establish the irretrievable breakdown of a civil partnership. Same-sex unions from other jurisdictions were not recognised in Scotland until the Act came into force and so no dissolutions were possible until then.
- 5.18 Divorces and dissolutions can be applied for using two main procedures in the courts - simplified procedure and ordinary procedure. The simplified procedure is a low cost, simple method of obtaining a divorce/dissolution in cases where there are no children under 16 and no monetary claims by one spouse or partner against another¹⁰.
- 5.19 The latest data on marriages and civil partnerships registered can be found in the [Marriages and Civil Partnerships](#) section of the National Records of Scotland [website](#).

Background

- 5.20 Statistics on divorce and dissolution of a civil partnership were previously presented in the [Divorces and Dissolutions in Scotland](#) bulletin as part of the Crime and Justice Series of statistical bulletins. The last publication presented information about divorces and dissolutions in 2009-10. From this year onward, these statistics will be included within the Civil Law Statistics in Scotland bulletin.

¹⁰ For more detailed information on the simplified divorce procedure see:

http://www.scotcourts.gov.uk/library/docs/divorce_dissolution_guidance_leaflet_2.pdf

- 5.21 The headline divorce and dissolution statistics for 2010-11 and 2011-12 [Table 11 and Table 12] are derived from the same aggregate data extract as the other statistics in this bulletin. The statistics presented in [Divorces and Dissolutions in Scotland](#) were based on a different source comprising individual level data. Both datasets are based on information recorded by the Scottish Court Service but there are small differences in the timing and processing of the data extracts (see paragraph 11.14).
- 5.22 The aggregate data source is the preferred source of the two due to more rigorous quality assurance and, as such, was used to produce the headline divorce and dissolution statistics for this bulletin. This also means the data on divorces and dissolutions are consistent with that used for other topics in this bulletin. The difference between the two data sources is illustrated in paragraph 11.14.
- 5.23 However, detailed disaggregation of divorces and dissolutions are not possible using the main data source for this bulletin, therefore statistics based on the individual level data, broken down by characteristics such as age at marriage/partnership, age at divorce/dissolution, duration and form of marriage/partnership are available on the [Civil Law Statistics in Scotland website](#).

Divorce and Dissolutions Statistics

- 5.24 The total number of divorces **granted** in Scotland in 2011-12 was 9,453, 2 per cent fewer than in 2010-11 (9,653). 62 per cent of divorces granted in 2010-11 and 2011-12 used the simplified procedure and 38 per cent used the ordinary procedure. [Table 11].
- 5.25 There were 50 civil partnership dissolutions granted in 2011-12, up from 42 in 2010-11. The vast majority of dissolutions granted in 2010-11 (93 per cent) and 2011-12 (94 per cent) used the simplified procedure. [Table 12].

Table 11: Divorces granted¹ in the civil courts by procedure, 2010-11 and 2011-12

Year	Court	Ordinary	Simplified	Total
2011-12	Court of Session	19	78	97
	Sheriff Court	3,554	5,802	9,356
	Total	3,573	5,880	9,453
2010-11	Court of Session	27	84	111
	Sheriff Court	3,672	5,870	9,542
	Total	3,699	5,954	9,653

1. The figures in Table 11 and Table 12 do not equal the total number of disposals for divorce and dissolution in Table 8 and

Table 9. This is because these figures only include divorces/dissolutions that were actually granted. Table 8 and Table 9 include all disposals of divorce/dissolution cases.

Table 12: Dissolutions granted¹ in the civil courts by procedure, 2010-11 and 2011-12

Year	Court	Ordinary	Simplified	Total
2011-12	Court of Session	-	4	4
	Sheriff Court	3	43	46
	Total	3	47	50
2010-11	Court of Session	-	2	2
	Sheriff Court	3	37	40
	Total	3	39	42

1. The figures in Table 11 and Table 12 do not equal the total number of disposals for divorce and dissolution in Table 8 and Table 9. This is because these figures only include divorces/dissolutions that were actually granted. Table 8 and Table 9 include all disposals of divorce/dissolution cases.

5.26 Figure 8 and Figure 9 show the proportion of divorces and dissolutions that were granted in 2010-11 and 2011-12 by reason for divorce/dissolution¹¹. The two most common reasons for divorce were non-cohabitation for two years, which accounted for 68 per cent of divorces in 2011-12 (up from 61 per cent in 2010-11) and non-cohabitation for one year with consent, which was the reason for a quarter of divorces (25 per cent) in 2011-12 (down from 27 per cent in 2010-11).

5.27 Non-cohabitation for one year with consent was the most common reason for dissolutions in 2011-12, accounting for 63 per cent of dissolutions (down from 65 per cent in 2010-11). Non-cohabitation for two years was the next most common reason for dissolution, accounting for 30 per cent of dissolutions in 2010-11 and 2011-12.

¹¹ These proportions are obtained via the individual level divorce data described in paragraphs 5.21 to 5.23.

Figure 8: Divorces granted by reason, 2010-11 and 2011-12

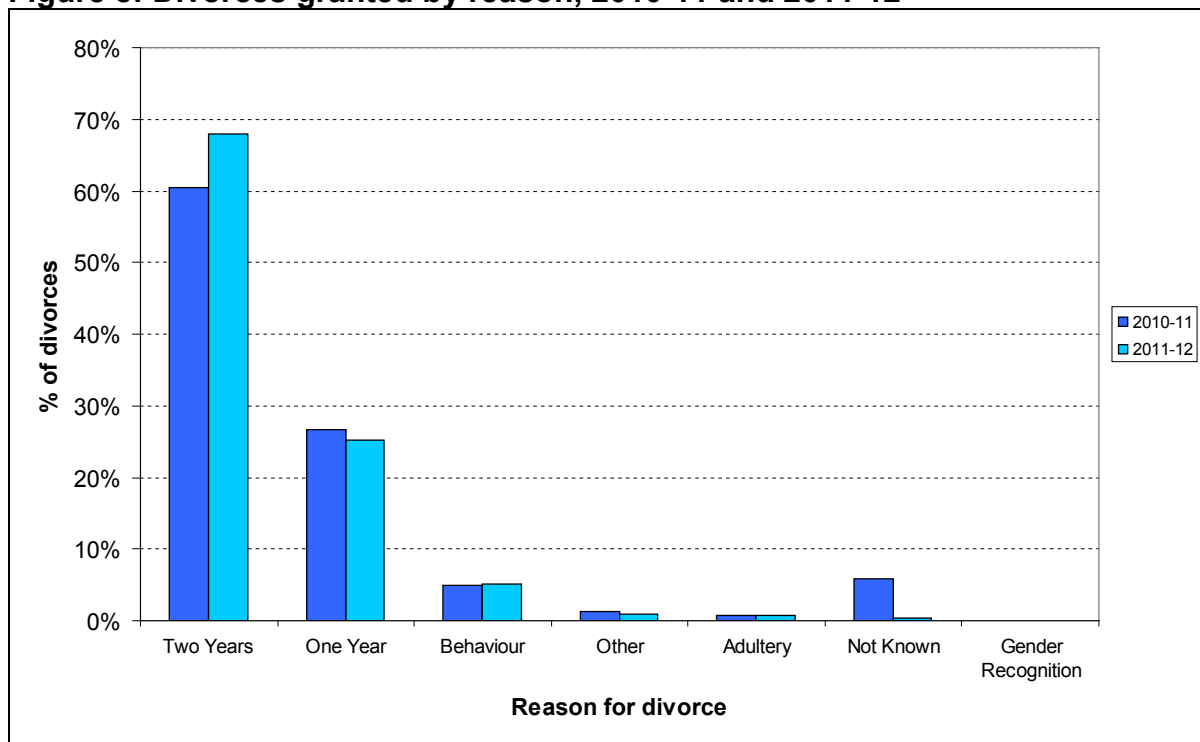
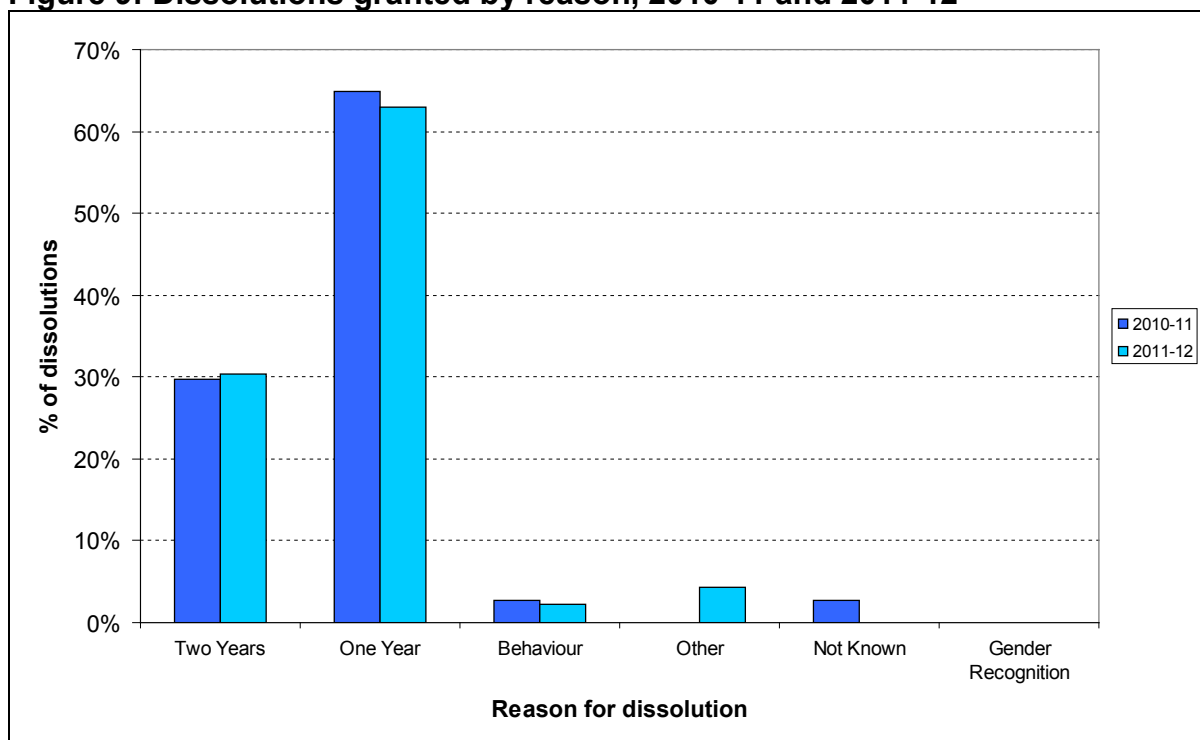


Figure 9: Dissolutions granted by reason, 2010-11 and 2011-12



6 Debt

6. Debt

Summary of Debt

- The number of debt cases initiated in the sheriff courts **decreased by 11 per cent** during 2011-12 to 40,242. This is a decrease of 39 per cent since 2008-09.
- Most of the cases initiated (72 per cent) were raised using the **small claims procedure**.
- The vast majority of debt cases were **undefended** (91 per cent).

Introduction to debtor law in Scotland

6.1 Debt cases are raised in court when a creditor seeks to enforce their right to payment for goods sold, services provided or money lent.

Scottish Crime and Justice Survey Findings

6.2 Five per cent of respondents to the Scottish Crime and Justice Survey reported having money or debt problems. Of these, 85 per cent felt that their money/debt issue was 'very important' to solve, with just over half (54 per cent) stating that it was their most important civil issue. The highest prevalence of money and debt issues was in the 25 to 34 year and 35 to 44 year age groups, with seven per cent of these categories reporting a problem. Respondents in owner-occupied accommodation had a lower prevalence of money and debt issues (three per cent), in contrast to eight per cent of social renters and nine per cent of those in private rented accommodation. More urban dwellers reported an issue (five per cent) than rural dwellers (three per cent).

Debt in the context of the courts

Court of Session

6.3 The General Department of the Court of Session deals with very few debt cases, with only eight cases initiated and two cases disposed in 2011-12. The sheriff courts deal with a considerably greater volume of debt cases, which is most likely because the majority of debt cases fall within the privative jurisdiction of the sheriff courts. However, the number of debt cases initiated has continued to drop across all procedural levels¹² of the sheriff courts. One possible reason for this is the economic downturn, as some pursuers (or creditors) may feel there is little to gain in pursuing a debt action through the court where there is little possibility of recovering money.

¹² Ordinary cause, summary cause and small claim

Sheriff Court

6.4 In 2011-12, there were 40,242 debt cases initiated in the sheriff courts, a decrease of 11 per cent on 2010-11 and 39 per cent on 2008-09. The majority of these cases (72 per cent) were raised under small claims procedure, with ordinary cause-ordinary procedure accounting for 17 per cent of debt cases and summary cause for 10 per cent. [Table 13].

Table 13: Debt cases initiated and disposed of¹ in the sheriff courts, by case type, 2008-09 to 2011-12

Procedure	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
Initiated					
Ordinary cause	14,669	12,054	9,200	6,944	-25
Commercial	400	318	223	266	19
Summary cause	7,157	5,307	4,415	3,922	-11
Small claim	43,549	38,251	31,533	29,110	-8
Total	65,775	55,930	45,371	40,242	-11
Disposed					
Ordinary cause	12,553	10,150	7,729	5,885	-24
Commercial	252	231	166	175	5
Summary cause	7,097	5,772	4,337	3,884	-10
Small claim	38,594	40,347	31,026	28,934	-7
Total	58,496	56,500	43,258	38,878	-10

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

6.5 Nearly all small claim cases initiated in 2011-12 were for debt, accounting for 92 per cent of the 31,698 small claim cases initiated. Debt was also the most common ordinary cause - ordinary procedure case type initiated, accounting for 74 per cent of these cases. By contrast only 17 per cent of all summary cause cases initiated in 2011-12 were for debt. [Table 2] [Table 13].

6.6 The majority of debt cases (91 per cent) were undefended. A decree in favour of the pursuer was the most common type of final disposal for the 38,878 debt cases disposed of in 2011-12, with 62 per cent of cases overall being awarded this disposal type, rising to 79 per cent for ordinary cause - ordinary procedure cases. Small claims cases exhibited the highest proportion of cases dismissed, with over a third (36 per cent) of cases being awarded this disposal type. [Table 14].

Table 14: Debt cases initiated and disposed of¹ in the sheriff courts, by case type, 2011-12

Case Type	Initiated	Disposed									Total
		Dismissed			For Pursuer		Expenses Only			Other	
		Absolutor	Defended	Undefended	Defended	Undefended	Defended	Undefended			
Ordinary Cause	6,944	510	234	425	389	4,256	17	8	46	5,885	
Commercial	266	42	8	13	25	84	2	1	-	175	
Summary Cause	3,922	234	114	914	93	2,467	4	26	32	3,884	
Small Claim	29,110	738	676	9,847	337	16,509	36	669	122	28,934	
Total	40,242	1,524	1,032	11,199	844	23,316	59	704	200	38,878	

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

Differences across sheriffdoms

6.7 There is little variation in the number of cases initiated per 1,000 population across each of the sheriffdoms, with the exception of Glasgow and Strathkelvin which exhibits a considerably higher rate of initiations (13 per 1,000 population).

Table 15: Debt cases initiated in the sheriff courts by sheriffdom, 2011-12

Sheriffdom	Initiated	Initiations per 1,000 population ¹
Glasgow and Strathkelvin	9,079	13
Lothian and Borders	7,449	8
Tayside, Central and Fife	7,082	7
South Strathclyde, Dumfries and Galloway	6,416	7
North Strathclyde	5,122	7
Grampian, Highlands and Islands	5,094	6
Scotland	40,242	8

1. Based on 2011 mid-year population estimates, National Records of Scotland

7 Personal Injury

7. Personal Injury

Summary of Personal Injury

- Overall, 7,846 personal injury cases were initiated in the civil courts during 2011-12, a **decrease of 14 per cent** compared to 2010-11.
- The majority of these related to **road traffic accidents** (59 per cent) and a further fifth related to **accidents at work** (22 per cent).
- Personal injury cases accounted for **76 per cent of business** in the General Department of the Court of Session.

Introduction to personal injury law in Scotland

- 7.1 A personal injury can be physical and/or psychological and can include, amongst other things, an injury received at work, in a traffic accident or through negligence on the part of another party. A person who has suffered an injury can seek to address their issue via several routes, such as making a complaint against the person/organisation they consider to be responsible for the injury, seeking assistance with any financial problems they have as a result of their injury or seeking counselling. Alternatively, they may wish to claim compensation to cover losses they have suffered as a result of the injury. A claim for compensation can be made using a claims assessor or by taking legal action in a civil court and, if successful, would result in a payment of damages being awarded.
- 7.2 Personal injuries actions are actions of damages for, or arising from, personal injuries or the death of a person from personal injuries, which include any disease or impairment, physical or mental¹³. Personal injury actions do not cover defamation or any actions which are not commonly understood to be concerned with personal injuries; such actions are covered in the following chapter 'Damages'.

Scottish Crime and Justice Survey Findings

- 7.3 In the 2010-11 Scottish Crime and Justice Survey, two per cent of those who responded to the civil module reported experiencing a personal injury problem in the last three years. Ninety six per cent of these respondents considered their problem to be 'very or quite important', with just over half (53 per cent) stating that it was their most important civil issue. One per cent of those who

¹³ Court of Session, Practice Note No. 2 of 2003, Personal Injury Actions

http://www.scotcourts.gov.uk/docs/cos---practice-notes/pn02_2003.pdf?sfvrsn=2

responded to the civil module reported experiencing a medical negligence issue in the last three years.

Personal injury in the context of the courts

7.4 Personal injury cases are unusual because they can be raised relatively easily in either the General Department of the Court of Session or in the sheriff courts. Personal injury cases account for a considerable proportion of the business of the Court of Session which is likely to be due to its level of expertise.

Table 16: Personal injury cases initiated and disposed of¹ in the civil courts², by case type, 2008-09 to 2011-12

Case Type	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
Initiated					
Road Traffic Accident	3,441	4,637	5,790	4,614	-20
Accident at Work	1,921	1,844	1,802	1,751	-3
Other	1,211	2,559	955	931	-3
Asbestos	242	541	345	294	-15
Clinical Negligence	173	235	242	256	+6
Total	6,988	9,816	9,134	7,846	-14
Disposed					
Road Traffic Accident	1,588	2,977	4,607	4,619	0
Accident at Work	1,343	1,596	1,529	1,627	6
Other	2,193	1,343	1,074	1,775	65
Asbestos	214	181	168	216	29
Clinical Negligence	32	104	124	133	7
Total	5,370	6,201	7,502	8,370	12

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details

2. Includes Court of Session and Sheriff Court

7.5 In total, 7,846 personal injury cases were **initiated** in the civil courts during 2011-12, a decrease of 14 per cent compared to 2010-11. Road traffic accidents accounted for the majority of cases initiated (59 per cent), with accidents at work accounting for a further fifth of cases (22 per cent). [Table 16].

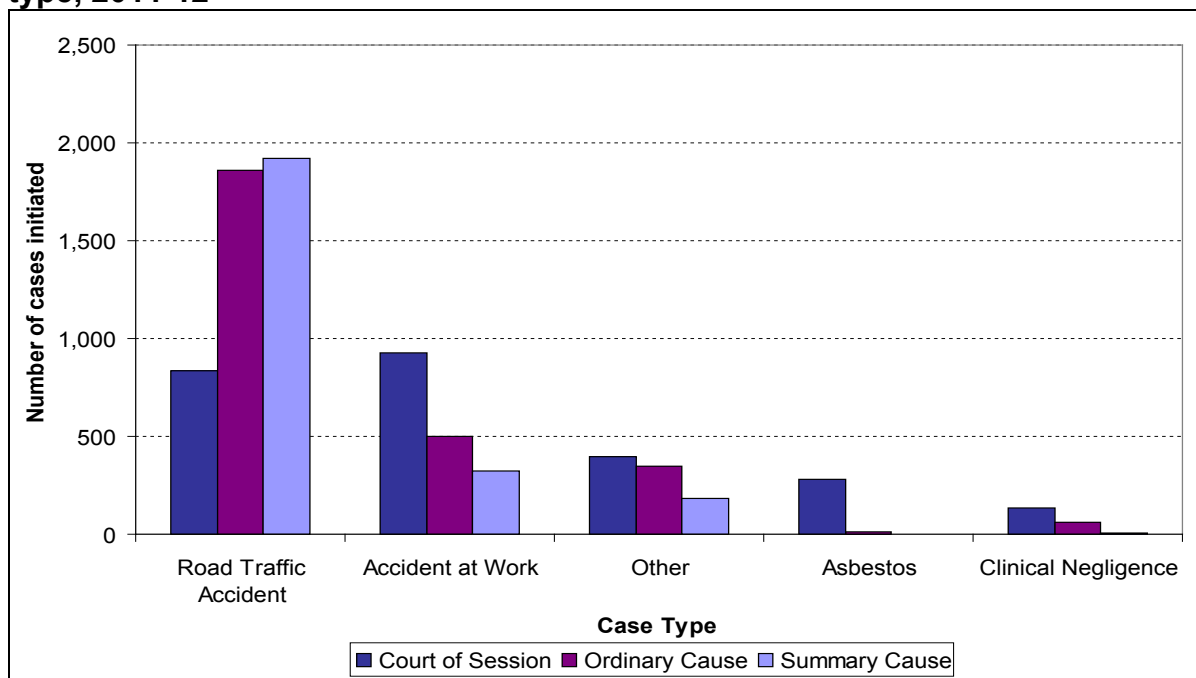
7.6 The total number of personal injury cases initiated increased by 40 per cent between 2008-09 and 2009-10 but has decreased each year since then. Nonetheless the volume of cases initiated in 2011-12 is 12 per cent greater than in 2008-09. [Table 16].

7.7 The number of personal injury cases initiated relating to road traffic accidents increased by 68 per cent between 2008-09 and 2010-11 before exhibiting a

decrease of 20 per cent during 2011-12. The number of asbestos related personal injury cases initiated increased by 124 per cent between 2008-09 and 2009-10 but has decreased annually since then. The higher level in 2009-10 was mainly due to the [Damages \(Asbestos-related Conditions\) \(Scotland\) Act 2009](#), which came into force in June 2009 and allows individuals with asbestos-related pleural plaques etc. to raise a court case for personal injury. [Table 16].

- 7.8 The total number of personal injury cases **disposed** of during 2011-12 was 8,370, an increase of 12 per cent on the previous year and an increase of 56 per cent compared to 2008-09. This longer term increase appears to be driven by an increase in the number of disposals of personal injury cases relating to road traffic accidents which has increased by 191 per cent, from 1,588 in 2008-09 to 4,619 in 2011-12. [Table 16].
- 7.9 More personal injury cases relating to road traffic accidents were raised in the sheriff courts, while more cases relating to accidents at work, asbestos and clinical negligence were raised in the Court of Session. [Figure 10].

Figure 10: Number of personal injury cases initiated across all courts, by case type, 2011-12



Court of Session

- 7.10 There were 2,571 personal injury cases initiated in the General Department of the Court of Session in 2011-12, a 13 per cent decrease on 2010-11 and comprising 76 per cent of all cases initiated in the General Department. Accidents at work (36 per cent) and road traffic accidents (32 per cent)

accounted for the greatest proportion of cases initiated, with 11 per cent of cases being asbestos-related. [Table 17]

- 7.11 The number of cases initiated in the General Department for personal injury relating to pleural plaques continued to fall, with 147 cases initiated during 2011-12, a decrease of 26 per cent compared to 2010-11 and 61 per cent compared to 2009-10. The higher level in 2009-10 was mainly due to the [Damages \(Asbestos-related Conditions\) \(Scotland\) Act 2009](#), which came into force in June 2009 and allows individuals with asbestos-related pleural plaques etc. to raise a court case for personal injury. [Table 17]
- 7.12 Until now there have been relatively few disposals of these cases, as many were sisted (suspended) pending the UK Supreme Court's decision as regards a judicial review of the Act. Following the decision of the UK Supreme Court dated 12 October 2011 in the case [Axa General Insurance Ltd & Others v The Lord Advocate](#), a direction, no. 2 of 2012, was made by the Lord President on 27 August 2012 outlining the procedures to be followed in the relevant cases and disposals are progressing accordingly.
- 7.13 Eighty nine per cent of personal injury cases initiated in the General Department in 2011-12 were for reasons not related to Asbestos or Clinical Negligence. Of the 2,409 cases of this type disposed, 96 per cent were defended. A decree of absolvitor was granted in 65 per cent of cases – these are not necessarily decrees granted in favour of the defender, as it is likely that at least some decrees will have been granted after the parties involved have come to an out-of-court settlement. [Table 17]

Sheriff Courts

- 7.14 There were 5,275 personal injury cases initiated in the sheriff courts during 2011-12, a decrease of 16 per cent compared to 2010-11. Just over half (54 per cent) of cases raised in the sheriff courts were raised through ordinary cause procedure and 46 per cent were raised through summary cause procedure. [Table 18 and Table 19].
- 7.15 The number of **ordinary cause** cases initiated decreased by 11 per cent during 2011-12 to 2,838. Two thirds of these cases related to road traffic accidents (66 per cent) and 18 per cent related to accidents at work. The number of cases initiated in relation to clinical negligence increased by 10 per cent during 2011-12 to 117. [Table 18].
- 7.16 The number of ordinary cause cases disposed of increased by almost a third (30 per cent) during 2011-12 to 3,373. Of these, 96 per cent of cases were defended, with a decree of absolvitor being granted in 70 per cent of cases. Again, these are not necessarily decrees granted in favour of the defender, as it is likely that at least some decrees will have been granted after the parties involved have come to an out-of-court settlement. [Table 18].

- 7.17 The number of personal injury cases initiated through **summary cause** procedure decreased by 19 per cent during 2011-12 to 2,437. This followed an increase of 22 per cent between 2009-10 and 2010-11. Road traffic accidents accounted for almost four fifths of all summary cause personal injury cases initiated (79 per cent). [Table 19]
- 7.18 The number of summary cause personal injury cases disposed of decreased by 6 per cent to 2,284. A smaller proportion of these cases were defended (71 per cent) compared to ordinary cause procedure disposals. [Table 19]

Table 17: Personal injury cases¹ initiated and disposed of² in the Court of Session, 2011-12

Case Type	Initiated	Disposed									Total
		Absolutor	Dismissed		For Pursuer		Expenses Only		Other		
			Defended	Undefended	Defended	Undefended	Defended	Undefended			
Accident at Work	925	634	2	2	262	13	3	-	23	939	
Road Traffic Accident	834	634	4	-	347	15	3	-	38	1,041	
Asbestos	280	169	1	1	32	4	-	-	5	212	
Live Mesothelioma	35	32	-	-	4	1	-	-	-	37	
Post Mesothelioma	54	50	-	-	13	3	-	-	1	67	
Pleural Plaques	147	45	-	1	9	-	-	-	2	57	
Pleural Thickening	3	4	-	-	-	-	-	-	-	4	
Other	41	38	1	-	6	-	-	-	2	47	
Clinical Negligence	133	70	3	-	11	-	-	-	8	92	
Vibration	38	40	-	-	12	-	-	-	-	52	
Relative's Claim	11	4	-	-	2	-	-	-	-	6	
Repetitive Strain Injury ³	3	2	-	-	1	-	-	-	-	3	
Other	347	258	13	4	82	2	-	1	8	368	
Total	2,571	1,811	23	7	749	34	6	1	82	2,713	

1. Personal injury cases are raised under a specific court procedure. Either party can request permission from the court to opt out of this procedure and use the standard ordinary cause procedure. All personal injury cases are shown under Personal Injury in the table above,

irrespective of the procedure used. Cases which have been transferred out are double-counted in the data on initiations.

2. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

3. Three disposals of repetitive strain injury cases were originally recorded under 'Other' but should have been recorded under 'Repetitive Strain Injury'. This has been corrected in the table above.

Table 18: Ordinary Cause Personal Injury cases initiated and disposed of¹ in the sheriff courts, 2011-12

Case Type	Initiated	Disposed								Total
		Absolutor	Dismissed		For Pursuer		Expenses Only		Other	
			Defended	Undefended	Defended	Undefended	Defended	Undefended		
Road Traffic Accident	1,859	1,020	27	12	602	64	14	-	9	1,748
Accident at Work	500	259	8	-	109	15	4	-	4	399
Other	337	1,046	21	5	70	10	6	1	6	1,165
Clinical Negligence ⁴	117	31	4	1	-	1	-	-	2	39
Asbestos	14	3	-	-	1	-	-	-	-	4
Vibration White Finger	7	10	-	-	1	-	-	-	-	11
Repetitive Strain Injury	3	-	1	1	-	-	-	-	-	2
Relative's Claim	1	4	-	-	1	-	-	-	-	5
Total	2,838	2,373	61	19	784	90	24	1	21	3,373

1. From 2 November 2009 personal injury cases with a claim amount of more than £5,000 are raised under a new ordinary cause - personal injury court procedure. Either party can request permission from the sheriff to opt out of this procedure and use the standard ordinary cause procedure. All personal injury cases with a claim amount of more than £5,000 are shown in the table above, irrespective of the procedure used.

2. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

3. Prior to April 2008, personal injury cases were recorded under a single category. Therefore, clinical negligence cases initiated prior to, but disposed of after, April 2008 are recorded under Other.

4. This table has been updated to include 54 clinical negligence cases initiated which were previously omitted due to a misclassification.

Table 19: Summary Cause Personal Injury cases initiated and disposed of¹ in the sheriff courts, 2011-12

Case Type	Initiated	Disposed									Total
		Absolutor	Dismissed		For Pursuer		Expenses Only		Other		
			Defended	Undefended	Defended	Undefended	Defended	Undefended			
Road Traffic Accident	1,921	1,124	44	242	108	257	23	7	25	1,830	
Accident at Work	326	160	9	45	23	43	6	-	3	289	
Other	170	93	6	22	10	20	3	1	3	158	
Relative's Claim	10	2	-	-	-	-	-	-	-	2	
Clinical Negligence	6	2	-	-	-	-	-	-	-	2	
Repetitive Strain Injury	3	3	-	-	-	-	-	-	-	3	
Vibration White Finger	1	-	-	-	-	-	-	-	-	-	
Total	2,437	1,384	59	309	141	320	32	8	31	2,284	

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

8 Damages

8. Damages

Summary of Damages

- The number of damages cases initiated in the civil courts during 2011-12 **decreased by 11 per cent** to 3,684. This is a decrease of 20 per cent since 2008-09.
- The majority of damages cases (64 per cent) were initiated under **small claims procedure**.
- A **decree of absolvitor** was the most common disposal type across all procedural types, apart from small claims procedure.

Introduction to damages in Scotland

8.1 Damages are a legal remedy that an individual can seek as compensation for harmful action they have experienced through the fault of another party. This can include (but is not limited to): defamation, breach of contract, damage to moveable property, negligence, breach of warranty or guarantee, breach of trust, wrongful diligence, wrongful interdict, malicious prosecution, wrongful apprehension or false imprisonment or fraudulent representation.

Damages in the context of the courts

Table 20: Damages cases initiated and disposed of¹ in the civil courts², by case type, 2008-09 to 2011-12

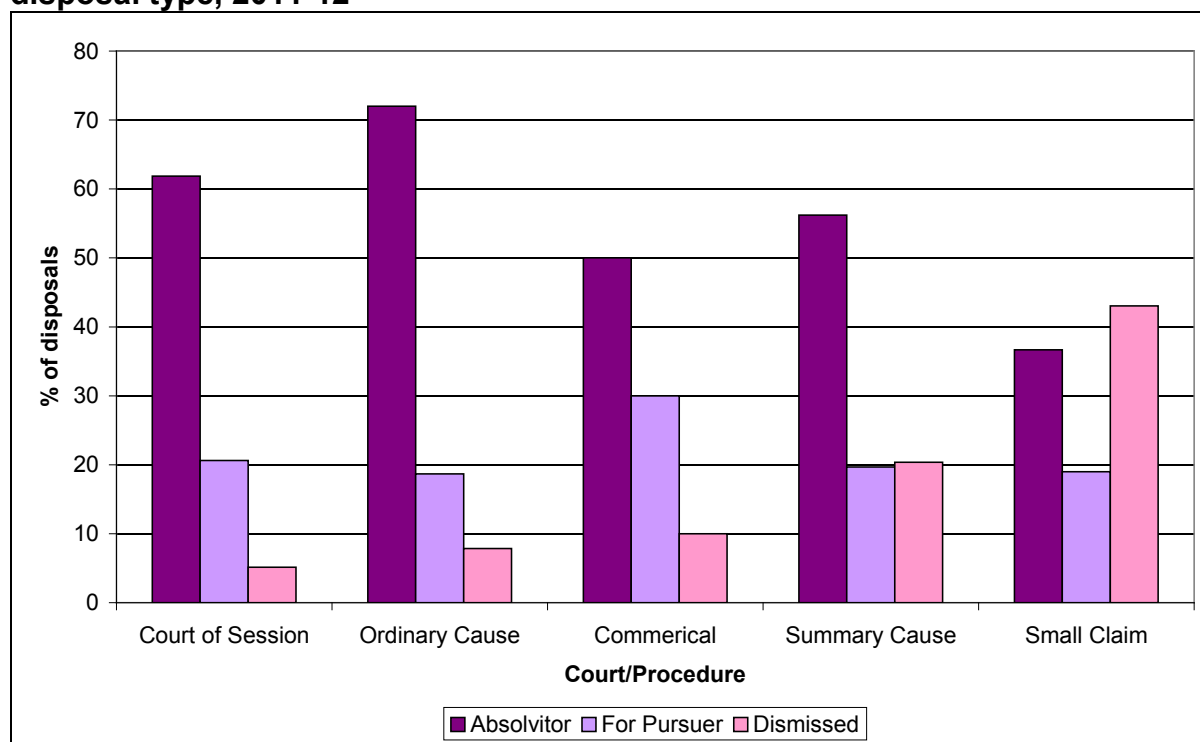
Procedure	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
Initiated					
Court of Session	337	527	299	304	2
Ordinary cause	738	791	630	491	-22
Commercial	38	54	163	37	-77
Summary cause	434	561	453	488	8
Small claim	3,080	2,918	2,586	2,364	-9
Total	4,627	4,851	4,131	3,684	-11
Disposed					
Court of Session	206	198	292	291	0
Ordinary cause	1,415	666	595	675	13
Commercial	29	26	18	30	67
Summary cause	410	450	457	452	-1
Small claim	2,409	2,710	2,397	2,149	-10
Total	4,469	4,050	3,759	3,597	-4

¹ Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details

² Includes Court of Session and Sheriff Court

- 8.2 There were 3,684 damages cases initiated during 2011-12 across all levels of the Scottish courts, an 11 per cent decrease on 2010-11. The majority of damages cases (64 per cent) were raised using small claims procedure. The total number of damages cases initiated has exhibited a decreasing trend since 2008-09 (down 20 per cent), which is driven by a decrease in the number of small claims cases initiated (down 23 per cent). There has been some fluctuation in the number of cases initiated using other procedures, with a peak in 2009-10. [Table 20]. Cases seeking damages accounted for nine per cent of all cases initiated in the General Department of the Court of Session during 2011-12.
- 8.3 The number of damages cases disposed of during 2011-12 decreased by four per cent to 3,597. The number of disposals of ordinary cause cases increased by 13 per cent compared to ordinary cause cases initiated which decreased by one fifth. [Table 20].
- 8.4 Eighty six per cent of damages cases disposed of in both the Court of Session and under ordinary procedure were defended, whereas 61 per cent of summary cause cases were defended and 42 per cent of small claim cases. [Table 21].

Figure 11: Proportion of damages cases disposed of in the civil courts by final disposal type, 2011-12



- 8.5 Apart from in small claim cases, the majority of cases disposed of were granted a decree of absolvitor. Sixty two per cent of cases disposed of in the

Court of Session and 72 per cent of ordinary cause cases received this disposal type. The proportion of cases dismissed is greater for the less formal court procedures, namely small claims (43 per cent) and summary cause (20 per cent). The proportion of cases disposed of in favour of the pursuer is approximately one fifth for all courts/procedures, except commercial procedure. [Table 21].

Table 21: Number of damages cases initiated and disposed of¹ in the civil courts², by case type and final disposal, 2011-12

Case Type	Initiated	Disposed									Total
		Absolutor	Dismissed		For Pursuer		Expenses Only		Other		
			Defended	Undefended	Defended	Undefended	Defended	Undefended			
Court of Session	304	180	14	1	53	7	2	-	34	291	
Ordinary Cause	491	486	38	15	53	73	4	1	5	675	
Commercial	37	15	1	2	6	3	3	-	-	30	
Summary Cause	488	254	7	85	10	79	4	1	12	452	
Small Claim	2,364	788	79	846	31	377	3	12	13	2,149	
Total	3,684	1,723	139	949	153	539	16	14	64	3,597	

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

2. Includes Court of Session and Sheriff Court data.

9 Spot light on... Repossession and Eviction

9. Spotlight on Repossession and Eviction

Introduction to repossession and eviction law in Scotland

9.1 Repossession cases involve the retaking of property, usually by a lender, when a borrower is in breach/default of a mortgage or loan secured on their property. Eviction cases involve the repossession of property by the owner from an occupier who is not the owner, usually a tenant who has accrued rent arrears.

Repossessions and evictions in the context of the courts

9.2 Repossession and eviction cases fall within the jurisdiction of the sheriff courts. Until recently, repossession cases relating to mortgages and loans were dealt with under ordinary cause – ordinary procedure. However, the introduction of the [Home Owner and Debtor Protection \(Scotland\) Act 2010](#) on 30 September 2010 led to a change in the way that these cases are raised in court and they are now being raised as summary applications. Eviction cases are raised under summary cause procedure.

9.3 It is important to note that the number of repossession/eviction cases disposed of in favour of the pursuer is not the same as the number of repossessions/evictions that actually occur, as some successful repossessions/eviction orders may not ultimately be enforced

Repossessions

9.4 The total number of repossession cases initiated has decreased by one third (33 per cent) between 2008-09 and 2011-12. This reduction has been caused by a combination of factors which are explained in this section. [Table 22].

9.5 The number of ordinary cause – ordinary procedure cases initiated has exhibited a growing downward trend over the four year period. The number of cases has decreased by 99 per cent from 10,135 in 2008-09 to 79 in 2011-12. The likely reason for this is the [Home Owner and Debtor Protection \(Scotland\) Act 2010](#) which was introduced on 30 September 2010 and stated that all new mortgage/loan repossession cases should be raised under summary application procedure. [Table 22].

9.6 The number of summary application repossession cases initiated has exhibited a growing upward trend over the last four years. The number of cases increased from six in 2008-09 to 6,673 in 2011-12, which was expected given the provisions of the 2010 Act.

9.7 However, the increase in summary application cases initiated during 2010-11 did not directly correspond with the reduction in ordinary cause cases, displaying a lag of one year. This may partly be a result of the [UK Supreme Court judgment in the RBS v Wilson case](#) on 24 November 2010 which

directed that all active mortgage-related repossession cases be withdrawn from the courts and resubmitted as summary applications following a two month waiting period. This is likely to be the reason for summary application repossession cases exhibiting only a small increase during 2010-11 followed by a greater increase during 2011-12. [Table 22].

Table 22: Repossession and eviction cases initiated and disposed of¹ in the sheriff courts, by case type, 2008-09 to 2011-12

Case type and procedure	2008-09	2009-10	2010-11	2011-12	% change on 2010-11
Initiated					
Repossession	10,141	8,266	5,224	6,752	29
<i>Ordinary cause</i>	10,135	8,256	4,245	79	-98
<i>Commercial</i>	-	6	4	0	-100
<i>Summary application</i>	6	4	975	6,673	584
Eviction	19,944	16,528	14,160	13,979	-1
<i>Summary cause</i>	19,944	16,528	14,160	13,979	-1
Total	30,085	24,794	19,384	20,731	7
Disposed					
Repossession	7,182	6,486	5,573	4,243	-24
<i>Ordinary cause</i>	7,181	6,476	5,083	253	-95
<i>Commercial</i>	1	4	1	3	200
<i>Summary application</i>	-	6	489	3,987	715
Eviction	19,191	16,986	14,906	13,972	-6
<i>Summary cause</i>	19,191	16,986	14,906	13,972	-6
Total	26,373	23,472	20,479	18,215	-11

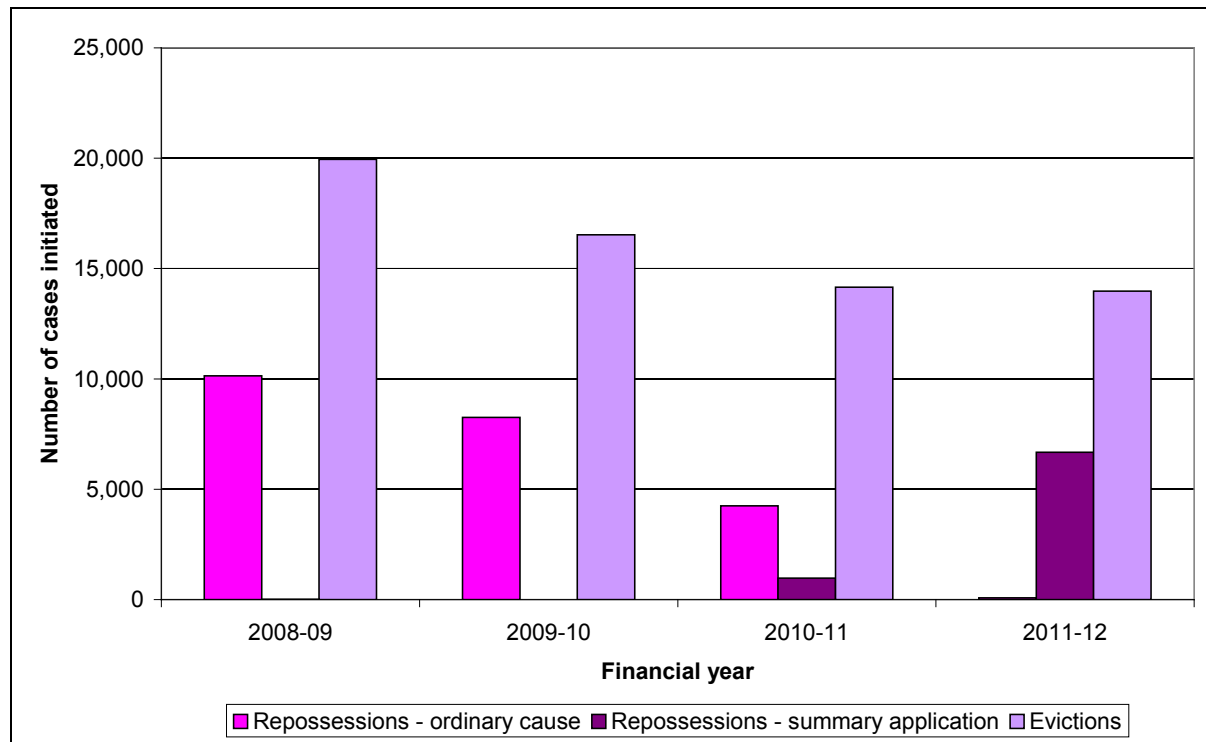
1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

- 9.8 The increase in summary application repossession cases initiated is the reason for the overall number of mortgage/loan-related repossession cases increasing during 2011-12 (29 per cent) for the first time in three years. [Table 22].
- 9.9 The number of repossession cases disposed of during 2011-12 fell by 24 per cent to 4,243. This reduction was driven by a substantial decrease in the number of repossession cases disposed of under ordinary cause – ordinary procedure (down 95 per cent) despite the number of summary application cases disposed of increasing by 715 per cent to 3,987. [Table 22].

Evictions

- 9.10 Evictions accounted for 61 per cent of all summary cause cases initiated in 2011-12. Following a decreasing trend in recent years, the number of eviction cases initiated decreased only slightly (one per cent) during 2011-12 to 13,979. The number of cases disposed of decreased by six per cent to 13,972. Of the cases of this type, 95 per cent were undefended and 47 per cent were awarded in favour of the pursuer. [Table 22].
- 9.11 The number of eviction cases initiated has fallen by 30 per cent between 2008-09 and 2011-12, which can be partly attributed to a change in the way rent arrears are managed across some local authorities, where it is more likely that methods other than court action may be used to recover the arrears. [Table 22].

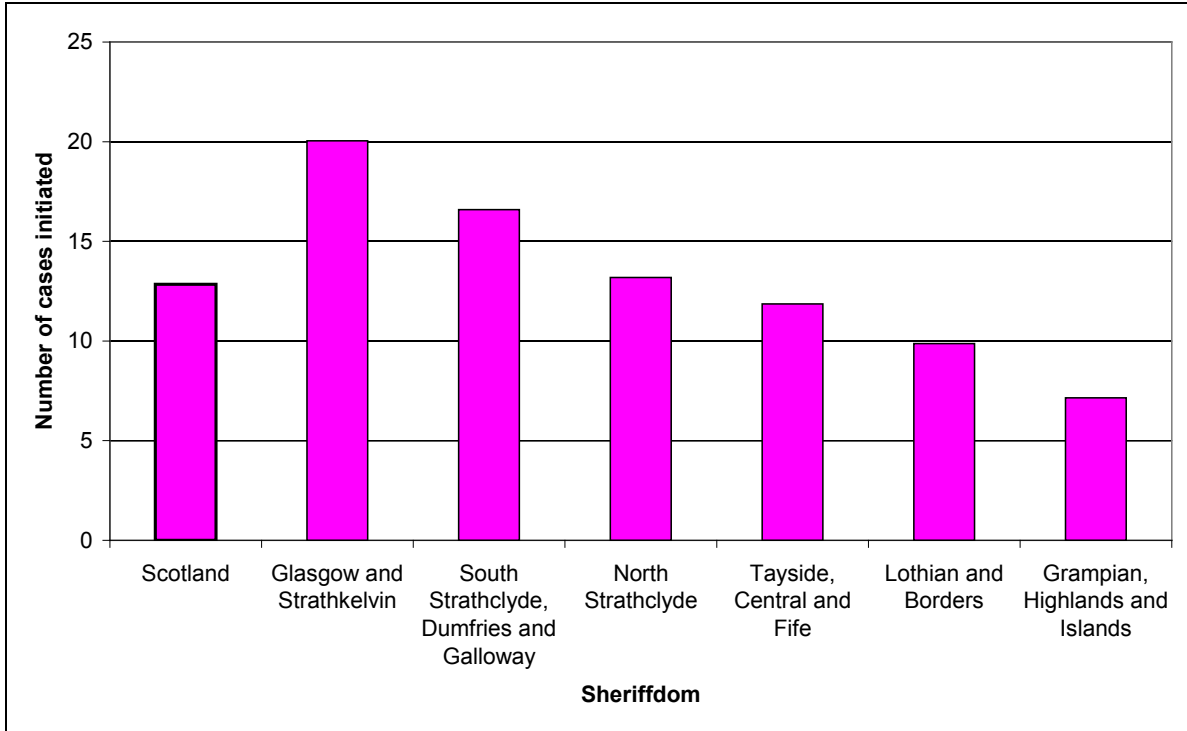
Figure 12: Repossession and Eviction cases initiated by procedure type, 2011-12



Differences across sheriffdoms

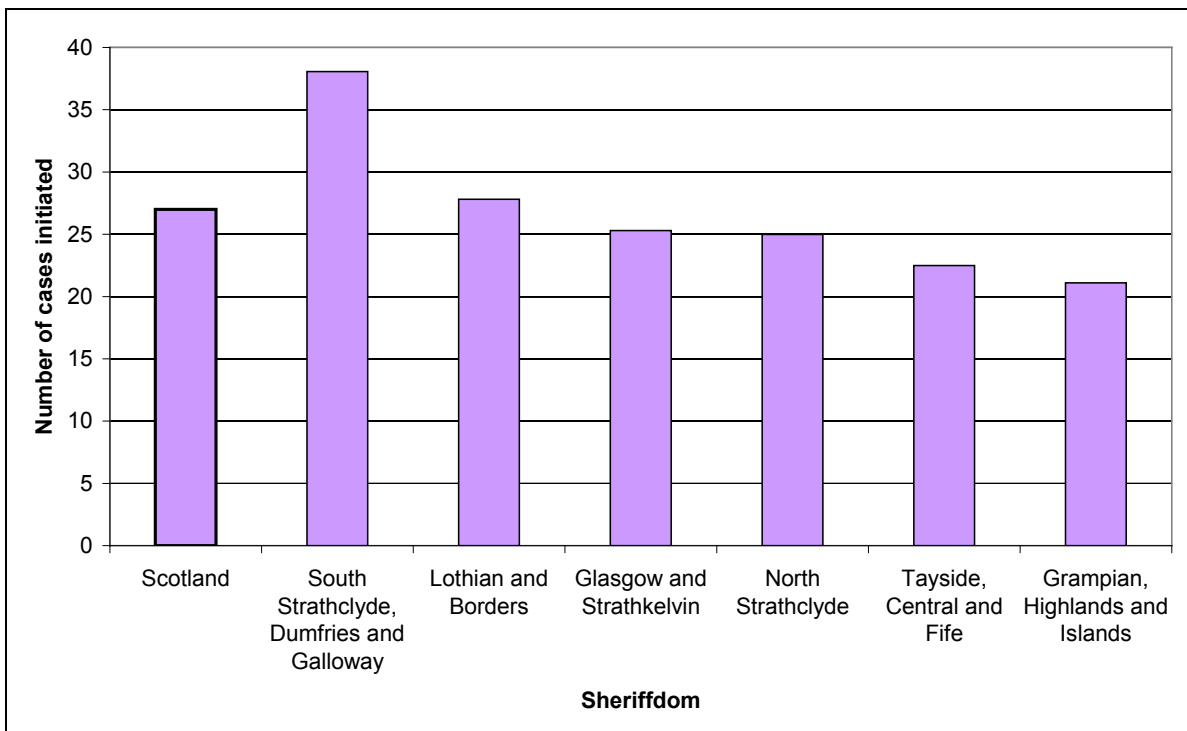
- 9.12 The number of repossession and eviction cases initiated varies across sheriffdoms. In 2011-12, Glasgow and Strathkelvin exhibited the highest rate of repossession cases initiated (20 per 10,000 population) and Grampian, Highlands and Islands exhibited the lowest rate (7 cases initiated per 10,000 population). There were 13 repossession cases initiated per 10,000 population for Scotland as a whole. [Figure 13].

Figure 13: Repossession cases initiated per 10,000 population by sheriffdom, 2011-12



9.13 In 2011-12, the greatest rate of repossession cases initiated was in South Strathclyde, Dumfries and Galloway (38 cases per 10,000 population) and the lowest rate was in Grampian, Highlands and Islands (21 cases initiated per 10,000 population).

Figure 14: Eviction cases initiated per 10,000 population by sheriffdom, 2011-12



10 Appeals and Reclaiming Motions

10. Appeals and Reclaiming Motions

- 10.1 The civil appeal process can be complex and so the following is a general overview only and is not intended to be a comprehensive description.
- 10.2 In the Court of Session:
- appeals from the Outer House of the Court of Session, known as reclaiming motions, are made to the Inner House;
 - the Inner House also hears appeals from the sheriff courts, see below, and certain tribunals and other bodies.
- 10.3 In the sheriff courts:
- small claim appeals must be made to the sheriff principal, whose decision is final;
 - summary cause appeals must also be made to the sheriff principal in the first instance, but the judgment of the sheriff principal may, if they certify the case as suitable, be appealed to the Inner House of the Court of Session;
 - ordinary cause appellants may in some circumstances choose to appeal to either the sheriff principal or the Court of Session, and where the case is appealed to the sheriff principal it may in some circumstances be further appealed to the Court of Session.
- 10.4 Appeals against judgments of the Inner House of the Court of Session may be made to the [Supreme Court of the United Kingdom](#), which was established on 1 October 2009 and replaced the House of Lords in its judicial capacity. There is normally no requirement to obtain the Court of Session's permission, or leave, to appeal to the UK Supreme Court. Statistics on appeals from the Court of Session to the UK Supreme Court are not contained within this publication.

Sheriff Court Appeals

- 10.5 The number of appeals to sheriffs principal initiated during 2011-12 decreased by 29 per cent from 441 in 2010-11 to 313. Of the appeals initiated, 69 per cent were appeals of ordinary cause cases, 18 per cent were appeals of summary cause cases and 13 per cent were appeals of small claim cases.
- 10.6 The number of appeals to sheriffs principal that were disposed was almost static between 2010-11 (334) and 2011-12 (330). The original judgment was adhered to in 47 per cent of appeals disposed of in 2011-12 and was recalled or varied in 22 per cent of disposals, a decrease of 10 percentage points compared to 2010-11.

Court of Session Appeals and Reclaiming Motions

- 10.7 There were 56 **reclaiming motions from the General Department** initiated in the Inner House of the Court of Session in 2011-12. The original judgment was adhered to or accepted¹⁴ by the appellants for 71 per cent of the 32 reclaiming motions disposed of in 2011-12.
- 10.8 There were 34 **reclaiming motions from the Petition Department** initiated in the Inner House of the Court of Session in 2011-12, an increase of 89 per cent on 2011-12. The original judgment was adhered to or accepted¹⁴ by the appellants for 14 of the 21 reclaiming motions disposed of in 2011-12.
- 10.9 There were 55 appeals from **sheriff courts** initiated in the Inner House in 2011-12. The number of appeals disposed of was 68, with 74 per cent of appeals disposed of in 2011-12 adhering to or accepting the original judgement¹⁴.
- 10.10 The number of appeals initiated from **other courts and tribunals** increased by 25 per cent to 116. There were 92 appeals from other courts and tribunals disposed of in 2011-12, an increase of 37 per cent compared to 2010-11. Of the cases disposed of in 2011-12, 60 per cent adhered to or accepted the original judgement¹⁴.

¹⁴ Final disposal type of refused, dismissed or abandoned

Table 23: Appeals to sheriffs principal¹ initiated and disposed of², by type of procedure and final disposal, 2011-12

Case Type	Initiated	Disposed					Total
		Adhered	Recalled	Varied	Other		
Ordinary Cause	216	105	47	3	88	243	
Summary Cause	55	33	11	2	12	58	
Small Claim	42	17	9	2	1	29	
Total	313	155	67	7	101	330	

1. Excludes other appeals heard by the sheriff courts, e.g. appeals from tribunals and local authorities.
2. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

Table 24: Appeals initiated and disposed of¹ in the Court of Session, 2011-12

Case Type	Initiated	Disposed					Total
		Allowed	Refused	Dismissed	Abandoned	Other	
Reclaiming motions (General Department)	56	6	15	5	3	3	32
Reclaiming motions (Petition Department)	34	6	7	4	3	1	21
Appeals from Sheriff Courts	55	17	27	13	10	1	68
Appeals from Other Courts/Tribunals	116	36	16	33	6	1	92

1. Figures for initiations and disposals do not necessarily refer to the same cases. See paragraph 11.9 for further details.

11. Quality of Statistics Used

Background

- 11.1 Civil Law Statistics in Scotland 2011-12 replaces the Civil Judicial Statistics bulletin which was published in 2010 and 2011. Prior to this, the publication was suspended after [Civil Judicial Statistics Scotland 2002](#) because of a lack of precision in the definition of data items and consequently the way in which courts captured and recorded civil data, which was inconsistent across the 49 sheriff courts. This meant that the data that were being published were unreliable and potentially misleading.
- 11.2 The challenge in recording and reporting on civil data reliably is significant and is a consequence of the large variety of case types and procedural outcomes that can be pursued. This produces a highly complex and highly varied set of data which has required intensive consideration by the Scottish Government and the Scottish Court Service (SCS) to identify the key data which should be recorded and reported on and to identify how best to strengthen the process of recording data in the courts as cost effectively as possible.
- 11.3 Extensive work has been undertaken in the last few years to consult with users of civil judicial statistics to identify data most useful to them and to identify and rectify instances of inconsistent recording of data.
- 11.4 A civil justice specific ScotStat¹⁵ group has been created. The objectives of this group are:
- Through liaison between users and providers of statistics on civil justice to identify the key strategic statistical information required by users; and
 - to develop and implement a strategy for prioritising and meeting these needs.
- 11.5 This has membership across the civil community and will meet once or twice a year.

Caveats

- 11.6 The data collected between 2008-09 and 2011-12 have been assessed as being of sufficient quality to be published. In particular there is no evidence of any significant inaccuracies in the data for summary cause and small claim cases. However, the following issues should be noted regarding ordinary cause and summary application cases.
- 11.7 For **ordinary cause** cases¹⁶:

¹⁵ For more information on ScotStat: <http://www.scotland.gov.uk/Topics/Statistics/scotstat>

- The number of cases disposed of is an underestimate. An analysis of the data suspected to be inaccurate identified that about a fifth of the active ordinary cause cases studied may have been disposed of but were not marked as such in the electronic case management system. However, it is likely that the number of disposals recorded has been underestimated by less than this as the data analysed were not representative of all the data collected by the SCS and it could not be determined conclusively that these cases should have been disposed of.
- A number of cases initiated do not proceed beyond having the initial writ / summons registered with the court. These cases are not technically disposed of as they can be resumed under certain circumstances. The analysis found that up to around a tenth of the ordinary cause cases studied had no further action after initiation.
- A number of cases are sisted (suspended), either for a defined period or until the occurrence of a particular event. Again, these cases are not disposed of as they will be resumed in the future but the SCS is investigating whether cases which have been sisted can be identified within the statistics. The analysis found that around a fifth of the ordinary cause cases studied were currently sisted.

11.8 For **summary application** cases:

- The Other category on the SCS electronic case management system (CMS) includes a wide range of summary applications but some courts are recording activities under this case type which in future will not be recorded on CMS. These activities cannot be easily identified and excluded from the summary application case count and so the total number of summary application cases is not shown within this publication or associated tables.
- The number of cases disposed of is very likely to be an underestimate but the extent of the undercount is not known and it would be either too resource-intensive or, for some case types, impossible to estimate.

11.9 The figures in the tables for initiations and disposals do not necessarily refer to the same cases as some will be initiated during one year and disposed of during another, i.e. some of the cases initiated will still be active at the end of the year and some disposals will be for cases that were initiated before that year.

¹⁶ This is based on analysis of data collected between April 2008 and February 2010.

- 11.10 Due to the way in which the data are recorded, if a case is appealed or reclaimed during the same month that it was disposed of then the original disposal will not be counted. However, as there are very few appeals and reclaiming motions each month then this will not have a significant impact on the data.
- 11.11 Due to the inconsistency in data prior to April 2008 and the changes in recording methods and definitions, the data in this publication should not be compared with data from the Civil Judicial Statistics Scotland bulletins for 2002 and earlier. It can however be compared with data from Civil Judicial Statistics for 2008-09, 2009-10 and 2010-11.

Legislation changes and other legal matters affecting civil business

- 11.12 The [Home Owner and Debtor Protection \(Scotland\) Act 2010](#) came into force on 30 September 2010. This Act included a change to the way that repossession cases relating to mortgages and loans related to residential property are raised in court - these are now being raised as summary applications. Previously, nearly all court actions for repossession were made under ordinary cause procedure.
- 11.13 The figures for court actions relating to repossessions are also affected by the [UK Supreme Court judgment in the RBS v Wilson case](#), issued on 24 November 2010. This resulted in all repossession cases being withdrawn from the courts and resubmitted as summary applications following the completion of the two month waiting period required by the judgment. The statistics for court actions relating to repossessions are likely to be skewed for a few months from December 2010 onwards as a result.
- 11.14 The figures for asbestos-related pleural plaques in 2008-09 were affected by the impact of a [House of Lords decision](#) in October 2007, which upheld a majority decision of the Court of Appeal in England (and which was not binding on the courts of Scotland) that the existence of pleural plaques did not constitute actionable damage¹⁷.
- 11.15 The subsequent increase in asbestos-related pleural plaques in 2009-10 was mainly due to the [Damages \(Asbestos-related Conditions\) \(Scotland\) Act 2009](#), which came into force in June 2009 and allows individuals with asbestos-related pleural plaques etc. to raise a court case for personal injury. There have been relatively few disposals of these cases, as many were sisted (suspended) pending the UK Supreme Court's decision as regards a petition challenging the validity of the legislation which was lodged on behalf of a

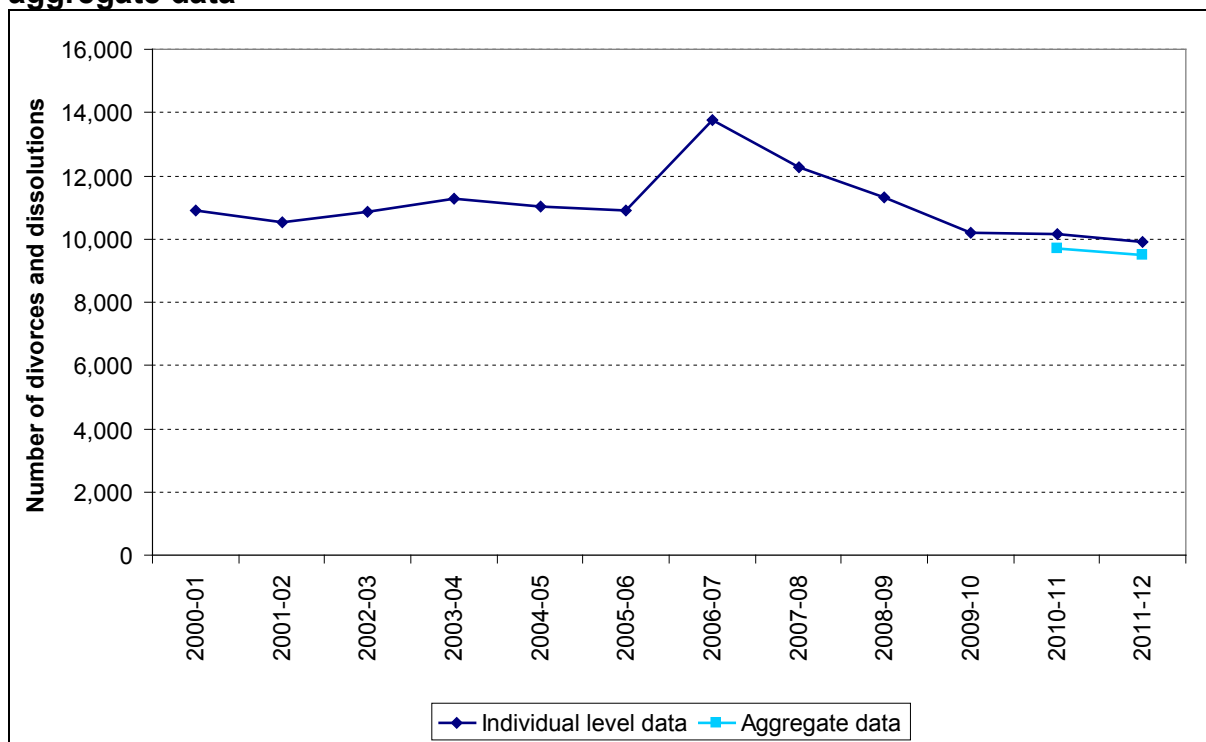
¹⁷ Prior to this decision, individuals had been able to bring claims for compensation for pleural plaques since the 1980s.

consortium of insurers¹⁸. That challenge was successfully defended in the Outer House, Inner House and the Supreme Court in January 2010, April 2011 and October 2011 respectively.

Divorce and dissolution data sources

11.16 The headline divorce and dissolution statistics presented in Table 11 and Table 12 are derived from the same aggregate data source as the other statistics in this bulletin. The statistics presented in [Divorces and Dissolutions in Scotland](#) were based on a different source comprising individual level data. Both data sources are based on information recorded by the Scottish Court Service but there are differences in the timing and processing of the two extracts. These differences are small, as demonstrated by the comparison in Figure 15 of the total number of divorces and dissolutions from each source. The aggregate data source is regarded as the superior of the two due to more rigorous quality assurance and as such was used to produce the headline divorce and dissolution statistics for this bulletin. However, the individual level data enables more detailed disaggregation of the data – these are available on the [Civil Law Statistics in Scotland website](#).

Figure 15: Total number of divorces and dissolutions from individual level and aggregate data



¹⁸ Axa General Insurance & Others v The Lord Advocate, October 2011
http://www.supremecourt.gov.uk/decided-cases/docs/UKSC_2011_0108_Judgment.pdf

Burden on data providers

11.17 The estimated cost to the SCS of supplying and validating the data for this bulletin was £3,200. Details of the calculation methodology are available on the Scottish Government Crime and Justice Statistics website at <http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/costcalculationstat>.

Review Policy

11.18 The SCS continues to review and maintain a watching brief on the accuracy of the data it collects. Courts are issued with guidance on recording practices and it is up to individual courts to process cases in line with this guidance. There is no evidence to suggest significant differences in the 'classification' of case types between courts.

11.19 The SCS continues to work closely with the Scottish Government on the **Review of Civil Judicial Statistics** and in clarifying that the limitations of the data that are being asked for is clearly understood. The SCS is considering the implications of the Review and will consider further how the accuracy of its data can be improved cost effectively including, for example, reducing the number of disposed cases that go uncounted and improving the accuracy of summary application cases recorded under the Other category.

Corrections to the previous bulletin

11.20 A new method was introduced by the Scottish Government in 2012 to process data received from the Court of Session, which resulted in a slight change being made to the total number of cases disposed of in the General Department for 2010/11. In [Civil Judicial Statistics 2010-11](#), the total number of cases disposed of was 3,183 which has now been amended to 3,187. The 2010-11 Civil Judicial Statistics publication has not been amended to reflect this change and is therefore not consistent with the latest Court of Session data for 2010-11 contained in this bulletin.

12. Notes on Statistics Used

- 12.1 For 2008-09, Court of Session data on cases initiated were collected electronically but data on disposals were recorded manually. For 2009-10 onwards all of the Court of Session data published here were collected electronically (with the exception of adoptions and adoption freeing orders, which continue to be recorded manually due to the confidential nature of these cases). Given the thorough quality assurance that was carried out on the data each month, it is unlikely that the change in data collection methods will have a significant impact on the ability to compare data between the three years. However, changes were made to the case types and final disposals recorded and this will affect the ability to compare some of the more detailed data.
- 12.2 All of the sheriff courts data published here were extracted electronically with the exception of data on adoptions, permanence orders with authority to adopt, commissary and appeals, which were based on manual returns from the courts.
- 12.3 The 2011-mid-year population estimates used to calculate the number of cases per 1,000 or per 10,000 population in some of the tables are given in Table 25 below.

Table 25: 2011 mid-year population estimates by sheriffdom

Sheriffdom	2011 mid-year population estimates
Glasgow and Strathkelvin	720,815
South Strathclyde, Dumfries and Galloway	880,191
Tayside, Central and Fife	1,069,010
Lothian and Borders	962,040
North Strathclyde	776,354
Grampian, Highlands and Islands	846,390
Scotland	5,222,100

Source: National Records of Scotland

- 12.4 The following symbols have been used in the publication:

Not available	n/a
Not applicable	.
Less than 0.5	*
Nil	-

- 12.5 Statistics from the Scottish Crime and Justice Survey and mid-year population estimates are National Statistics. Legal Aid statistics are not Official Statistics. All other tables in this publication are Official Statistics.
- 12.6 This publication has been produced by the Government Statistical Service and meets the standard required of all Official Statistics publications. Following the Review of Civil Judicial Statistics, and with improved data collection and checking procedures fully implemented, the publication will in due course aim to achieve National Statistics status.

13. Definitions

- 13.1 General descriptions of court processes and terminology used are given throughout this bulletin. This chapter contains broad definitions which have not been given elsewhere.
- 13.2 Given the complex nature of the civil justice system, all descriptions and definitions given are necessarily general in nature. They are intended to provide sufficient information to allow readers to understand the content of this bulletin but they are not official explanations and should only be used in the context of this bulletin.
- 13.3 A single case can involve a number of different case types. The case type which is listed first on the writ / summons is commonly known as the 'principal crave', with the others being commonly described as 'ancillary craves'. All the tables in this bulletin show the case type of the 'principal crave' only - information on 'ancillary craves' is not included.
- 13.4 The following definitions describe the case types used in this publication. References to legislation have been provided where this helps to clarify the case type.

Aliment

Support or maintenance of a spouse / civil partner or child.

Child Abduction

Child abducted outside the UK and brought into Scotland.

Child in Place of Safety

Warrant to continue keeping a child in a place of safety. [Children \(Scotland\) Act 1995 s67](#).

Children's Hearings - Appeal

Appeal against the decision of a children's hearing. [Children \(Scotland\) Act 1995 s51\(1\)](#).

Children's Hearings - Referral

Refer to the sheriff for a decision when the grounds for a children's hearing are denied or not understood by the child or relevant person. [Children \(Scotland\) Act 1995 s65\(7\)](#).

Civil Non-Harassment Order

Restrain the conduct of a person. [Protection from Harassment Act 1997 s8](#) and [Domestic Abuse \(Scotland\) Act 2011 s8A](#).

Commercial

Actions arising out of, or concerned with, any transaction or dispute of a commercial or business nature which are carried out under specific commercial procedure.

Company

Actions relating to companies and how they operate, including liquidations.

Damages

Payment of money to compensate for non-personal loss or injury.

Debt

Payment of money, excluding Damages and Personal Injury.

Decree Dative

Appointment of a person to administer the estate of a deceased person.

Delivery

Delivery of moveable goods or property. An alternative crave for payment is sometimes included in the event the goods or property are not returned.

Exclusion Order - Child's Home

Local authority application to exclude a person from a child's home. [Children \(Scotland\) Act 1995 s76](#).

Exclusion Order - Matrimonial

Suspend the right of a spouse, civil partner or cohabitant to occupy the matrimonial home.

[Matrimonial Homes \(Family Protection\) \(Scotland\) Act 1981 s4](#).

Implement

Fulfil an obligation or duty.

Intellectual Property

Infringement of copyright, patents, trademarks, etc.

Interdict

Prevent a particular action being carried out, excluding Family Interdicts.

Judicial Review

A remedy whereby the Court of Session may review and if necessary alter the decision of inferior courts, tribunals and other public offices and authorities where no other form of appeal is available.

Land / Heritable

All actions relating to land or immoveable property.

Liquidation

Wind up and dissolve a corporate body.

Nobile Officium

An ancient 'noble office' or power of the Court of Session (and the High Court of Justiciary) which allows the Court to provide a legal remedy where none exists.

Nullity of Marriage / Civil Partnership

Void a marriage / civil partnership.

Parental Responsibilities and Rights

All actions relating to parental responsibilities and rights under the [Children \(Scotland\) Act 1995 s11](#).

Parental Responsibilities and Rights - Contact

Regulate the arrangements for maintaining personal relations between a child under 16 and a person with whom the child is not living. [Children \(Scotland\) Act 1995 s11\(2\)\(d\)](#).

Parental Responsibilities and Rights - Residence

Regulate the arrangements as to with whom a child under 16 is to live. [Children \(Scotland\) Act 1995 s11\(2\)\(c\)](#).

Parental Responsibilities and Rights - Other

Other actions relating to parental responsibilities and rights under the [Children \(Scotland\) Act 1995 s11](#), excluding contact and residence.

Permanence Order With Authority to Adopt

Vest parental rights for a child in an adoption agency, permitting the placement of the child for adoption in advance of the adoption order. [Adoption and Children \(Scotland\) Act 2007 s80](#).

Permanence orders with authority to adopt replaced adoption freeing orders from September 2009. Any adoption freeing orders initiated before this date but disposed during 2010-11 are included in the figures for permanence orders with authority to adopt.

Personal Injury - Asbestos - Live Mesothelioma

Payment of money to compensate for personal loss or injury. Mesothelioma is a cancer of the cells that make up the lining around the outside of the lungs and inside of the ribs, or around the abdominal organs. A mesothelioma sufferer (or someone with a Power of Attorney for a mesothelioma sufferer) is the pursuer.

Personal Injury - Asbestos - Post Mesothelioma

Payment of money to compensate for personal loss or injury. Mesothelioma is a cancer of the cells that make up the lining around the outside of the lungs and inside of the ribs, or around the abdominal organs. A mesothelioma sufferer's relative or executor is the pursuer and the sufferer has died and did not initiate court action themselves.

Personal Injury - Asbestos - Pleural Plaques

Payment of money to compensate for personal loss or injury relating to asbestos-related pleural plaques - scarring of the membranes around the lungs.

Personal Injury - Asbestos - Pleural Thickening

Payment of money to compensate for personal loss or injury relating to asbestos-related pleural thickening. Pleural thickening can cause breathlessness, asbestosis of the lungs, lung cancer and mesothelioma.

Personal Injury - Asbestos - Other

Payment of money to compensate for personal loss or injury relating to other asbestos-related illnesses.

Personal Injury - Clinical Negligence

Payment of money to compensate for personal loss or injury relating to clinical negligence.

Personal Injury - Relative's Claim

Payment of money to compensate for personal loss or injury to a relative of someone who has died.

Personal Injury - Other

Payment of money to compensate for other personal loss or injury.

Repossession - Mortgage / Loan

Repossess a property in breach / default of a mortgage or loan secured on the property. These cases can be initiated under ordinary cause or summary application procedure. Following the introduction of the [Home Owner and Debtor Protection \(Scotland\) Act 2010](#) on 30 September 2010, all repossession cases relating to mortgages or loans secured on residential property are to be raised as summary applications. Previously, nearly all court actions of this type were made under ordinary cause procedure.

Repossession - Non-Mortgage / Loan

Repossess a building or land which is being occupied by someone other than the owner, excluding mortgage / loan repossessions. The pursuer is the owner

and it is often, but not always, used to remove tenants who have not paid their rent.

Succession

Determine the rights of inheritance to a deceased person's estate.

Summary Warrant

Authorise the steps to be taken to ensure the recovery of money owed by one or more debtors to certain public creditors.

Suspension

Suspend a charge.

Trusts

Actions relating to the creation and administration of trusts.

13.5 The following definitions describe the disposal types used in this publication.

Appeals / Reclaiming Motions**Abandoned**

The appeal is abandoned and the original judgment stands.

Adhered

The original judgment is adhered to.

Allowed

The appeal is allowed and the original judgment is altered or reversed.

Dismissed

The appeal is not allowed and the original judgment is adhered to.

Recalled

The original judgment is recalled.

Refused

The appeal is refused and the original judgment is adhered to.

Varied

The original judgment is varied.

Other**Absolvitor**

An order granted in favour of the defender which prevents the pursuer from bringing the same matter to court again.

Defended / Undefended

A case is defended if the defender lodges a notice of intention to defend or appear, or lodges answers. If the defender does not subsequently defend the case the final disposal is still marked as defended. Decree can be awarded in favour of the defender even if the case is not defended. For example, the parties could settle out of court and ask for the case to be dismissed before the defender lodges a notice of intention to defend. This would be recorded in the statistics as 'Dismissed, Undefended'.

Dismissed (excluding Appeals / Reclaiming Motions)

Decree is granted in favour of the defender. The pursuer can raise further court action in relation to the same matter.

Dropped From Roll

The application is dropped from the roll. The pursuer can lodge a motion to recall the case. This usually occurs when the pursuer fails to return the application to court for the initial hearing date and no party attends.

Expenses Only (Court of Session)

The merits of the case are decided but the court reserves the question of expenses, which is dealt with at a later date. When expenses have been dealt with the case is finally disposed of and the final disposal is recorded as Expenses Only.

Expenses Only (Sheriff Courts)

Expenses are awarded to the pursuer, with the rest of the matter dropped.

For Petitioner / Pursuer / Respondent

Decree is granted in favour of the petitioner / pursuer / respondent.

Granted

Decree is granted in favour of the pursuer.

Opposed / Unopposed (Petition Department)

A petition is opposed if the respondent lodges answers. It cannot be determined from the statistics whether unopposed petitions were awarded in favour of the petitioner, respondent, etc.

Refused (excluding Appeals / Reclaiming Motions)

The case is refused. This could be for a number of reasons, for example on the basis that the case is incompetent, it has no merit, it is not insisted upon, etc.

Withdrawn

The case is withdrawn by the pursuer. This could be for a number of reasons, for example the case is incompetent, it has no merit, the pursuer does not wish to take the matter any further, etc.

13.6 The following miscellaneous definitions are used in this publication.

Ancillary Crave

Any second and subsequent legal remedies requested by the pursuer / petitioner, as stated in the initial writ / summons.

Decree

The order of the judge or sheriff disposing of a case.

Defender / Respondent

The person or body against whom a case is raised.

Disposed

Completion of a case following the issuing of a final judgment.

Initial Writ / Summons

A form of document used to commence some court cases.

Initiated

Registering a case with the court.

Principal Crave

The first legal remedy requested by the pursuer / petitioner, as stated in the initial writ / summons, etc.

Pursuer / Petitioner

The person or body who is raising the court case.

Reclaiming Motion

Appeals from the Outer House of the Court of Session, which are raised in the Inner House.

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