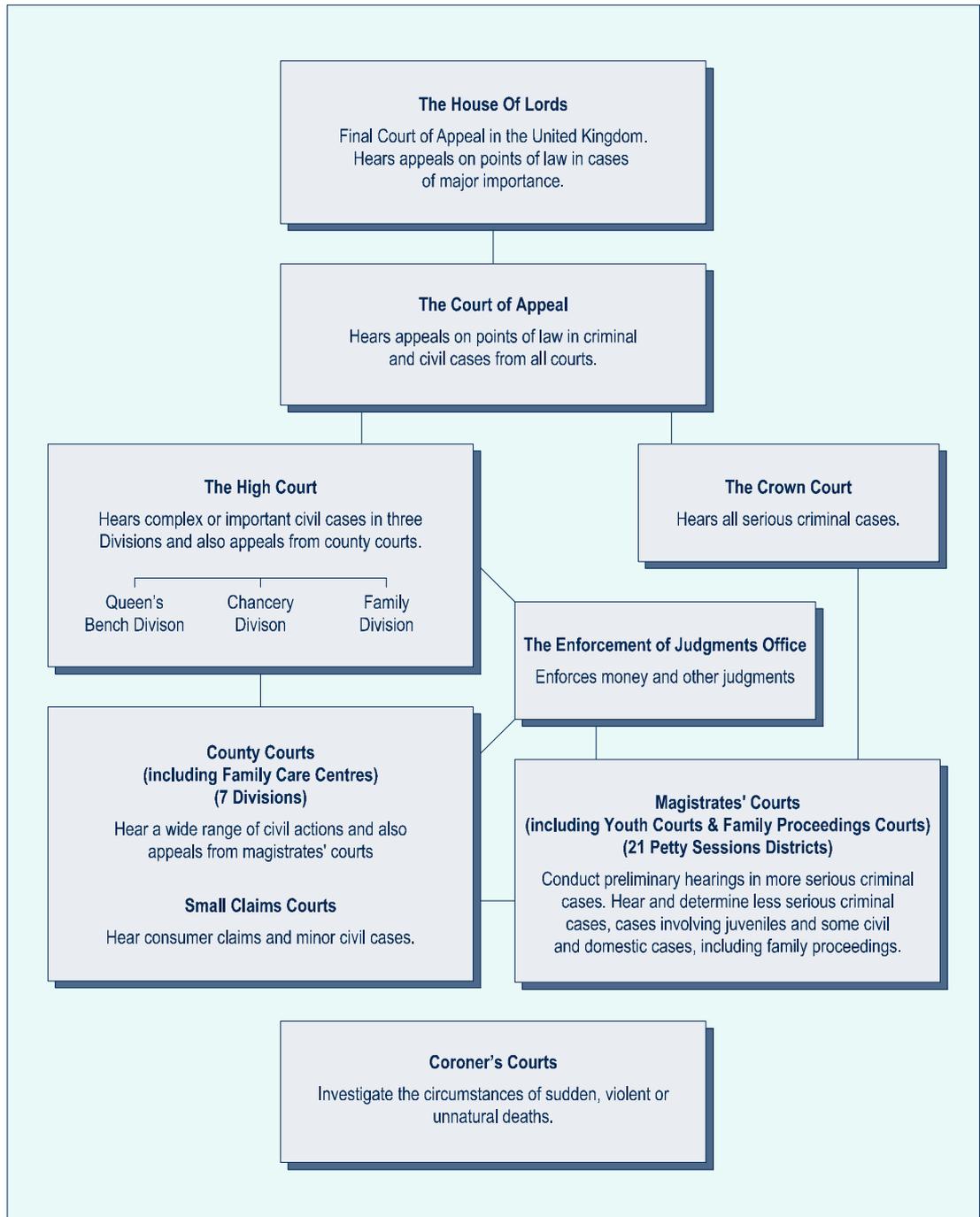


# 5 The Structure of the Courts and the Judicial System

**5.1** The three chapters that follow will deal with issues relating to the judiciary and the courts. We thought that it would be useful, before examining these areas in detail, to give readers a brief overview of the court system and of the way in which the judiciary is organised. In doing so, we are conscious that we will include material that relates to the civil jurisdiction, which is not within our terms of reference. This is necessary if readers are to gain a full picture of how the whole system might be affected by our recommendations on judicial appointments and court matters. Most of the commentary in this introductory chapter is, however, written from the perspective of how criminal cases are processed through the courts.

**5.2** Court of Appeal and High Court cases are heard in the Royal Courts of Justice in Belfast, but cases before the Crown Court, county courts and magistrates' courts take place at venues throughout Northern Ireland. The petty sessions (i.e. magistrates' court) boundaries coincide with district council areas. The frequency of sittings of courts varies largely according to caseload. For example, in most major towns the magistrates' court sits between five and 20 times per month, while in Belfast there are 53 sittings and in Killeel and Clogher only one per month. At most Crown Court venues there are around 120 to 150 sittings each year; the figure for Belfast, however, is 744.

Table 1: The Court Structure in Northern Ireland



**5.3** The full-time judicial complement in Northern Ireland at 31 March 1999 was 58, made up of the following:

<b>Lord Chief Justice</b>	1
<b>Lords Justices of Appeal</b>	3
<b>High Court Judges</b>	7
<b>County Court Judges</b>	14
<b>District Judges</b>	4
<b>Resident Magistrates</b>	17
<b>Masters of Supreme Court</b>	7
<b>Principal Secretary and Legal Secretary to the LCJ</b>	1
<b>Official Solicitor</b>	1
<b>Chief Social Security and Child Support Commissioner</b>	1
<b>Social Security and Child Support Commissioner</b>	1
<b>Coroner</b>	1

At that date there were 40 deputy county court judges, seven deputy district judges, 20 deputy resident magistrates, six part-time coroners and five deputy coroners. There were over 1,400 judicial and quasi-judicial posts, including 930 justices of the peace, 126 members of tribunals, and 148 juvenile court lay panellists.<sup>1</sup>

**5.4** For criminal cases, the magistrates' courts hear and determine the less serious cases, that is those where the offences are classified as summary, or those which may be tried either summarily or on indictment but where it is decided to try them summarily. Around 50,000 adult and juvenile criminal cases are dealt with by magistrates each year. In addition, these courts conduct preliminary proceedings in respect of the more serious cases that go to the Crown Court.

**5.5** Youth courts, usually consisting of a resident magistrate sitting with two lay panellists, try summary and indictable offences (other than homicide) where the defendant is a child aged from 10 to 16 inclusive. These courts dealt with 1,952 defendants in 1998.

**5.6** The criminal jurisdiction of county courts is limited to hearing appeals from magistrates' courts and youth courts against conviction and/or sentence - some 3,000 cases in 1998.

**5.7** The Crown Court was established in 1979 under the Judicature (NI) Act 1978 on the recommendation of a committee chaired by Lord Justice Jones<sup>2</sup> which reviewed the jurisdiction of the magistrates' courts and county courts in Northern Ireland. It recommended doing away with the old Assize Courts and replacing their criminal jurisdiction, and that of the county courts, with a single Crown Court that would sit in the

<sup>1</sup> *Northern Ireland Court Service Annual Report 1998/99* (1999), Belfast: HMSO

<sup>2</sup> *Report of the Committee on County Courts and Magistrates' Courts in Northern Ireland* (1974), Cmnd 5824.

principal cities and towns. The Crown Court has exclusive jurisdiction to try the more serious indictable cases, for example, murder, manslaughter and rape. It also tries a variety of other offences, such as burglary, fraud and indecent assault, which come before it as a result of defendants having elected jury trial or because magistrates consider them too serious to be dealt with summarily. The Crown Court disposed of 1,080 cases in 1998. The Jones Report recommended leaving appeals from magistrates' courts to be heard by county court judges in the county court on the basis that they would be experienced in criminal matters through regular sittings in the Crown Court.

- 5.8** Two levels of judiciary sit in the Crown Court: Supreme Court judges (High Court and above) and county court judges, with the allocation of cases between them being determined in accordance with Lord Chancellor's Directions on classes of case. The most serious cases (Class 1), such as murder, must be tried by a Supreme Court judge. The Lord Chief Justice has discretion in allocating the remainder (Classes 2 to 4) between the two judicial levels, which he exercises taking account of complexity, seriousness and judicial availability.
- 5.9** The Court of Appeal hears appeals in criminal matters from the Crown Court and in civil matters from the High Court. It also hears appeals on points of law from the county courts, magistrates' courts and certain tribunals.
- 5.10** The highest appellate court in the United Kingdom on matters that are not devolved is the House of Lords sitting in its judicial capacity. Decisions of the Northern Ireland Court of Appeal can be the subject of appeal to the House of Lords, with the leave of that Court or the House. Leave cannot be granted unless the Court of Appeal certifies that there is a point of law of general public importance and either that Court or the House views it as one which the Lords ought to consider.
- 5.11** Under the Northern Ireland Act 1998, the Judicial Committee of the Privy Council is the final appeal court for devolved issues, including questions of compatibility with the *European Convention on Human Rights*. The Committee comprises the Law Lords and other Privy Councillors who hold or have held high judicial office.