

4. Criminal legal assistance

Section notes

1. Subject matter groupings have been refined in 2008-2009 throughout the criminal area. The figures for 2007-2008 have been restated to reflect these changes including the removal of contempt of court to its own section.
2. Sheriff court includes cases heard by stipendiary magistrates in the JP court.
3. Applications for bail related matters are classified separately from 'Other' for the first time in 2008-2009.
4. The term JP courts includes those District courts not yet replaced by JP courts.

4.1 Intimations of criminal advice and assistance by subject matter

Subject matter	2008-2009	2007-2008
Appeals	486	890
Assault	6,447	14,954
Bail (including breach of bail)	1,860	1,417
Breach proceedings/no summary complaint	1,167	1,915
Criminal Law (Consolidation) (Scotland) Act	278	1,158
Criminal Procedure (Scotland) Act	133	4,865
Drugs	3,023	6,462
Embezzlement/fraud	870	1,235
Means enquiries/fines	6,294	9,533
Murder/attempted murder/culpable homicide	303	468
Offensive weapons/vandalism/breach of the peace	9,588	21,830
Road traffic	6,079	11,007
Sexual offences	499	845
Theft/housebreaking/robbery	6,590	15,978
Other	7,768	11,663
Total	51,385	104,220

4.2 Intimations of criminal ABWOR by subject matter

Subject matter	2008-2009	2007-2008
Assault	2,683	830
Bail (including breach of bail)	2,992	1,049
Breach proceedings/no summary complaint	7,693	5,409
Criminal Law (Consolidation) (Scotland) Act	19	113
Criminal Procedure (Scotland) Act	17	394
Drugs	2,554	1,203
Embezzlement/fraud	521	294
Offensive weapons/vandalism/breach of the peace	6,424	1,666
Road traffic	5,459	3,184
Sexual offences	161	50
Theft/housebreaking/robbery	7,185	1,670
Other	3,093	1,446
Total	38,801	17,308

4.3 Applications to the Board for summary criminal legal aid

Offence	JP court		Sheriff court		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Assault	1,728	2,032	19,246	17,954	20,974	19,986
Theft/housebreaking/robbery	1,959	2,725	6,857	9,781	8,816	12,506
Sexual offences	3	14	335	314	338	328
Embezzlement/fraud	103	138	860	851	963	989
Drugs	469	861	3,902	5,950	4,371	6,811
Offensive weapons/vandalism/breach of the peace	2,766	5,050	11,866	18,178	14,632	23,228
Road traffic	2,144	1,637	5,922	8,919	8,066	10,556
Bail (including breach of bail)	18	-	1,111	-	1,129	-
Other	696	1,165	4,472	7,088	5,168	8,253
Total	9,886	13,622	54,571	69,035	64,457	82,657

4.4 Grants by the Board of summary criminal legal aid

Offence	JP court		Sheriff court		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Assault	1,681	1,950	18,115	16,913	19,796	18,863
Theft/housebreaking/robbery	1,716	2,210	6,704	9,441	8,420	11,651
Sexual offences	5	9	311	301	316	310
Embezzlement/fraud	74	88	814	801	888	889
Drugs	396	638	3,773	5,697	4,169	6,335
Offensive weapons/vandalism/breach of the peace	2,365	3,859	11,290	17,296	13,655	21,155
Road traffic	1,065	599	5,139	7,159	6,204	7,758
Bail (including breach of bail)	15	-	989	-	1,004	-
Other	419	620	4,148	6,521	4,567	7,141
Total	7,736	9,973	51,283	64,129	59,019	74,102

Note

1. Grants include granted at first instance and granted on review.

4.5 Grants of legal aid by the courts in summary proceedings under Legal Aid (Scotland) Act 1986 section 23(1)(b)

Offence	JP court		Sheriff court		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Assault	0	0	65	168	65	168
Theft/housebreaking/robbery	6	16	71	291	77	307
Sexual offences	0	0	0	5	0	5
Embezzlement/fraud	1	1	22	40	23	41
Drugs	0	0	17	75	17	75
Offensive weapons/vandalism/breach of the peace	4	1	52	239	56	240
Road traffic	2	2	46	191	48	193
Bail (including breach of bail)	0	-	0	-	0	-
Other	2	2	109	449	111	451
Total	15	22	382	1,458	397	1,480

Note

1. Under section 23(1)(b) the court may grant summary criminal legal aid when it is considering a custodial sentence for a convicted person who has not previously been sentenced to imprisonment.

4.6 Intimations of automatic legal aid for other courts and under section 22(1)(da-dd)

Type of intimation	2008-2009	2007-2008
Glasgow domestic abuse court	813	495
Glasgow, Kirkcaldy and Dunfermline drug courts	126	100
Hamilton and Airdrie youth court	222	326
Automatic legal aid under Legal Aid (Scotland) Act 1986:		
-section 22(1)(da) The court determines the trial cannot go ahead because the applicant is insane	13	14
-section 22(1)(db) In relation to an examination of facts and the disposal of the case	2	5
-section 22(1)(dc) Appeal against a finding of insanity	0	1
-section 22(1)(dd) Court appoints solicitor to represent a person accused of sexual offence	8	5
Total	1,184	946

4.7 Grants of legal aid by the courts in solemn proceedings

Offence	Sheriff court		High Court		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Murder/attempted murder/culpable homicide	756	697	9	12	765	709
Sexual offences	646	679	6	5	652	684
Assault	4,540	4,159	3	9	4,543	4,168
Theft/housebreaking/robbery	1,258	1,543	2	6	1,260	1,549
Embezzlement/fraud	206	256	0	1	206	257
Drugs	2,493	2,293	13	4	2,506	2,297
Offensive weapons/vandalism/breach of the peace	985	1,044	2	2	987	1,046
Road traffic	129	371	2	1	131	372
Bail (including breach of bail)	13	-	0	-	13	-
Other	1,337	1,688	10	12	1,347	1,700
Total	12,363	12,730	47	52	12,410	12,782

4.8 Criminal appeals - applications

	Applications received	Applications granted	Applications refused
Leave to appeal			
- against conviction	182	168	4
- against conviction and sentence	190	169	8
- against sentence only	1,471	1,400	4
Total leave to appeal	1,843	1,737	16
Total other appeals	77	46	6
Total 2008-2009	1,920	1,783	22
Total 2007-2008	2,012	1,874	25

Note
 1. This table includes grants made under regulation 15 of the Criminal Legal Aid (Scotland) Regulations 1996 (matters of special urgency)

4.9 Accounts paid and average case costs - criminal advice and assistance and ABWOR

Subject Matter	Number of cases	Solicitor £000	Solicitor outlays £000	Counsel outlays £000	Total outlays £000	Total paid 2008-2009 £000	Total paid 2007-2008 £000	Average case cost 2008-2009 £	Average case cost 2007-2008 £
Criminal advice and assistance									
Appeals	557	53	10	1	11	64	82	115	94
Assault	7,931	542	15	0	15	557	1,105	70	71
Bail (including breach of bail)	1,728	104	3	0	3	107	115	62	70
Breach proceedings/no summary complaint	1,110	136	6	0	7	142	158	128	117
Criminal Law (Consolidation) (Scotland) Act	564	41	1	0	1	42	84	75	73
Criminal Procedure (Scotland) Act	1,237	79	3	1	4	84	295	68	59
Drugs	3,624	263	10	0	10	274	482	76	74
Embezzlement/fraud	848	66	2	0	2	68	102	80	79
Mean enquiries/fines	5,888	219	3	0	3	222	352	38	38
Murder/attempted murder/culpable homicide	298	26	3	0	3	29	46	96	97
Offensive weapons/vandalism/breach of the peace	11,975	827	18	0	18	845	1,487	71	71
Prison rules	0	0	0	0	0	0	120	-	140
Road traffic	6,161	453	7	0	7	460	764	75	72
Sexual offences	499	39	2	0	2	41	73	82	86
Theft/housebreaking/robbery	8,711	621	16	0	16	637	1,143	73	72
Other	8,204	643	45	8	53	696	1,043	85	94
Total criminal advice and assistance	59,335	4,112	144	11	155	4,267	7,451	72	69
Criminal ABWOR									
Assault	1,884	866	4	1	6	871	95	462	151
Bail (including breach of bail)	1,794	578	2	1	3	580	24	324	73
Breach proceedings/no summary complaint	6,362	1,604	69	17	86	1,690	1,452	266	287
Criminal Law (Consolidation) (Scotland) Act	54	10	0	0	0	10	12	185	157
Criminal Procedure (Scotland) Act	126	28	1	1	1	30	133	237	287
Drugs	1,856	883	7	13	21	903	416	487	377
Embezzlement/fraud	385	168	1	0	1	169	32	438	205
Offensive weapons/vandalism/breach of the peace	4,625	2,126	8	0	8	2,134	195	462	150
Road traffic	4,111	1,391	8	0	8	1,399	412	340	138
Sexual offences	118	60	2	0	2	62	8	527	318
Theft/housebreaking/robbery	4,873	2,274	7	1	7	2,281	285	468	202
Other	2,187	920	44	10	54	973	472	445	302
Total criminal ABWOR	28,375	10,906	153	44	197	11,104	3,534	391	234
Total criminal advice and assistance and ABWOR 2008-2009	87,710	15,018	297	55	352	15,371	-	175	-
Total criminal advice and assistance and ABWOR 2007-2008	118,487	10,443	432	109	541	-	10,985	-	93

Note

1. In this table, payments to advocates and solicitor advocates are included under counsel outlays, as regulation 17(1) of the Advice and Assistance (Scotland) Regulations 1996 only provides for payments to the solicitor, of fees and outlays. In previous years outlays for the employment of counsel were included with all other solicitor outlays.

4.10 Duty solicitor - accounts

	Duty solicitor			PDSO as duty solicitor
	Total paid £000	Number of appearances	Cost per appearance £	Number of appearances
Total 2008-2009	1,657	27,734	60	1,051
Total 2007-2008	1,308	34,493	38	1,548

Note

1. PDSO appearances are not included in the total figures and are not used in 'Cost per appearance' calculations.

4.11 Accounts paid and average case costs - criminal legal aid - by proceedings and court

Proceedings	Number of cases	Solicitor £000	Advocate £000	Solicitor advocate £000	Outlays £000	Total paid 2008-2009 £000	Total paid 2007-2008 £000	Average case cost 2008-2009 £	Average case cost 2007-2008 £
Summary criminal legal aid									
JP court	8,046	3,176	1	1	87	3,265	3,891	406	391
Sheriff court	56,968	37,942	155	53	1,440	39,590	48,713	695	681
Total summary criminal legal aid 2008-2009	65,014	41,118	156	55	1,527	42,855	-	659	-
Total summary criminal legal aid 2007-2008	81,477	50,665	168	69	1,703	-	52,604	-	646
Solemn criminal legal aid (excluding appeals)									
Sheriff court	11,710	18,023	1,316	116	1,737	21,193	20,056	1,810	1,672
High Court	1,065	6,526	7,269	2,026	1,440	17,261	20,898	16,208	12,884
Total solemn criminal legal aid (excluding appeals) 2008-2009	12,775	24,549	8,585	2,143	3,177	38,454	-	3,010	-
Total solemn criminal legal aid (excluding appeals) 2007-2008	13,618	24,524	10,557	2,293	3,580	-	40,954	-	3,007
Appeals criminal legal aid 2008-2009	2,123	1,540	1,255	345	225	3,366	-	1,585	-
Appeals criminal legal aid 2007-2008	2,064	1,501	1,270	336	228	-	3,334	-	1,615
Total all proceedings 2008-2009	79,912	67,207	9,996	2,543	4,930	84,676	-	1,060	-
Total all proceedings 2007-2008	97,159	76,689	11,994	2,698	5,511	-	96,892	-	997

Notes

1. This table shows fees for solicitor advocates in the JP and sheriff courts. These charges are for bail appeals which are heard in the High Court but arise in those courts.

2. These figures exclude payments for contempt of court and duty.

4.12 Accounts paid and average case costs - criminal legal aid - by court and offence

Proceedings	Number of cases	Solicitor £000	Advocate £000	Solicitor advocate £000	Outlays £000	Total paid 2008-2009 £000	Total paid 2007-2008 £000	Average case cost 2008-2009 £	Average case cost 2007-2008 £
JP court									
Assault	1,720	685	0	0	29	715	793	416	397
Sexual offences	2	1	0	0	0	1	3	592	356
Theft/housebreaking/robbery	1,834	714	0	0	6	721	813	393	385
Embezzlement/fraud	62	24	0	0	0	24	36	382	377
Drugs	478	183	0	0	3	186	260	389	381
Offensive weapons/vandalism/breach of the peace	2,736	1,064	0	0	26	1,090	1,535	399	387
Road traffic	739	318	0	0	18	336	210	455	465
Bail (including breach of bail)	7	1	0	0	0	1	-	191	-
Other	468	185	0	0	5	190	240	407	383
Total	8,046	3,176	1	1	87	3,265	3,891	406	3,130
Sheriff court									
Murder/attempted murder/culpable homicide	273	583	68	12	59	721	701	2,643	2,298
Assault	21,714	18,573	267	39	950	19,828	19,846	913	887
Sexual offences	795	1,235	339	12	201	1,788	1,580	2,249	2,323
Theft/housebreaking/robbery	9246	7,569	72	19	206	7,866	10,033	851	797
Embezzlement/fraud	1060	1,070	163	1	93	1,328	1,428	1,252	1,255
Drugs	6,706	6,678	165	47	555	7,445	7,803	1,110	945
Offensive weapons/vandalism/breach of the peace	14,799	10,724	32	20	382	11,158	14,496	754	723
Road traffic	6,262	4,134	6	6	374	4,520	6,234	722	707
Bail (including breach of bail)	553	195	0	1	6	202	-	366	-
Other	7,270	5,204	358	13	351	5,926	6,648	815	713
Total	68,678	55,965	1,472	170	3,177	60,783	68,769	885	10,648
High Court (excluding appeals)									
Murder/attempted murder/culpable homicide	439	2,811	3,210	612	546	7,178	8,832	16,350	17,628
Assault	120	497	461	191	87	1,236	1,095	10,298	6,886
Sexual offences	158	988	1,050	565	310	2,912	2,982	18,433	11,087
Theft/housebreaking/robbery	51	271	217	102	64	654	700	12,826	7,145
Embezzlement/fraud	5	79	50	0	22	152	318	30,381	26,534
Drugs	188	1,358	1,517	377	279	3,531	4,618	18,785	11,048
Offensive weapons/vandalism/breach of the peace	14	42	62	20	6	130	250	9,283	7,573
Road traffic	23	90	89	48	55	282	266	12,258	9,176
Other	67	390	612	112	72	1,186	1,836	17,700	17,828
Total	1,065	6,526	7,269	2,026	1,440	17,261	20,898	16,208	114,905
All courts									
Murder/attempted murder/culpable homicide	712	3,393	3,278	623	605	7,899	9,533	11,094	11,827
Assault	23,554	19,755	729	230	1,065	21,779	21,735	925	886
Sexual offences	955	2,224	1,389	577	511	4,702	4,565	4,923	4,770
Theft/housebreaking/robbery	11,131	8,554	289	122	277	9,242	11,547	830	780
Embezzlement/fraud	1,127	1,172	213	1	116	1,503	1,782	1,334	1,432
Drugs	7,372	8,219	1,682	424	836	11,162	12,681	1,514	1,355
Offensive weapons/vandalism/breach of the peace	17,549	11,831	94	40	413	12,379	16,281	705	677
Road traffic	7,024	4,542	95	54	447	5,139	6,711	732	722
Bail (including breach of bail)	560	197	0	1	6	204	-	364	-
Other	7,805	5,779	971	125	428	7,302	8,724	19	868
Total all proceedings 2008-2009	77,789	65,667	8,741	2,197	4,704	81,310	-	1,045	-
Total all proceedings 2007-2008	95,095	75,189	10,725	2,362	5,283	-	93,558	-	984

Note

1. These figures exclude payments for contempt of court and duty.

4.13 Increases in limit of authorised expenditure of criminal advice and assistance

	Applications for increase		Increases granted		Increases refused	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Templated criminal advice and assistance	78	0	137	0	38	0
Non-templated criminal advice and assistance	9,548	15,520	8,542	12,873	1,425	2,198
Templated ABWOR	4,118	0	3,934	0	38	0
Non-templated ABWOR	15,413	17,495	13,483	15,708	799	759
Total criminal advice and assistance and ABWO	29,157	33,015	26,096	28,581	2,300	2,957

Note

1. Decisions in table 4.12 includes decisions after reconsideration.
2. Prior year figures have been restated to reflect the new table structure.

4.14 Refusals of summary criminal legal aid at first instance by reason for refusal

Reason	JP court		Sheriff court		Total	
	2008-2009	2007-2008	2008-2009	2007-2008	2008-2009	2007-2008
Not in the interests of justice	1,149	4,114	2,479	2,556	3,628	6,670
Means	2,060	222	234	2,251	2,294	2,473
Other rights and facilities	0	0	0	0	0	0
Non-timeous	10	1	17	0	27	1
Abandoned	3	12	1	79	4	91
Lack of information	-	469	-	3,702	-	4,171
Total	3,222	4,818	2,731	8,588	5,953	13,406

Notes

1. Sheriff court includes cases heard by stipendiary magistrates sitting in the JP court.
2. Cases previously refused through lack of information are now 'not considered'.

4.15 Disposal of applications for review of decision to refuse summary criminal legal aid

	2008-2009			2007-2008		
	Applications received	Applications granted	Applications refused	Applications received	Applications granted	Applications refused
Assault	631	404	275	1,163	1,020	332
Theft/housebreaking/robbery	369	263	148	763	521	364
Sexual offences	19	7	13	18	10	7
Embezzlement/fraud	72	38	35	88	54	53
Drugs	175	129	58	477	370	200
Offensive weapons/vandalism/breach of the peace	733	457	353	2,024	1,383	1,005
Road traffic	1,127	442	756	1,974	864	1,410
Bail (including breach of bail)	39	33	6	-	-	-
Other	410	219	222	912	529	497
Total	3,575	1,992	1,866	7,419	4,751	3,868

4.16 Intimations of criminal advice and assistance and ABWOR and applications for criminal legal aid decisions by gender

	Male applicant				Female applicant				No gender recorded			
	2008-2009		2007-2008		2008-2009		2007-2008		2008-2009		2007-2008	
Criminal advice and assistance	40,397	79%	83,186	81%	10,976	21%	19,839	19%	12	0%	1,195	6%
Criminal ABWOR	31,540	81%	13,806	81%	7,252	19%	3,297	19%	9	0%	205	6%
Applications (summary)	53,555	83%	69,160	84%	10,902	17%	13,497	16%	0	0%	0	0%
Grants (summary)	48,864	83%	61,768	83%	10,155	17%	12,334	17%	0	0%	0	0%
Refusals (summary)	5,058	85%	11,604	87%	895	15%	1,802	13%	0	0%	0	0%
Grants by the courts - solemn	10,799	87%	11,255	88%	1,590	13%	1,527	12%	21	0%	0	0%
Grants by the courts - 23(1)(b)	316	80%	1,171	79%	81	20%	309	21%	0	0%	0	0%

4.17 Sanctions in criminal legal aid cases

	Applications received	Applications part-granted	Applications granted	Applications refused
Summary criminal and section 23(1)(b)				
- expert witness	1,913	104	1,438	260
- unusual expenditure	100	4	27	45
- counsel (advocates and solicitor advocates)	141	2	32	99
Total summary and section 23(1)(b)	2,154	110	1,497	404
Solemn criminal				
- expert witness	3,024	192	2,250	357
- unusual expenditure	603	36	238	250
- counsel	3,240	57	2,213	790
Total solemn criminal	6,867	285	4,701	1,397
Criminal appeals				
- expert witness	88	6	56	13
- unusual work	77	8	44	9
- counsel	131	11	64	30
Total criminal appeals	296	25	164	52
Total 2008-2009	9,317	420	6,362	1,853
Total 2007-2008	10,280	1,000	6,189	1,899

Note
1. In this table, and in tables 4.18 and 4.19 summary criminal means summary criminal applications granted by the Board.

4.18 Applications for exceptional status in fixed payment cases

	Applications received	Applications granted	Applications refused
Total 2008-2009	453	227	225
Total 2007-2008	343	242	92

4.19 Applications under regulation 15 of the Criminal Legal Aid (Scotland) Regulations 1996 (matters of special urgency)

	Applications granted	
	2008-2009	2007-2008
Summary criminal	81	81
Criminal appeals	1,778	1,801
Total	1,859	1,882

4.20 Requests for change of solicitor in criminal legal aid cases

	Applications received	Applications granted	Applications refused
Summary criminal	1,890	1,339	334
Summary 23(1)(b) court grants	9	5	3
Solemn court grants	1,788	1,333	325
Criminal appeals	186	132	13
Total 2008-2009	3,873	2,809	675
Total 2007-2008	5,553	3,898	415

Throughout this statistics section

- figures for grants and refusals of applications do not necessarily equal numbers of applications, since decisions on applications received towards the end of one year may not be reached until the following year;
- unless otherwise stated, figures for accounts paid include VAT and are prepared on a cash basis and include all accounts passed for payment during the year;
- in tables showing accounts paid, unless otherwise stated, outlays include all payments other than fees paid to solicitors and advocates - for example, expert witnesses.