

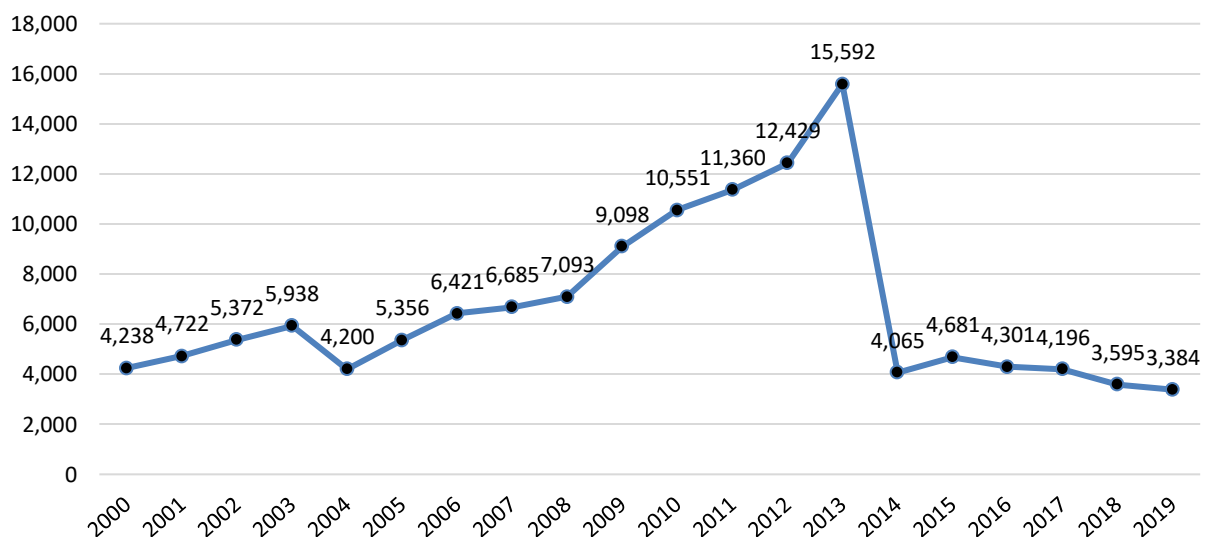
A guide to reading the Official Statistics on judicial review in the Administrative Court

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1. This short guide aims to help people understand what the official statistics tell us (and do not tell us) about the use of judicial review in the Administrative Court. The note draws on the [civil justice statistics](#) published annually by the Ministry of Justice. This note explains the available statistics in an impartial way with a view to making them easier to read and understand, and therefore more widely accessible.
2. **Judicial review (JR)** is a process where the legality of a decision of a public authority is challenged. This can take place in different courts and tribunals. However, the **Administrative Court** is the main forum and the statistics discussed here concern JR in the Administrative Court.
3. The JR procedure has multiple stages. First, there is the **pre-action stage**. Here, a [Pre-Action Protocol](#) letter is sent, signalling the claimant's intention to challenge a decision. Often, cases are settled before a formal application for JR is lodged. There is **no data on pre-action settlement in the official statistics** as those matters never formally enter the justice system.
4. Second, an **application for JR is lodged with the Administrative Court**. The statistics **show how many applications for JR are lodged**. They show that the number of JR applications lodged rose steadily from 2000 onwards but has been decreasing over the last few years. In fact, fewer JRs were lodged in 2019 compared to any year since 2000.
5. It is important to note that immigration cases have largely been transferred out of the Administrative Court in the last decade. On 17 October 2011, claims in the category of Human Rights and Asylum Fresh Claim applications were transferred to the Upper Tribunal. From November 2013, the Upper Tribunal of the Immigration and Asylum Chamber took over assessing applications for the vast majority of Immigration and Asylum JRs. For this reason, these cases are no longer included in the JR statistics: they were last included in the 2013 figures. That is why the number of claims lodged then fell sharply. The total numbers of JR cases lodged each year since 2000 are shown in the following graph and table.

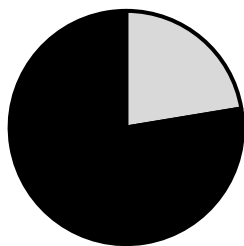
Total cases lodged



Year	Total cases lodged
2000	4,238
2001	4,722
2002	5,372
2003	5,938
2004	4,200
2005	5,356
2006	6,421
2007	6,685
2008	7,093
2009	9,098
2010	10,551
2011	11,360
2012	12,429
2013	15,592
2014	4,065
2015	4,681
2016	4,301
2017	4,196
2018	3,595
2019	3,384

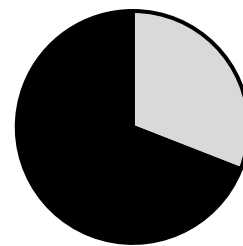
6. **Once an application is lodged, it will be considered for permission.** This is where the Court assesses if a case is arguable and should be considered at a full hearing. **Permission may be a two-stage process.** Permission decisions are first made on the basis of written argument alone (on the papers). If permission is granted on the papers the case can proceed to a final hearing. If permission is refused on the papers then claimants can “renew” their argument at an oral permission hearing. The statistics **show how many cases reach both permission stages and whether permission is granted or refused.** The following charts show what percentage of claims reaching each stage are granted permission to proceed by the court.

Written permission stage



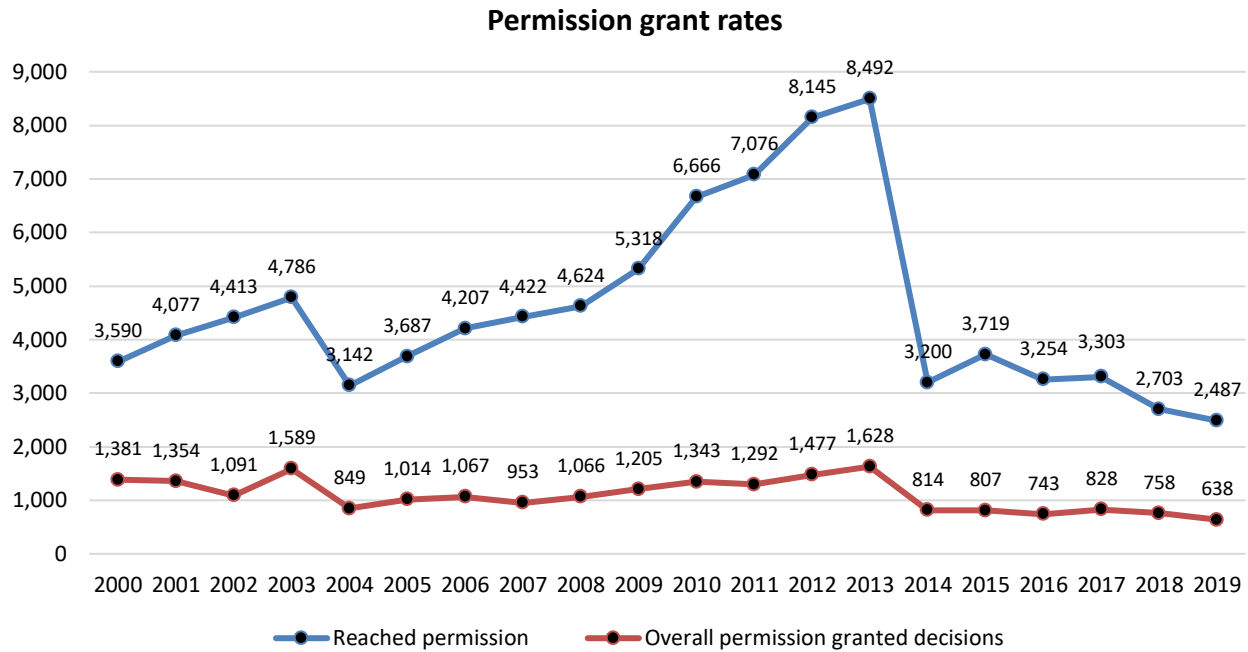
□ permission granted ■ permission refused

Oral renewal stage



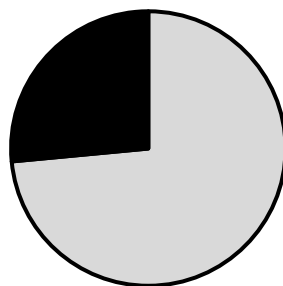
□ permission granted ■ permission refused

7. 2019 was a typical year in terms of success rates at the permission stage. The statistics show that **over the last few years, around 20% of applications that reached the permission stage were granted permission to proceed to a full hearing.** The following graph charts the overall number of cases that reached the permission stage and the overall number of cases granted permission, in each calendar year.



8. It is important to remember that **many cases may drop out of the system before reaching the permission stage.** The details of these cases are not provided in these statistics, but their number can be worked out from the data provided. In 2019, for example, 3,384 applications were lodged, but only 2,487 cases reached the initial permission stage. This indicates that **roughly 27% of cases were withdrawn, settled or otherwise removed from the JR system before permission was determined.** This is a rough figure in part because the statistics show the number of cases by calendar year and some claims will be lodged in one year but will be withdrawn or considered at the permission or the final hearing stage in another year.

Cases lodged (2019)

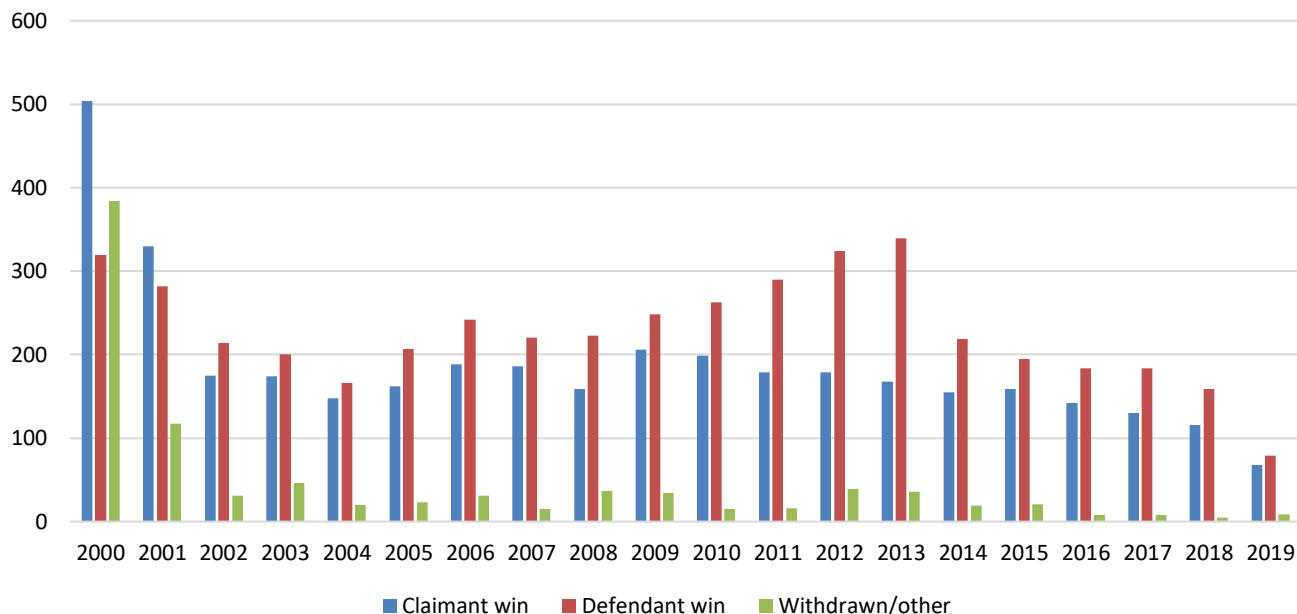


Reached permission stage
 Did not reach permission stage

9. Next, if a full hearing is held, typically, the Court will provide a judgment to resolve the dispute. The statistics show the number of cases dealt with at final hearing and their outcome in terms of whether the claimant or defendant won. As can be seen, at this stage, the defendant won in **slightly more cases than the claimant**. This has been the case for each year since 2002. The statistics also show the percentage of cases won at the final hearing stage **out of all cases lodged in that year**.

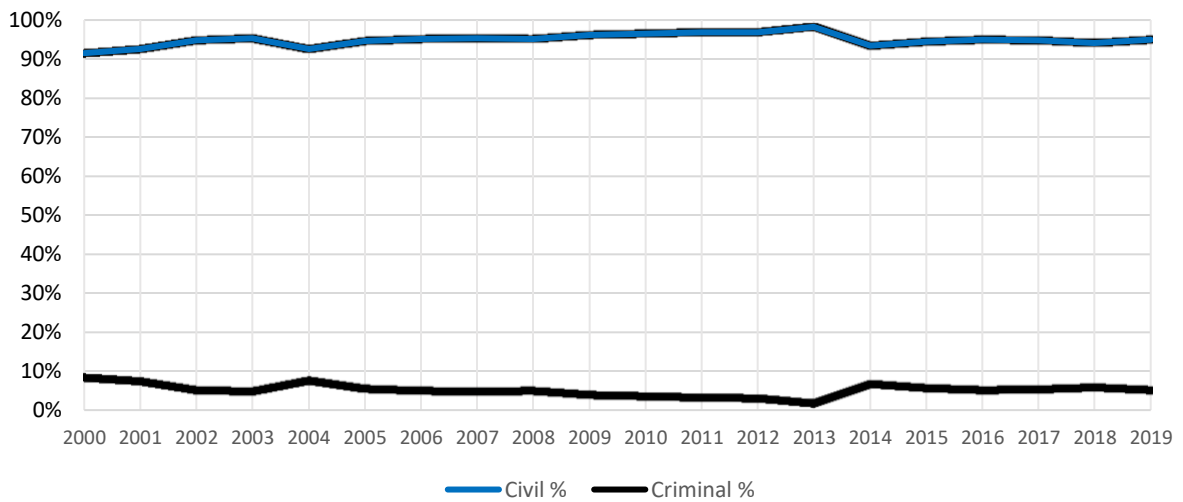
Year	Claimant win	Defendant win	Withdrawn/other	Year	Claimant win %	Defendant win %	Withdrawn/other %
2000	504	319	384	2000	12%	8%	9%
2001	330	282	117	2001	7%	6%	2%
2002	175	214	31	2002	3%	4%	1%
2003	174	200	46	2003	3%	3%	1%
2004	148	166	20	2004	4%	4%	0%
2005	162	207	23	2005	3%	4%	0%
2006	188	242	31	2006	3%	4%	0%
2007	186	220	15	2007	3%	3%	0%
2008	159	223	37	2008	2%	3%	1%
2009	206	248	34	2009	2%	3%	0%
2010	199	263	15	2010	2%	2%	0%
2011	179	290	16	2011	2%	3%	0%
2012	179	324	39	2012	1%	3%	0%
2013	168	339	36	2013	1%	2%	0%
2014	155	219	19	2014	4%	5%	0%
2015	159	195	21	2015	3%	4%	0%
2016	142	184	8	2016	3%	4%	0%
2017	130	184	8	2017	3%	4%	0%
2018	116	159	5	2018	3%	4%	0%
2019	68	79	9	2019	2%	2%	0%

Outcomes after a hearing



10. The current statistics separate JRs into civil (Immigration and Asylum), other civil matters, and criminal cases (the total figures do not always match due to a small number of unknown cases).
11. As can be seen, the number of JRs lodged each year which concern civil matters always significantly outweighs the number of those concerning criminal matters.

Subject matter of judicial review: civil and criminal (per year)

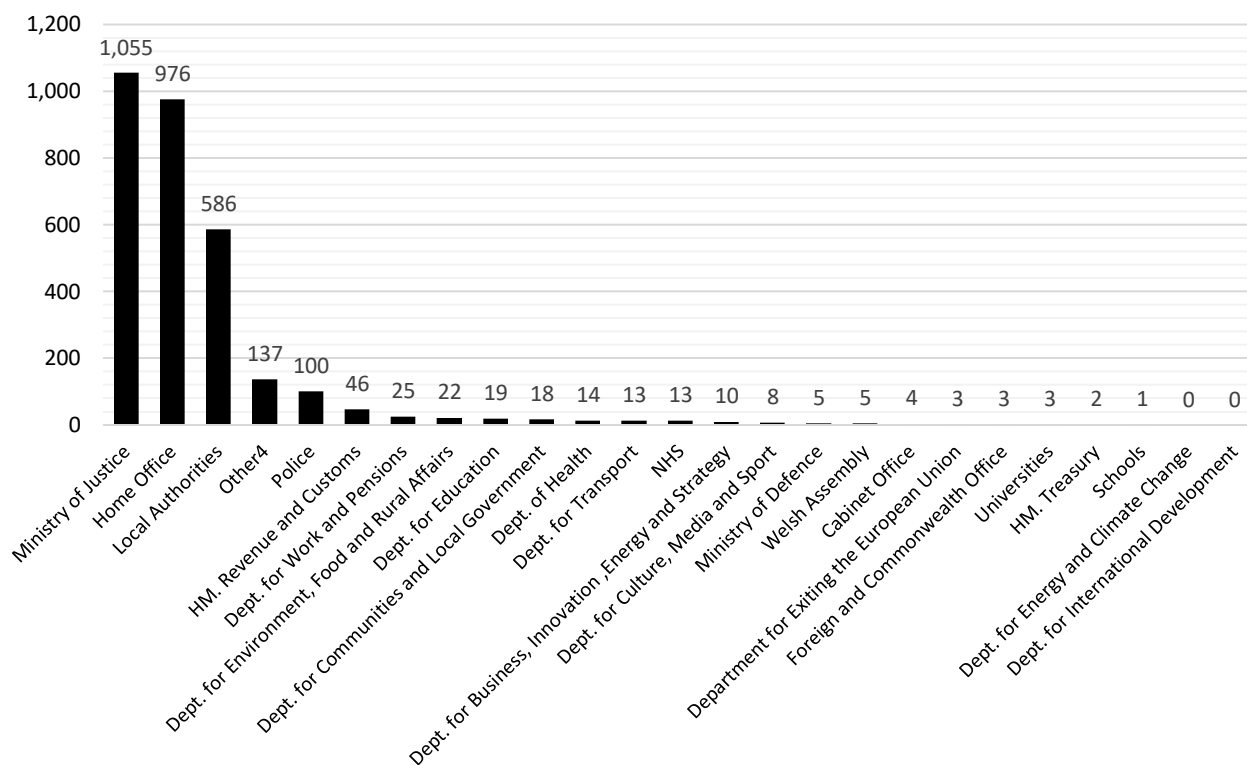


Year	Total cases	Civil	Criminal
2000	4,238	3,878	348
2001	4,722	4,370	344
2002	5,372	5,093	276
2003	5,938	5,655	282
2004	4,200	3,886	314
2005	5,356	5,065	291
2006	6,421	6,105	315
2007	6,685	6,374	311
2008	7,093	6,746	346
2009	9,098	8,749	345
2010	10,551	10,184	367
2011	11,360	10,995	363
2012	12,430	12,045	384
2013	15,592	15,319	273
2014	4,065	3,797	268
2015	4,681	4,418	262
2016	4,301	4,081	220
2017	4,196	3,977	219

Year	Total cases	Civil	Criminal
2018	3,595	3,386	209
2019	3,383	3,212	171

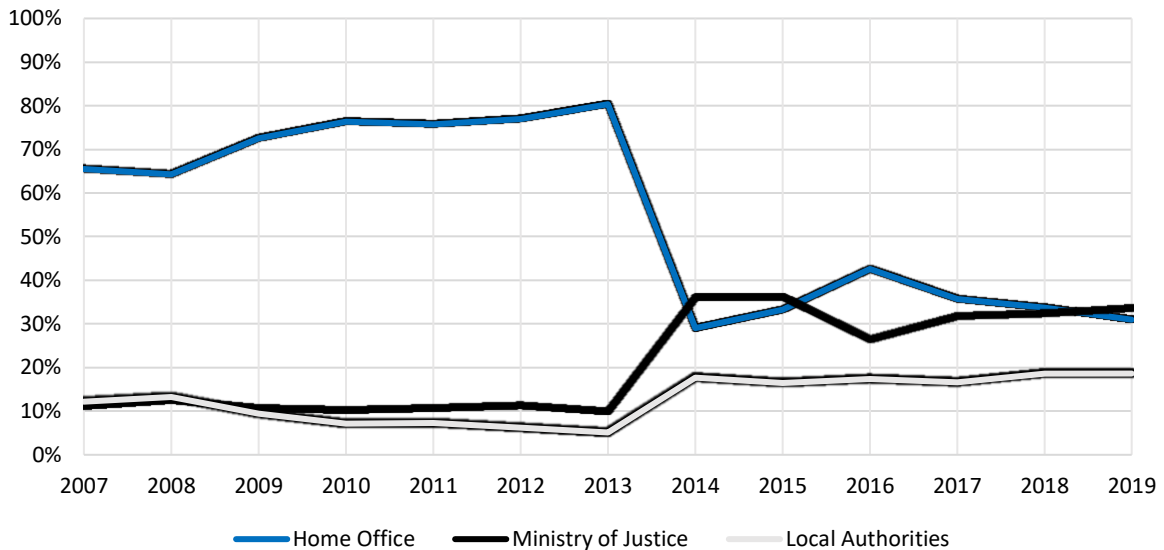
12. Fluctuations in the number of applications relating to civil matters is mainly due to changes in the field of immigration. The number of non-immigration civil cases has remained relatively constant over the last decade, at around 2,000 per year.
13. Judicial review can be used to challenge bodies performing public functions and these include central government, the police and (state) schools, and local and regional governments.
14. The statistics indicate the number of applications lodged against various public bodies. The graph below illustrates the official recorded figures for 2019. The category of “Other” includes public ombudsmen and housing associations, as well as a small number of defendants by which it was not considered possible to classify into one of the other fields.

Applications lodged against public authorities (2019)



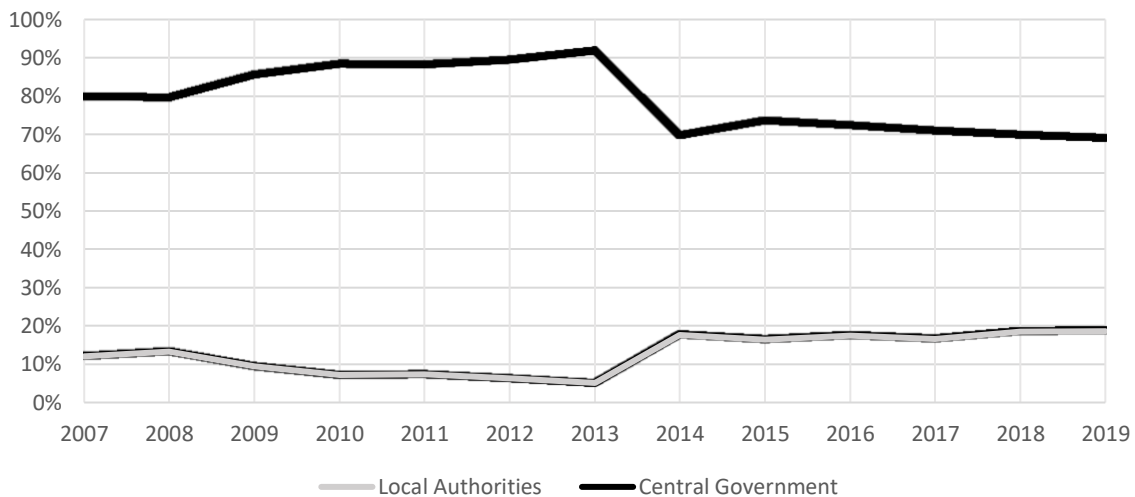
15. As can be seen, the number of JRs lodged against public bodies varies considerably. The Ministry of Justice, Home Office and Local Authorities are the subject of far more JRs than other bodies. However, the Ministry of Justice has not always been the most frequently challenged public body, as the graph below shows.

Percentage of judicial review cases lodged before different public bodies (over time)



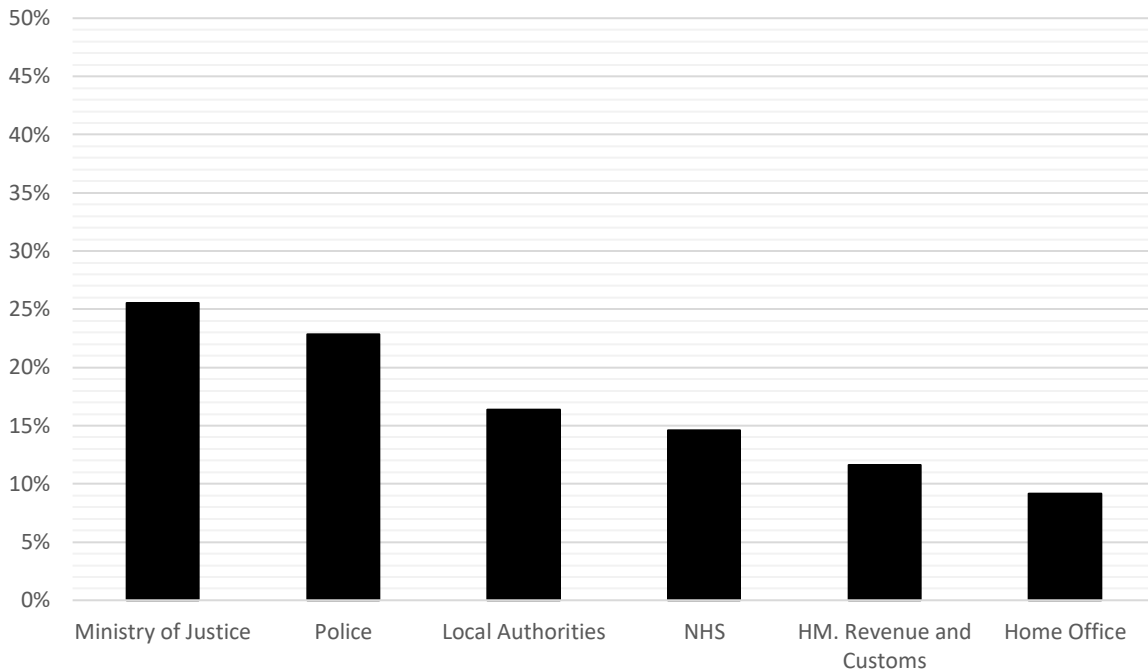
16. The number of cases lodged in the Administrative Court against the Home Office dropped considerably after 2013, which coincides with the transfer of most immigration matters to the Upper Tribunal as described above. Whilst JRs against local government are more common than JRs against most individual government departments, there are always far more JRs against “central government” than against “local authorities.” The statistics do not show how frequently individual local authorities are challenged but research has shown that JR tends to be concentrated on relatively few local authorities (see Sunkin, Calvo, Platt and Landman, “Mapping the use of Judicial Review to Challenge Local Authorities in England and Wales” [2007] *Public Law* 545).

Percentage of judicial review cases lodged before central government and local authorities (over time)



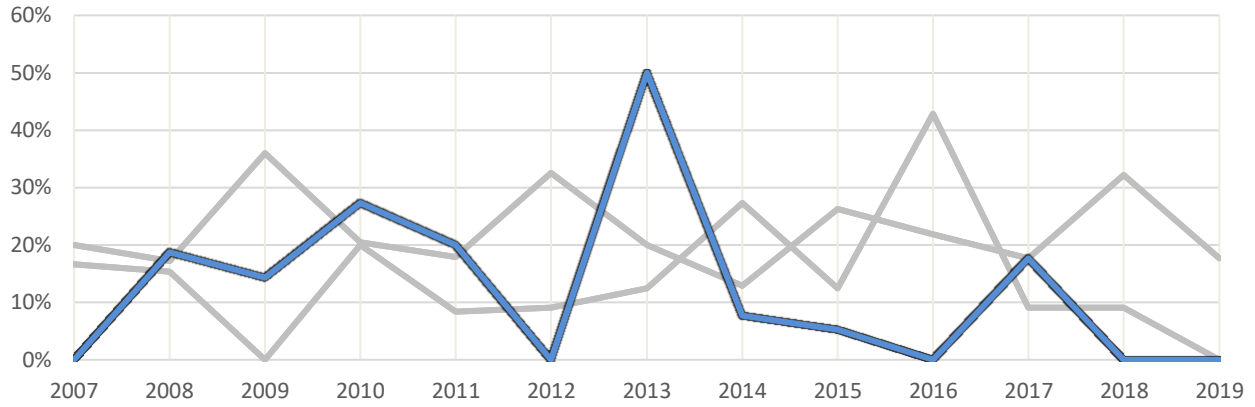
17. The statistics show that the “success rate” of JRs **varied according to the identity of the defendant**. The graph below shows the average success rate of claims against the six public authorities with the most JRs lodged against them. Here, the average success rate is defined according to the total number of successful cases across the data available (rather than the mean annual success rate). It should also be borne in mind that the figures below compare the total number of cases succeeding with the number of cases granted permission to proceed to a full hearing. **This means that these statistics do not tell us how many “unsuccessful” cases lost at a final hearing and how many were simply withdrawn.**

Percentage of permitted cases successful at final hearing (per public authority, total)

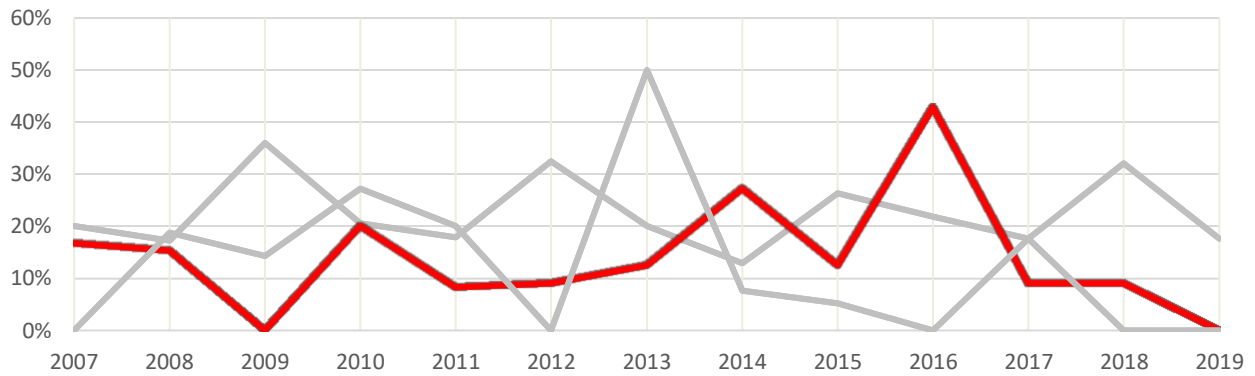


18. The data suggests that JRs against the Ministry of Justice and police authorities were more likely to succeed compared to JRs against HMRC and the Home Office. However, **these overall averages should not be considered in isolation**. The “success rate” of JRs against different bodies **varies, sometimes quite considerably, between years**. Below are three sample graphs, illustrating the variation in success rates with respect to cases against HMRC, the NHS and police forces.

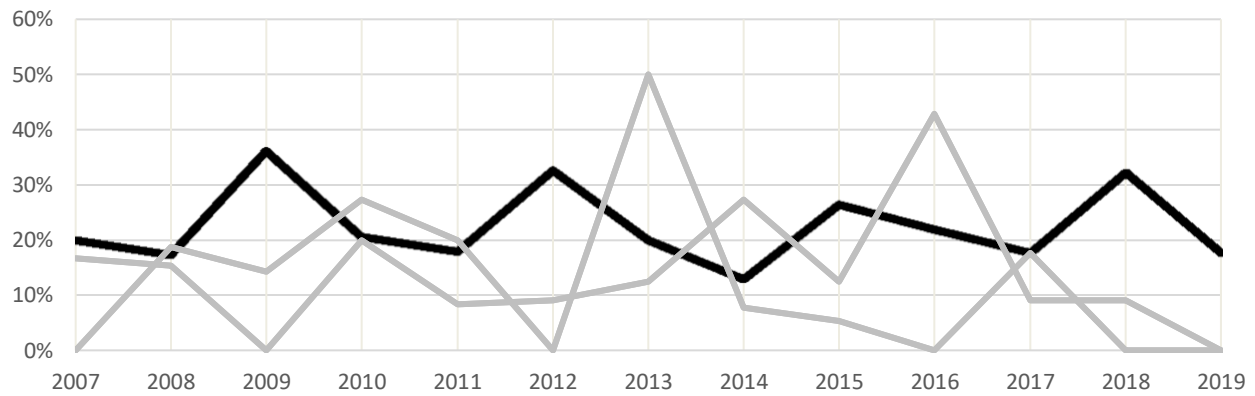
Percentage of permitted cases successful at final hearing against HMRC



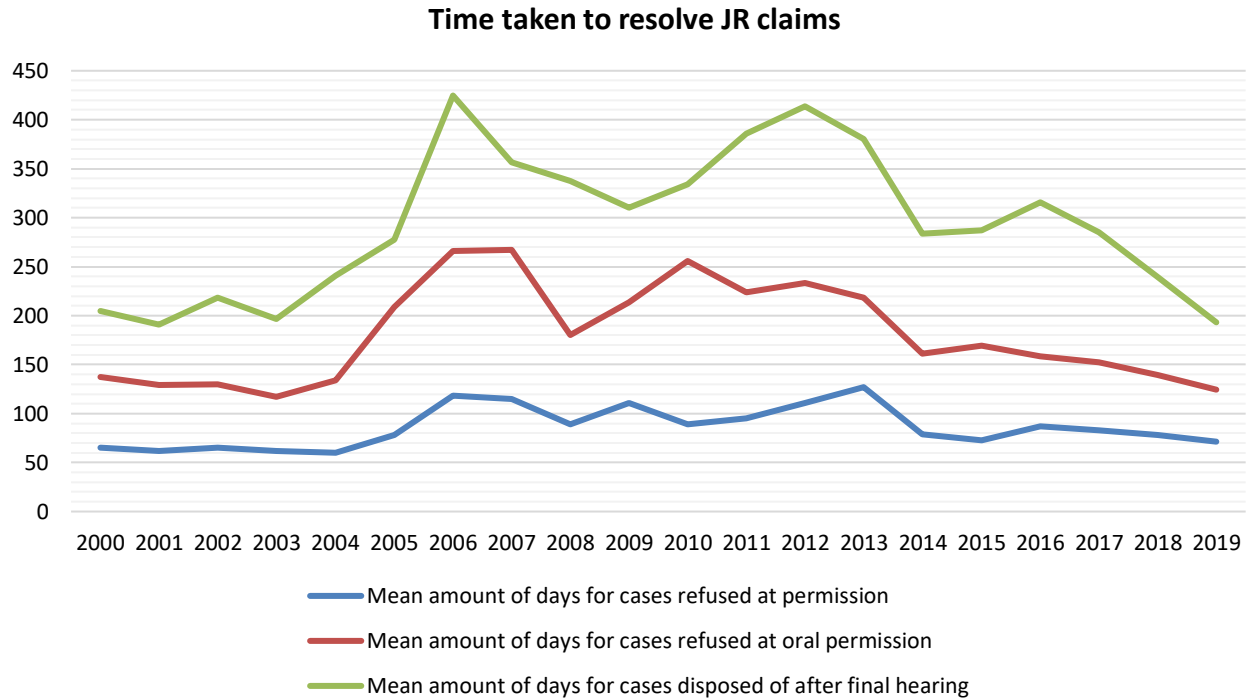
Percentage of permitted cases successful at final hearing against the NHS



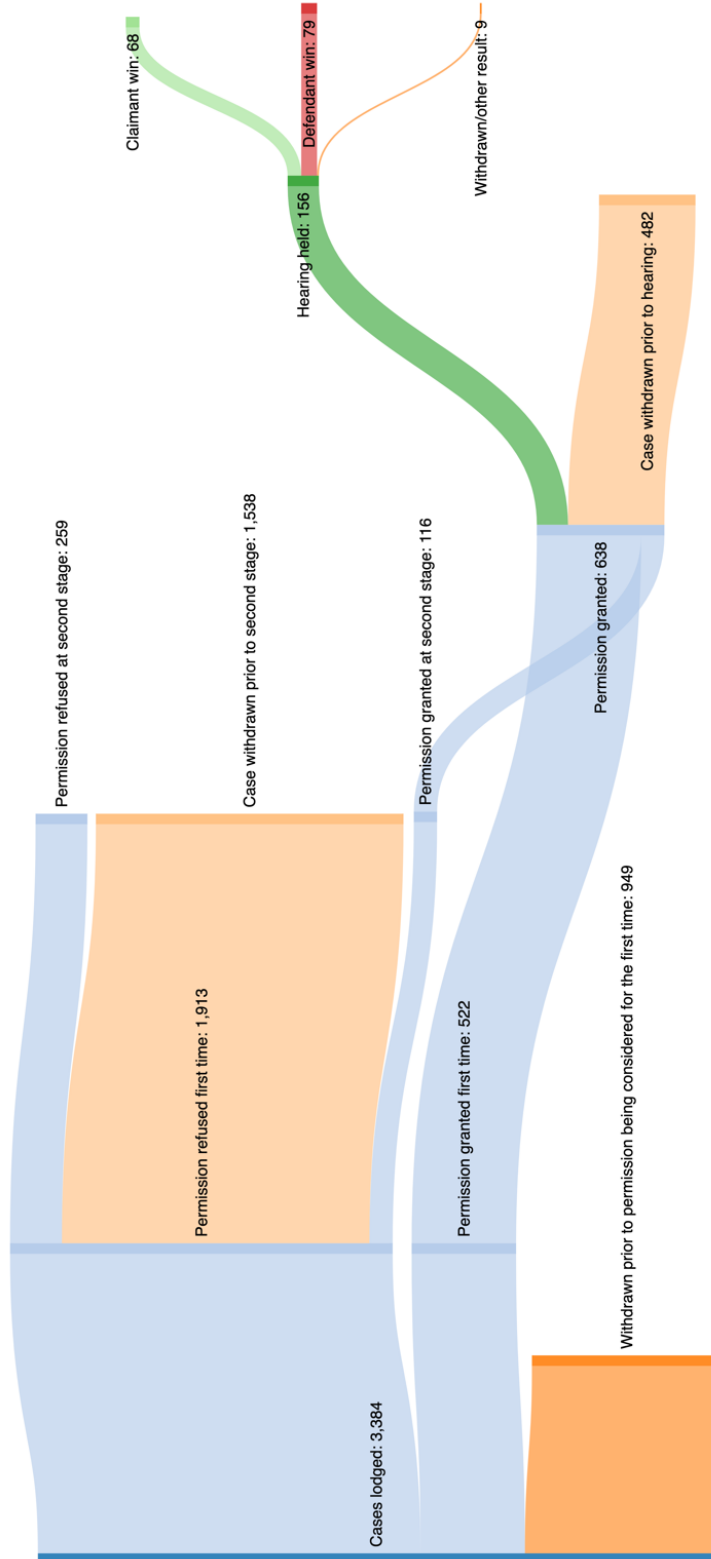
Percentage of permitted cases successful at final hearing against the police



19. The statistics also indicate **the time taken, represented as the mean number of days per quarter, to resolve claims.** These times run from the point a claim is lodged to when it is either: refused at the first stage of permission; refused at the second stage of permission; or disposed of at a final hearing. This is shown below.



20. It is important that these all stages of judicial review are not understood separately but as forming a part of a complete process. The Sankey diagram below shows how cases flow through the system. This diagram shows 2019 (the last complete calendar year on record). It does not show the pre-action process.



21. **Finally, it is worth noting that these statistics do not show a number of important things about JR litigation.** In particular, they do not show who the claimants are – whether for instance claimants are individuals, pressure or public interest groups, organisations, or public authorities; they do not tell us about the nature of the claims, whether for instance the claims focus on individual circumstances or raise public interest claims; they do not tell us how claims are funded or whether third parties intervened in claims; they do not tell us anything about the nature of settlements, for instance whether claims were settled in favour of claimants or defendants; they do not reveal the remedies granted by the court; and nor do the statistics tell us anything about what happened after the litigation.