DECISION-MAKING BY THE UNITED KINGDOM SUPREME COURT AND JUDICIAL COMMITTEE OF THE PRIVY COUNCIL: 2009-13

Cheryl Thomas

First Consolidated Report of the UCL Judicial Institute
UK Supreme Court and JCPC Database Project

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United Kingdom Supreme Court and Judicial Committee of the Privy Council Project

by Professor Cheryl Thomas
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Decision-Making by the United Kingdom Supreme Court and the Judicial Committee of the Privy Council: 2009-13

The UK Supreme Court and JCPC Project

In 2011 the UCL Judicial Institute initiated a major new research programme on the decision-making of the UK Supreme Court and Judicial Committee of the Privy Council. Its starting point is the creation of a detailed, large-scale database of all UK Supreme Court and JCPC decisions since the establishment of the UK Supreme Court in 2009. The Database contains over 150 individual pieces of information for each decision issued by the UK Supreme Court and JCPC since October 2009. This forms the basis of a long-term research project aimed at establishing an understanding of the decision-making and work of the UK Supreme Court and JCPC as these two courts develop over time, including the role of the UK Supreme Court Justices as the core membership of the Judicial Committee of the Privy Council.

This project represents the first longitudinal quantitative study of judicial decision-making in the United Kingdom. There is a significant history of such studies in the United States, most notably the United States Supreme Court Database project[1], as well as a number of other longitudinal databases of US court decisions[2]. But there is no similar history of quantitative analysis of judicial decision-making in the UK, reflecting a wider lack of research into judicial behaviour and decision-making in this country[3]. The aim of the UKSC and JCPC Project is not to reduce the work of the UK Supreme Court and the Judicial Committee of the Privy Council simply to a statistical analysis of decisions. Instead the detailed, large-scale database of all UK Supreme Court and JCPC cases forms the basis of research aimed at understanding judicial decision-making in a comprehensive and empirically sound manner. The overall aim is to use empirical analysis of judicial decisions as the basis for a more detailed contextual analysis of the work of the Court and the Committee.

The UCL UK Supreme Court and JCPC Project grows each year with the Court's and the Committee's output. After four full years of decisions by both courts, the Database now provides the raw material for a continuing longitudinal study of the UK Supreme Court and Judicial Committee of the Privy Council.

The Database

Taking the establishment of the UK Supreme Court in October 2009 as its starting point, the Project Database currently includes 1246 decisions: 813 decisions on applications for permissions to appeal to the UK Supreme Court, 261 judgments[4] issued by the UK Supreme Court, and 166 cases decided by the JCPC. This includes all decisions of both courts from Year 1 (2009-10) through Year 4 (2012-13). The database includes over 150 pieces of information about each case, covering a wide range of aspects of the Court and Committee work including:

Permissions to appeal (UKSC)

- Court year and term
- Jurisdiction
- Court appealed from
- Legal issues raised
- UKSC panel composition
- Outcome of PTA applications

Cases (UKSC and JCPC)

- Court year and term
- Jurisdiction appealed from
- Court appealed from
- Judge(s) appealed from
- Legal issue(s) raised
- Appellant(s)
- Respondent(s)
- Appellant type
- Respondent type
- Appellant legal representative
- Respondent legal representative

Hearings (UKSC and JCPC)

- Court year and term
- Panel size
- Panel composition
- Length of hearing
- Intervener(s)
- Intervener type
- Type of intervention
-

Outcomes and Judgments (UKSC & JCPC)

- Court year and term
- Outcome of appeal
- Time from hearing to judgment
- Type of judgment
- Author of unanimous/majority judgment
- Author of main dissent
- Contribution to judgment by Justice
- Frequency of dissents by Justice
- Citation of non-UK jurisprudence
- Citation of academic work

First Consolidated Report (2009-13)

This Report provides the first combined analysis of decision-making by the UK Supreme Court and the JCPC to be published from the UCL Judicial Institute UKSC and JCPC Project. The UCL Judicial Institute has previously provided analyses from the Project Database to each individual court at an earlier stage of development. In November 2011, the UCL Judicial Institute, in cooperation with the UK Supreme Court, convened a special event to mark the second anniversary of the opening of the UK Supreme Court and to discuss the work of the Court in its first two years of operation. For the 2011 event, the UCL Judicial Institute produced a quantitative analysis of the internal workings of the UK Supreme Court, which provided an empirical basis for some of the main issues discussed at the event[5]. This was the first analytical work to come out of the UCL Judicial Institute's UK Supreme Court Database Project, and it provided a starting point for a more contextual discussion of the internal workings of the Court. One year later in November 2012, the UCL Judicial Institute convened a similar meeting with the Justices of the UK Supreme Court and members of the JCPC jurisdictions to discuss the current work of the JCPC, the role of UK Supreme Court Justices and the future of the JCPC. For this event, the UCL Judicial Institute produced a new quantitative analysis of the work of the JCPC, which provided an empirical basis for some of the main issues discussed at the event[6].

Acknowledgments

In developing both the database and analyses, the project has been greatly assisted by advice and reviews of the previous analyses from the Justices of the UK Supreme Court and judicial representatives from JCPC jurisdictions for the 2011 and 2012 events. At the UK Supreme Court, Lord Hope, Lady Hale, Lord Kerr, Lord Mance and the Court's Chief Executive, Jenny Rowe, provided specific and invaluable advice on earlier analyses of both the UK Supreme Court and JCPC decision-making. Mr Justice Adrian Saunders (Caribbean Court of Justice) and Deemster Doyle (Isle of Man) also provided invaluable feedback on the project's initial analysis of the work of the JCPC in 2012. The Database is a large and continually evolving resource, which requires detailed examination and analysis of all UKSC and JCPC cases. At the UCL Judicial Institute, Research Assistants Anna Donovan and Sarah Docherty have helped to develop the database and input the case data over the last four years. At the UK Supreme Court, Peter Webster, Judicial Assistant to Lord Hope, took on the large task of compiling the 2009-11 permission to appeal data from the court records.

PART 1:
Decision-making of the United Kingdom Supreme Court: 2009-13

The Supreme Court of the United Kingdom

The Supreme Court of the United Kingdom (UKSC) was created by the Constitutional Reform Act 2005 and came into being on 1 October 2009. The UKSC inherited the jurisdiction of the Appellate Committee of the House of Lords and is the highest Court of Appeal for civil cases throughout the United Kingdom and for criminal cases from England and Wales and Northern Ireland. From 1 October 2009, the UKSC also assumed the devolution jurisdiction formerly exercised by the Judicial Committee of the Privy Council (JCPC). This jurisdiction allows Bills, or Acts, of the devolved Parliaments or Assemblies to be referred to the Supreme Court for a ruling on whether they are within the legislative competence of that Parliament or Assembly. In addition there can be appeals or references from the superior courts or the Law Officers on cases that raise devolution issues.

Aside from civil cases in Scotland, which can come to the Court as of right, parties generally have to apply for permission to appeal to the Supreme Court. The test applied in considering whether permission should be granted is whether the case raises an arguable point of law of general public importance that should be considered by the Supreme Court. For criminal cases from England and Wales and Northern Ireland, the Court of Appeal must certify a point of law as being of general public importance before the UKSC can consider an application for permission to appeal.

After four full years of operation, the Court has firmly established itself as an independent final court of appeal within the United Kingdom. It is a distinct court from the Appellate Committee of the House of Lords, having established its own unique procedures and working practices. It is therefore not empirically sound to draw direct analogies between the decision-making of the Appellate Committee of the House of Lords and the UK Supreme Court, and the UCL UKSC Database Project is premised on the need to understand the UKSC and its decision-making as more than a simple extension of the decision-making of the former Appellate Committee of the House of Lords.

UK Supreme Court decision-making: 2009-13

The following results provide the only comprehensive quantitative analysis of UKSC decision-making and operation over the entire first four years of its operation[7]. The analysis includes some data not previously available publicly. In the first two years of its operation (2009-11), the UK Supreme Court did not make information on its decisions on applications for permission to appeal publicly available. In November 2011, the UCL Judicial Institute presented an initial analysis of UKSC decision-making to the Court at a special event, *The UK Supreme Court: Taking Stock Two Year's On*. To aid the Judicial Institute's empirical analysis of UKSC decision-making, the UK Supreme Court generously provided information on all applications for permissions to appeal from October 2009 through November 2011, covering data on 431 applications. The issue of the Court's lack of published information on permissions to appeal was discussed at the November 2011 event. Following the event, the UKSC decided to publish all of its decisions on all permissions to appeal[8] and all such decisions are now publicly available on the UKSC website[9].

Empirical Analysis

The empirical analysis presented in Part 1 of this reports covers all of the following aspects of UKSC decision-making from 2009 – 2013:

1. Permissions to appeal: source of applications, outcomes, participation in decision-making by each UKSC Justice.

2. Cases heard: yearly volume, jurisdictions and courts appealed from, ECHR issues.

3. Panels: size (by year, parties to cases and ECHR issues), composition (frequency of sitting by Justice, panels with non-Justices sitting).

4. Hearings: length, year on year change, use of interveners, types of interveners.

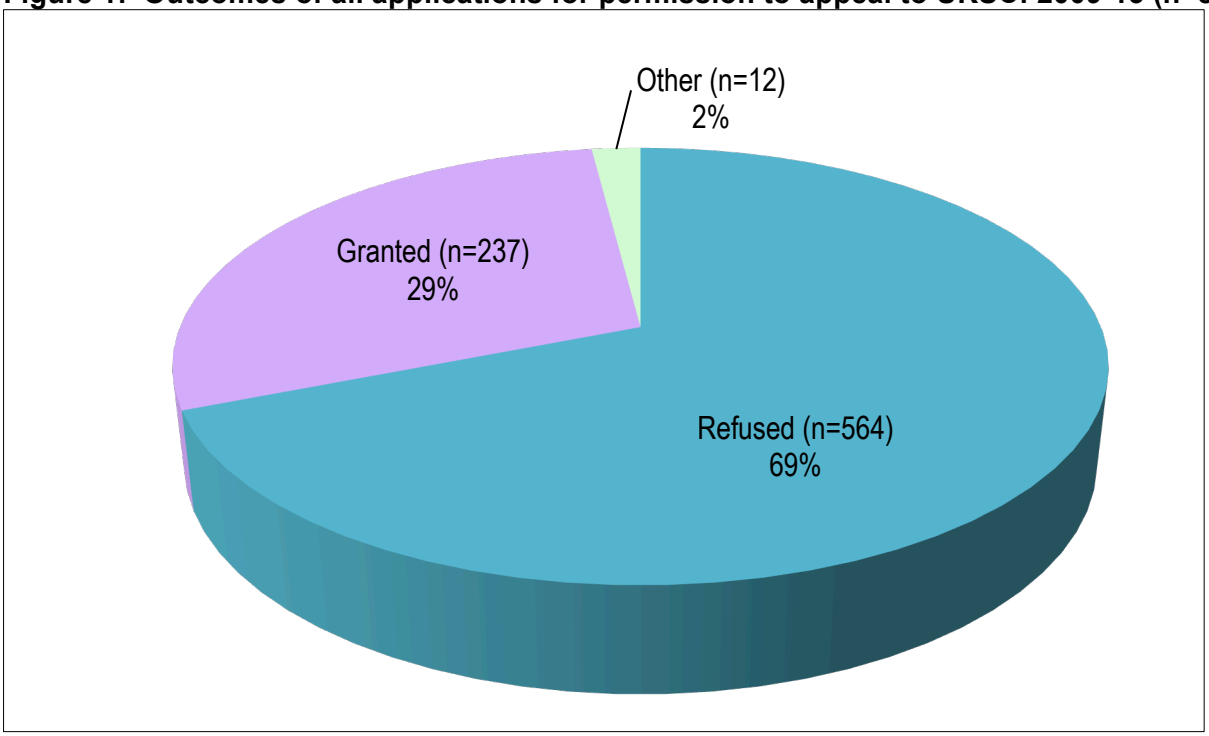
5. Outcomes: by court and jurisdiction appealed from; time from hearing to judgment, year on year change.

6. Judgments: type, by year and panel size, frequency of dissents, main authors of judgments.

1. Permissions to Appeal

Outcomes

Figure 1: Outcomes of all applications for permission to appeal to UKSC: 2009-13 (n=813)



Note: "Other" outcomes include those subsequently withdrawn, struck out or ruled inadmissible

By Jurisdiction

Figure 2: Jurisdiction of all applications for permission to appeal 2009-13 (n=813)

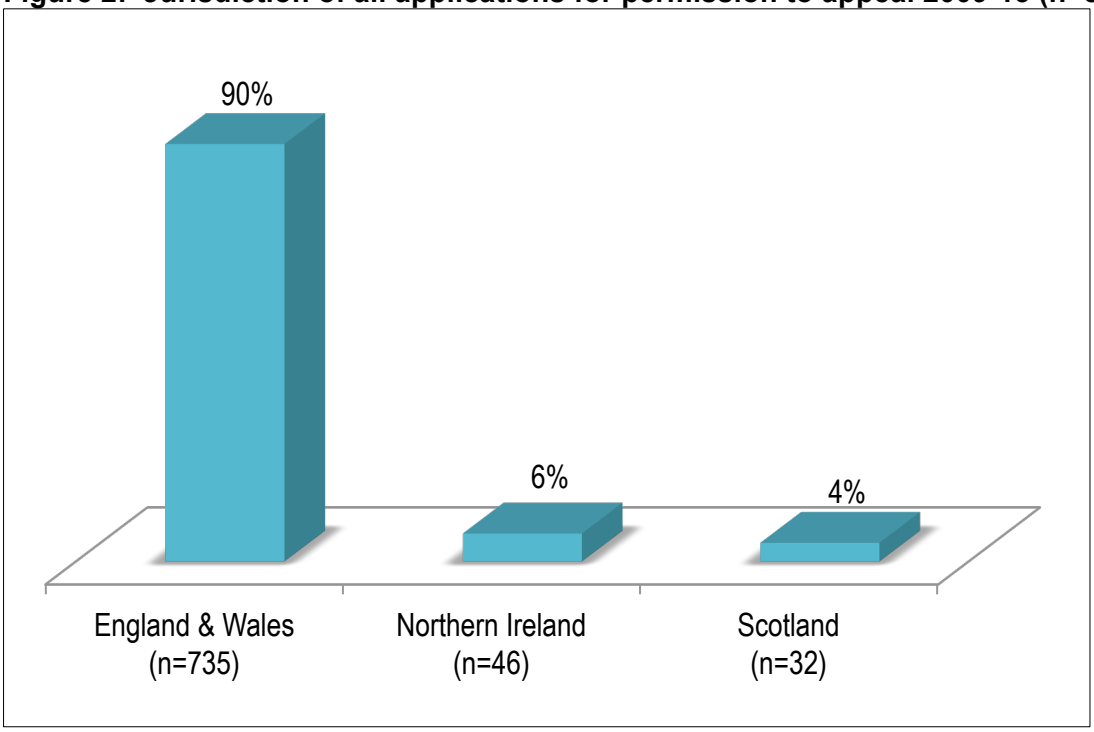
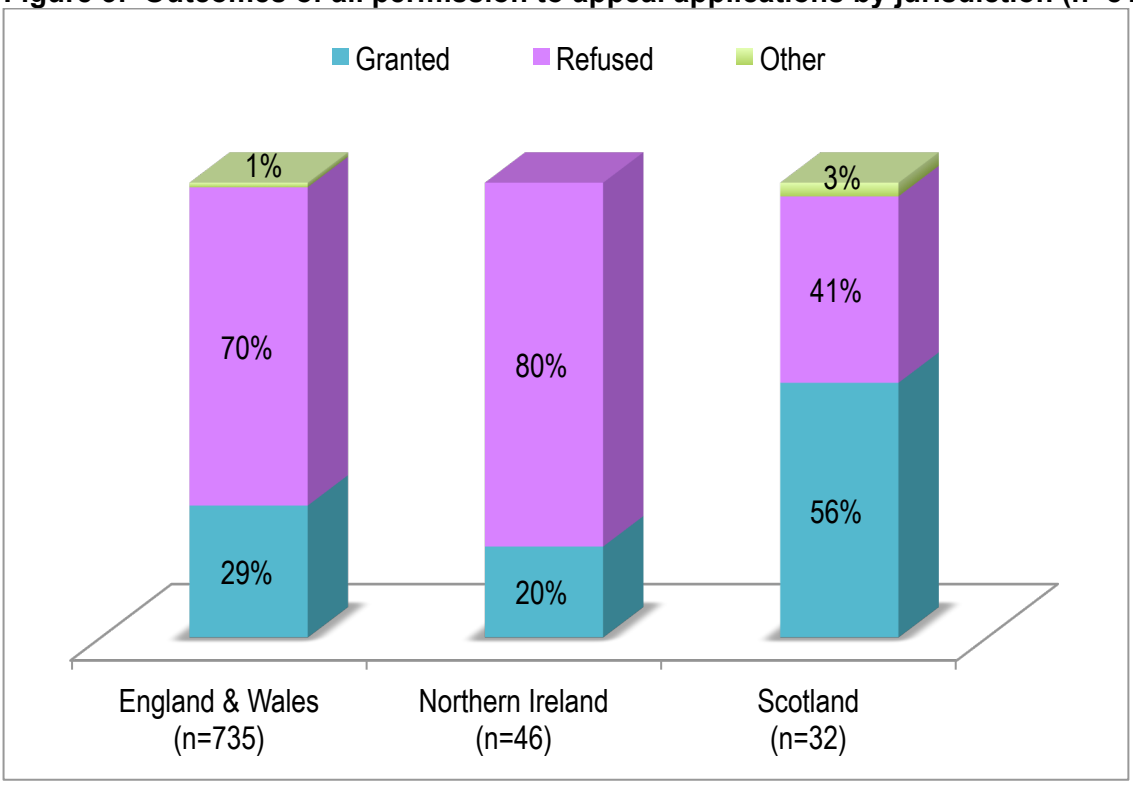


Figure 3: Outcomes of all permission to appeal applications by jurisdiction (n=813)



NOTE: Scottish civil appeals come to the UK Supreme Court as of right, with the exception of cases that fall within the Tribunals and Inquiries Act 1992.

Type of Court Appealed from

Figure 4: Type of court appealed from: all applications to appeal 2009-11 (n=429)

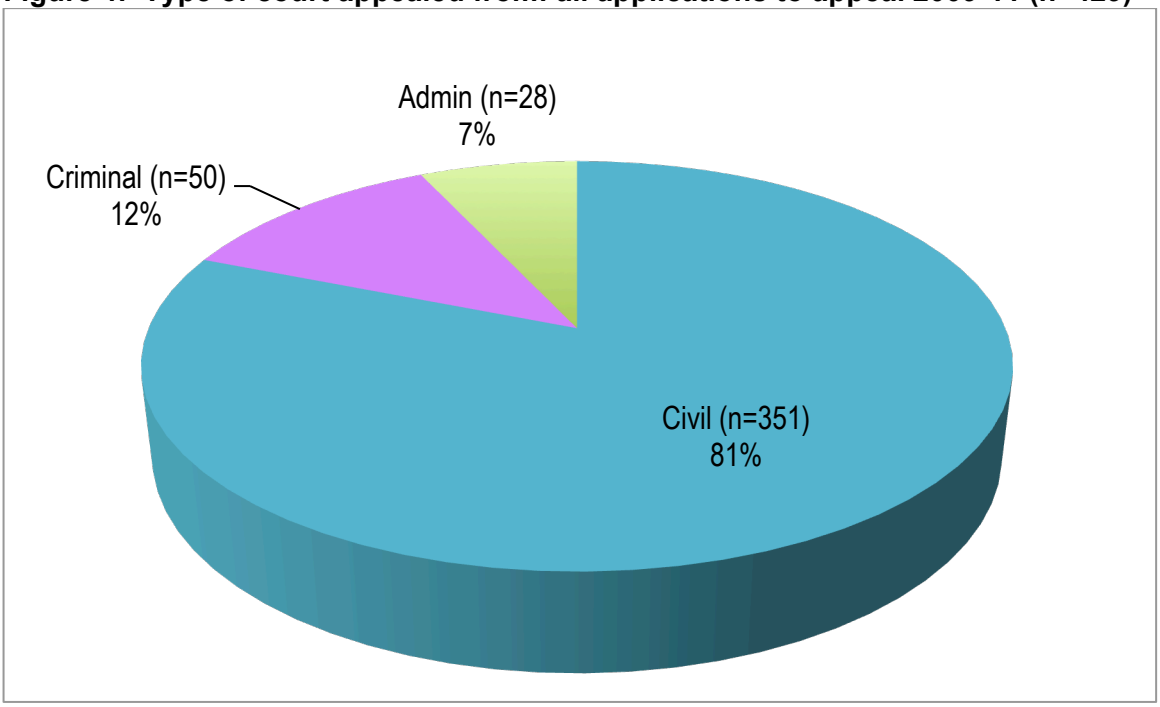
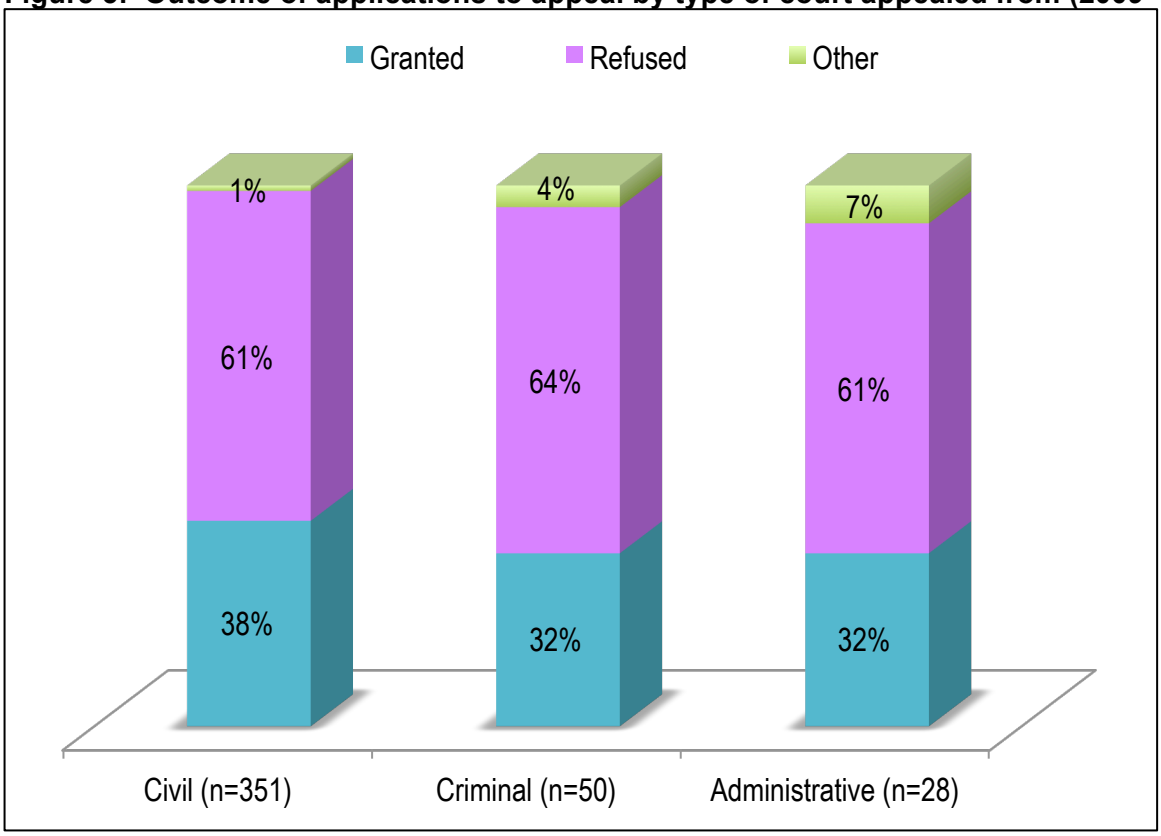
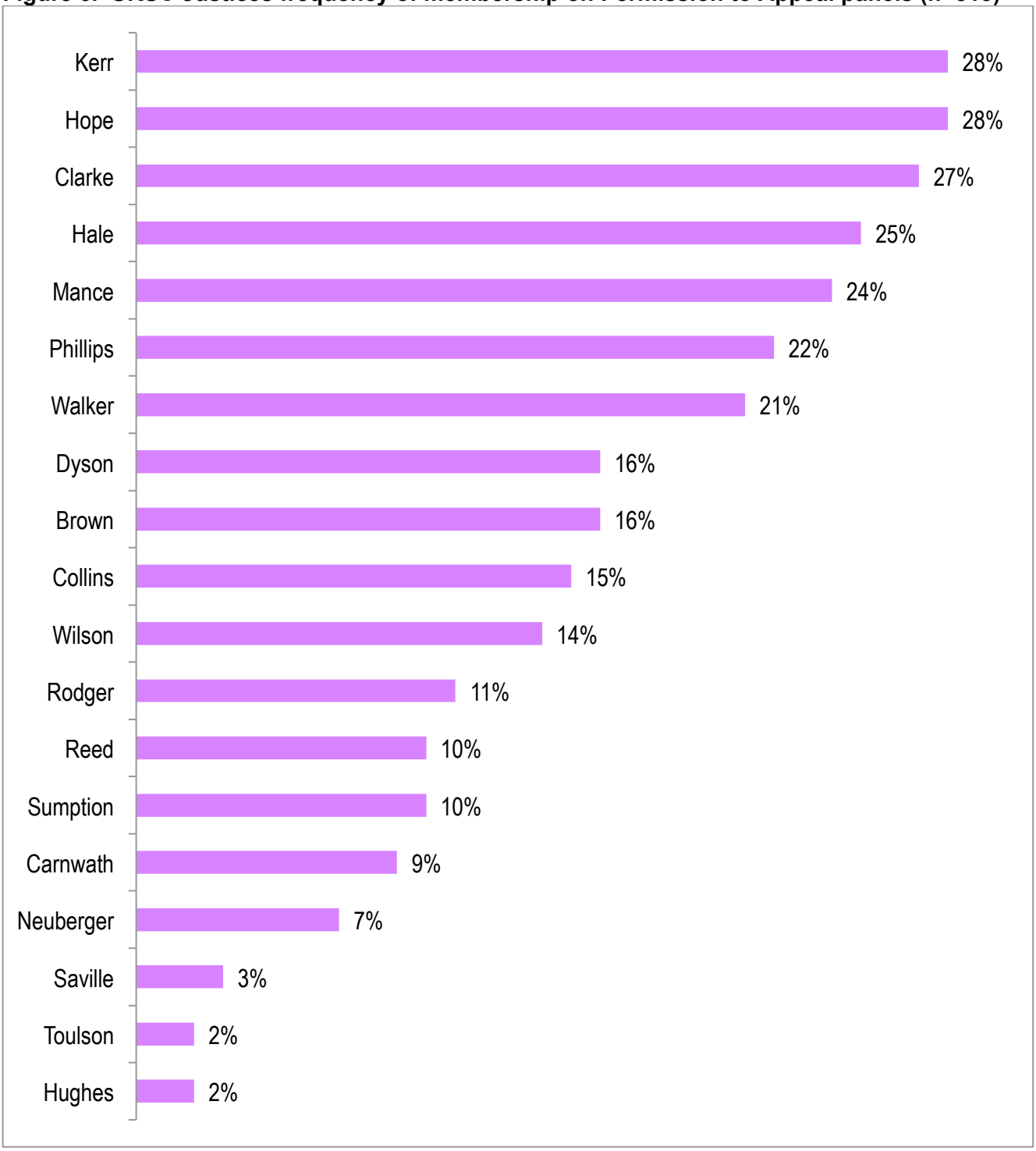


Figure 5: Outcome of applications to appeal by type of court appealed from (2009-11)



Justices and Permissions to Appeal

Figure 6. UKSC Justices frequency of membership on Permission to Appeal panels (n=813)

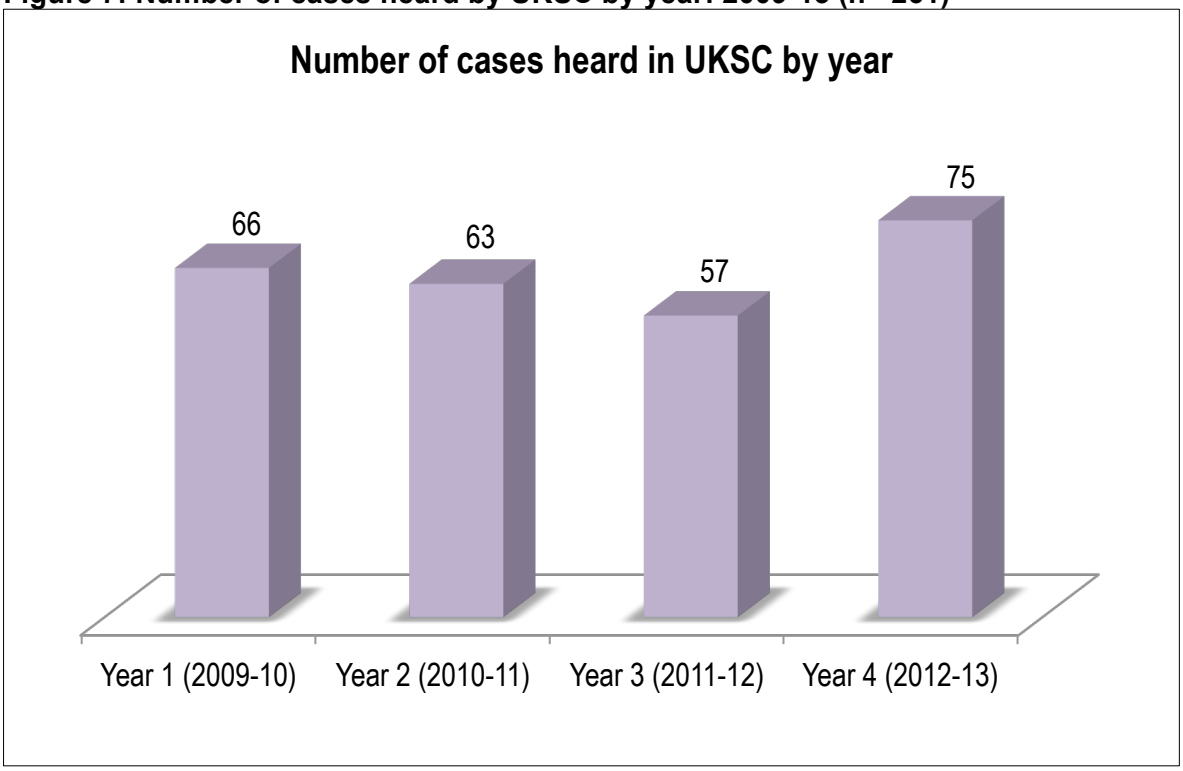


Note: Frequency will be affected by tenure on court

2. Cases heard by the UK Supreme Court

Cases by Volume

Figure 7: Number of cases heard by UKSC by year: 2009-13 (n= 261)



Cases by Jurisdiction

Figure 8: Jurisdiction of all cases heard by UKSC 2009-13 (n=261)

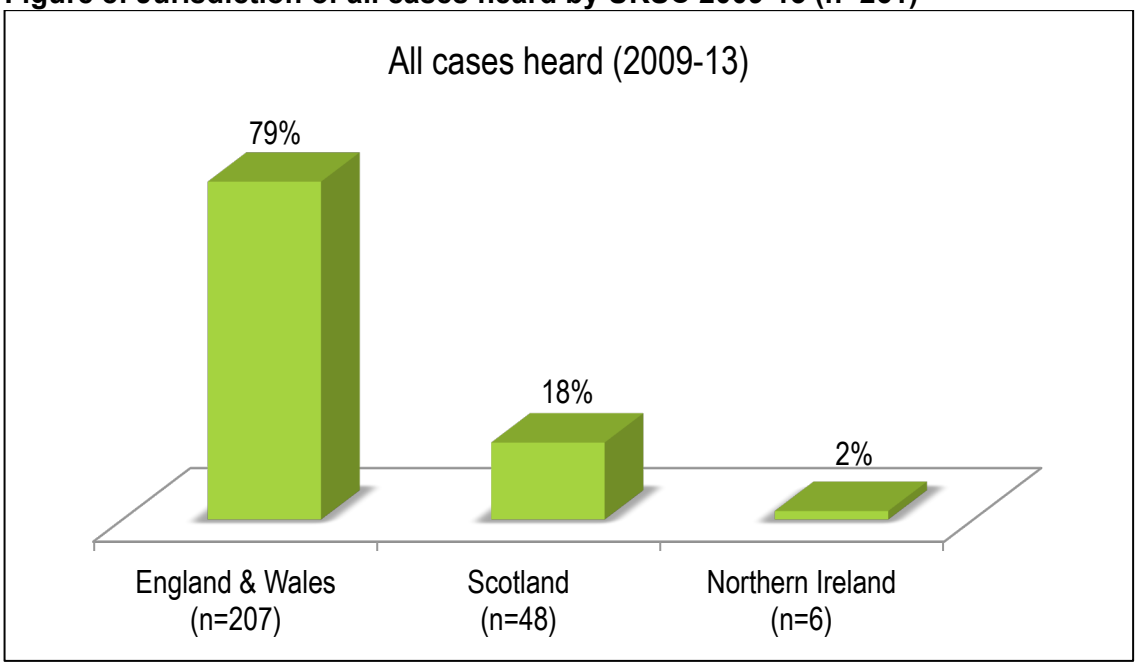
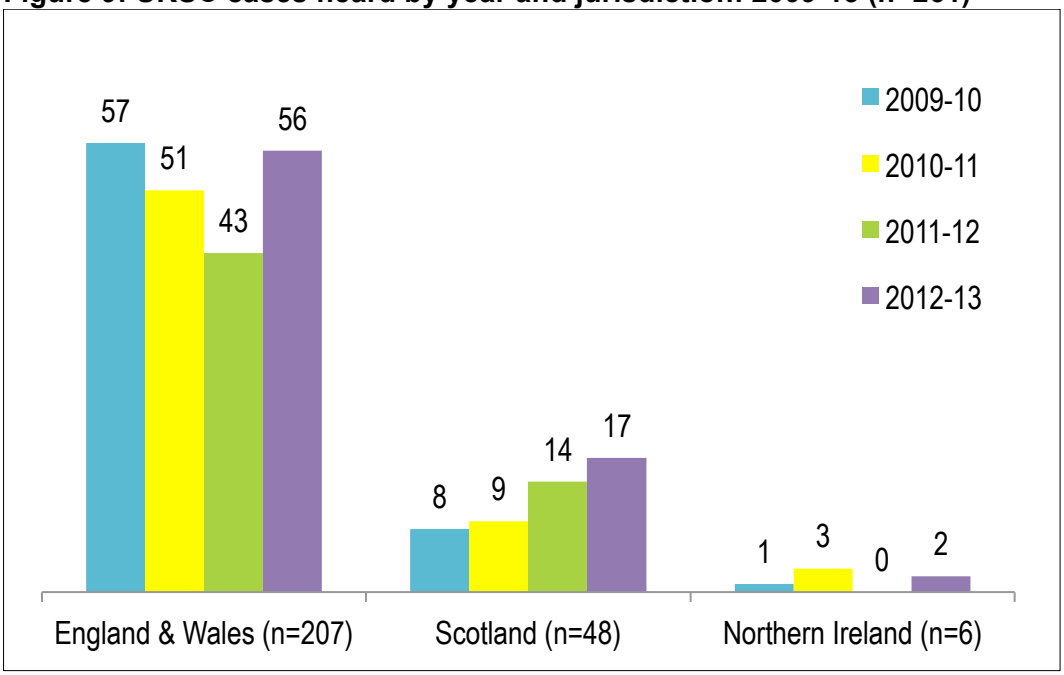
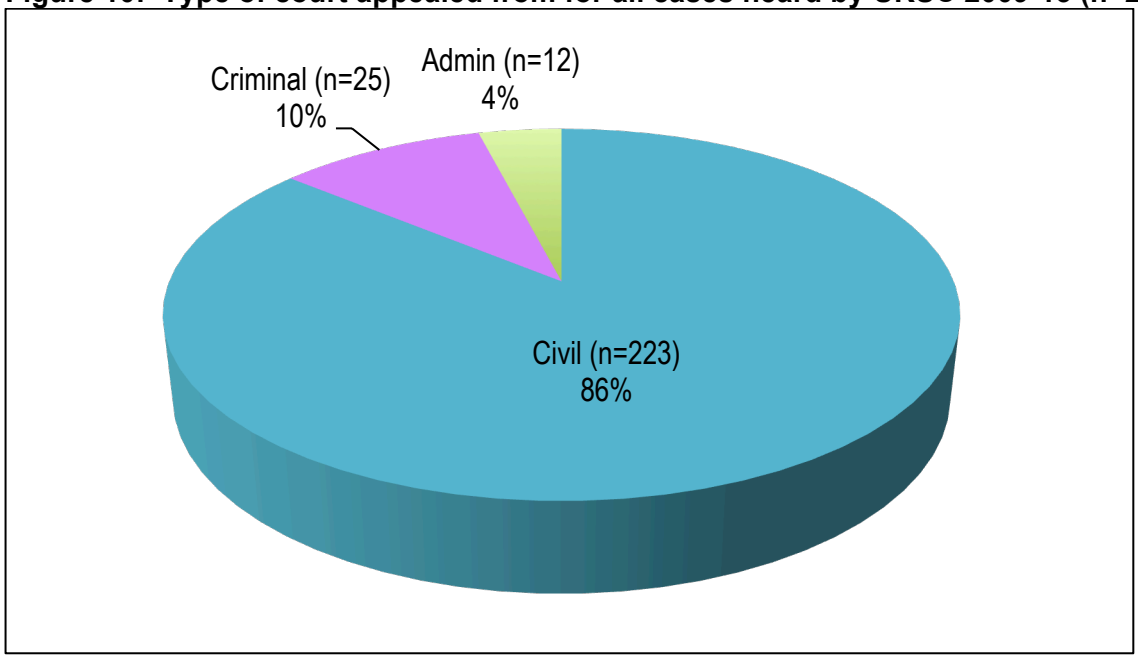


Figure 9: UKSC cases heard by year and jurisdiction: 2009-13 (n=261)



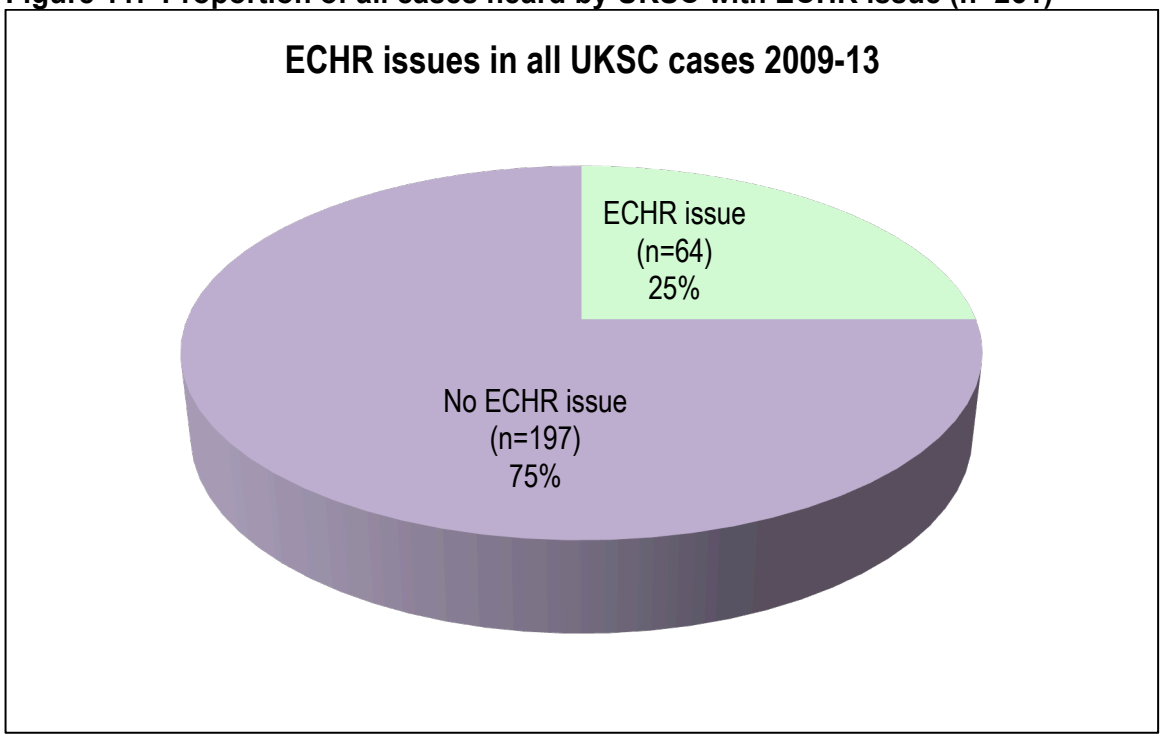
Cases by court as source of appeal

Figure 10: Type of court appealed from for all cases heard by UKSC 2009-13 (n=260)



ECHR issues raised in cases

Figure 11: Proportion of all cases heard by UKSC with ECHR issue (n=261)

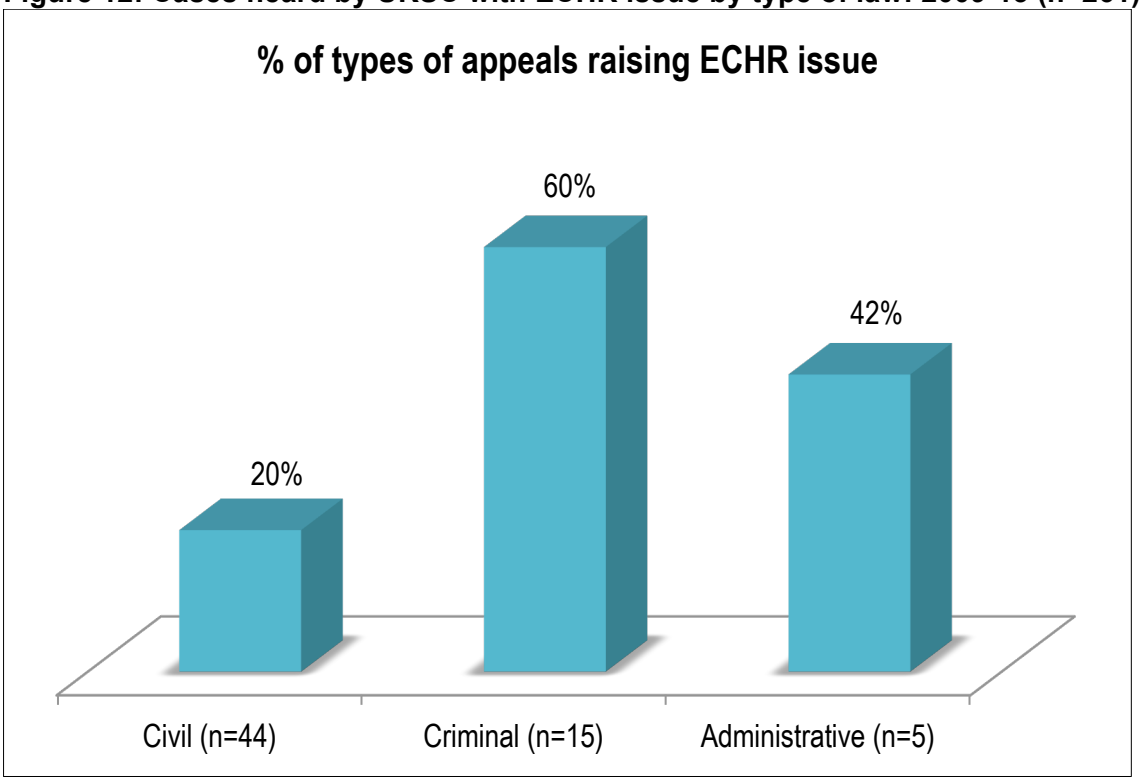


As Table 1 shows, the number and proportion of cases heard by the UKSC which raise ECHR issues have been relatively stable over the Court's first four years from 2009-2013.

Table 1:

Court Year	Total cases heard	ECHR cases heard	%
Year 1: 2009-10	66	18	27%
Year 2: 2010-11	63	13	21%
Year 3: 2011-12	57	15	26%
Year 4: 2012-13	75	18	24%

Figure 12: Cases heard by UKSC with ECHR issue by type of law: 2009-13 (n=261)



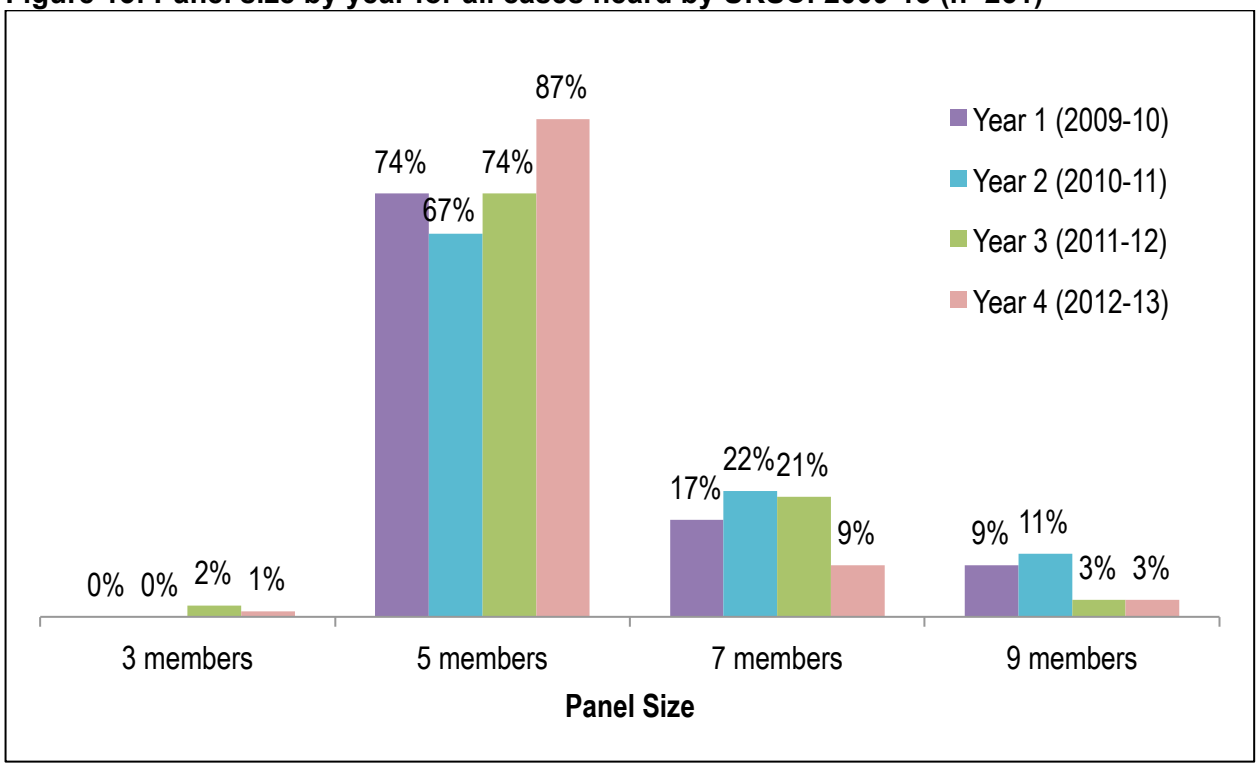
Of cases heard from each jurisdiction, 38% of appeals heard from Scotland (n=18) raised an ECHR issue, 22% of appeals heard from England and Wales (n=45) raised an ECHR issue and 17% of appeals from Northern Ireland (n=1) raised in an ECHR issue.

3. Panel Size and Composition

Panel Size

In the overwhelming majority of UKSC cases, panels of 5 Justices heard the case, and this trend has grown over the first four years of the court. The use of 7 and 9 member panels peaked in Year 2 and then substantially declined in Year 4.

Figure 13: Panel size by year for all cases heard by UKSC: 2009-13 (n=261)



Characteristics of cases and panel size

Figure 14: Panel size and government involvement in case: 2009-13 (n=261)

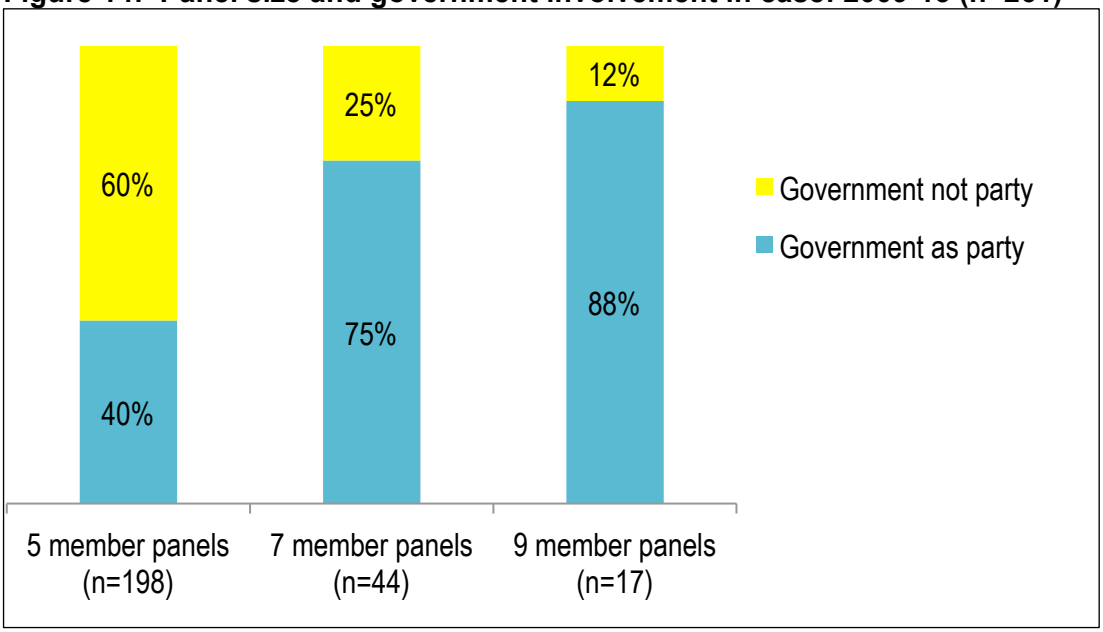
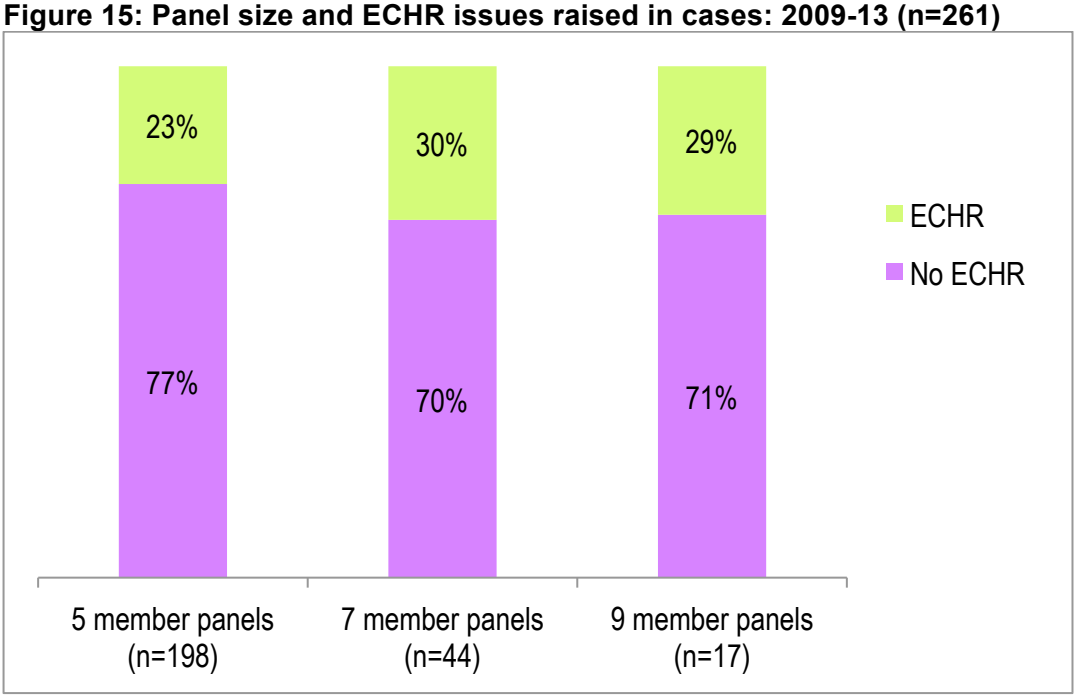
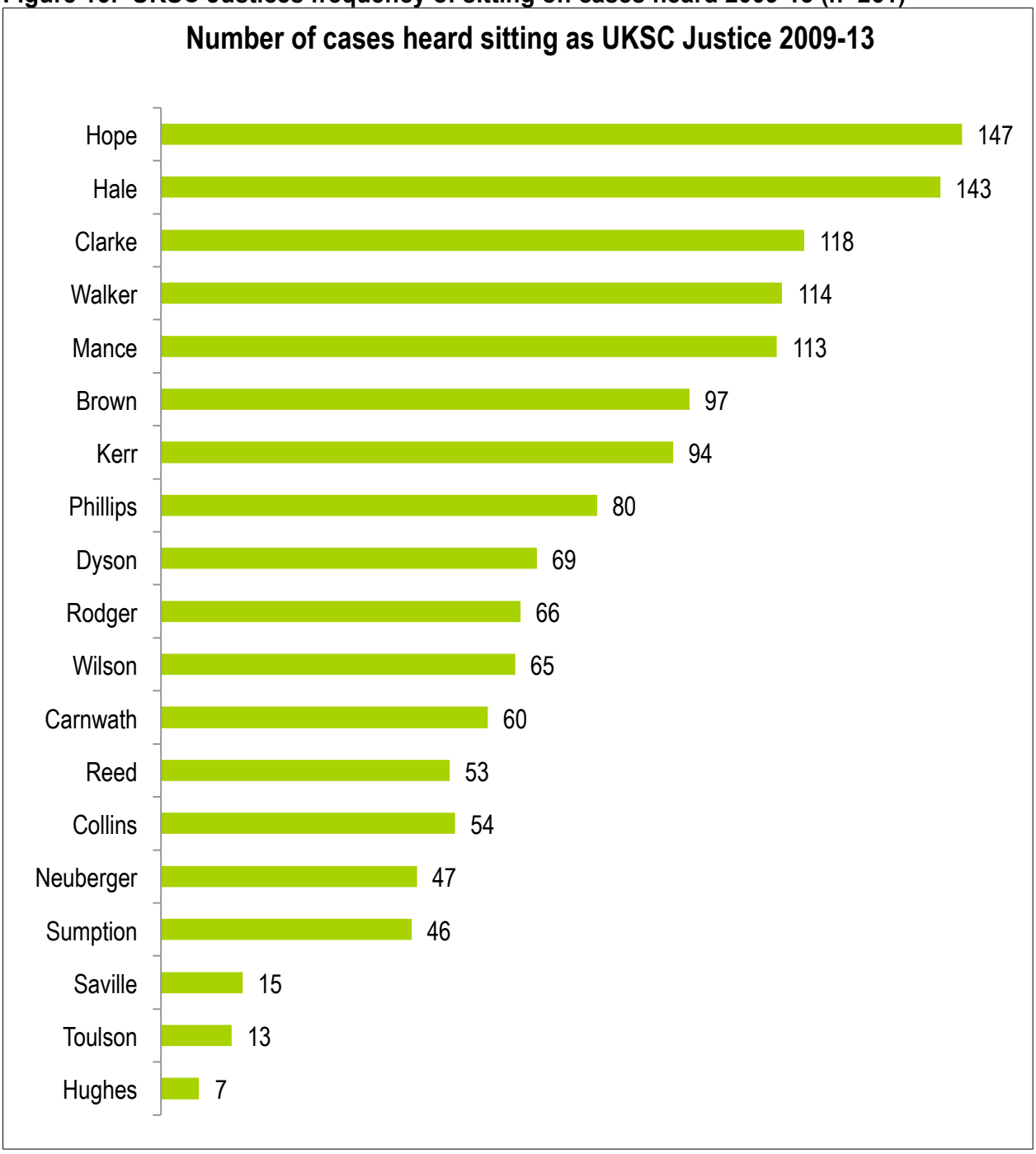


Figure 15: Panel size and ECHR issues raised in cases: 2009-13 (n=261)



Panel Composition

Figure 16: UKSC Justices frequency of sitting on cases heard 2009-13 (n=261)

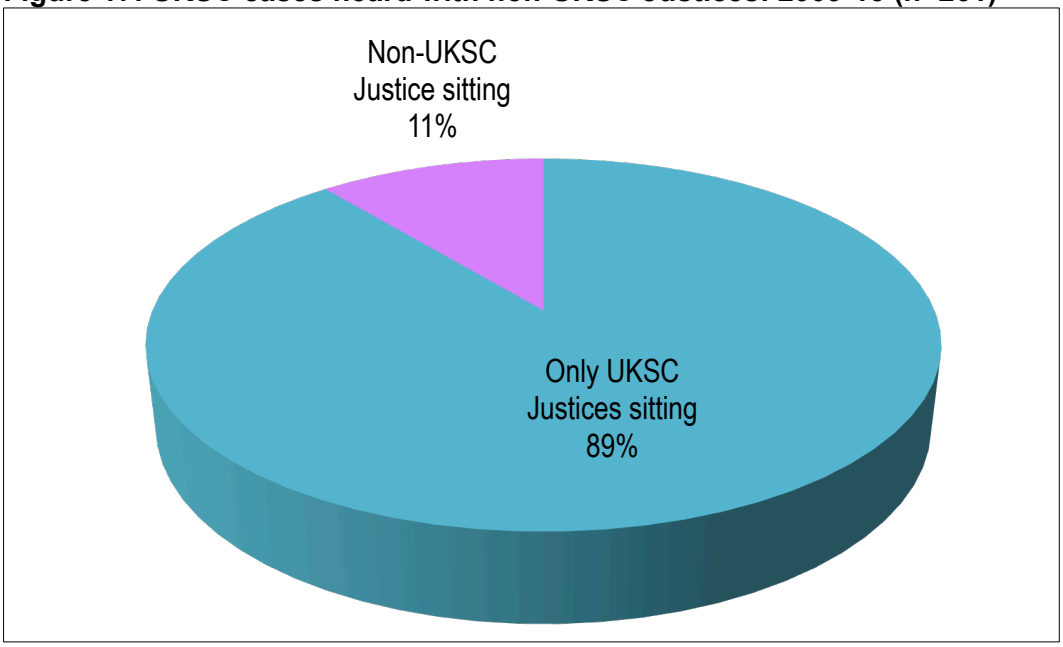


Note: The totals are calculated according to the number of cases heard when sitting as a UKSC Justice. The number of cases heard by a UKSC Justice is affected by the number of Judicial Committee of the Privy Council cases a Justice hears, other jurisdictional sittings and by length of tenure on the UKSC

Panels with non-UK Supreme Court Justices sitting

In 28 (11%) of cases heard in the UKSC from 2009-13, a judge who is not a Justice of the UK Supreme Court was on the panel that heard the case.

Figure 17: UKSC cases heard with non-UKSC Justices: 2009-13 (n=261)



Nine different non-UK Supreme Court judges sat on these 28 panels.

Table 2: Non-UKSC Justices hearing UKSC cases: 2009-13

Judge	No. of UKSC cases heard	Judicial position at time of hearing
Lord Judge	12	Lord Chief Justice of England and Wales
Lord Neuberger	5	Master of the Rolls
Lord Justice Hughes	3	Court of Appeal of England and Wales
Lord Reed	2	Inner House of the Court of Session (Scotland)
Lord Dyson	2	Master of the Rolls
Lord Hamilton	2	Lord President of the Court of Session and Lord Justice General (Scotland)
Lord (Matthew) Clarke	1	Inner House of the Court of Session (Scotland)
Lord Carloway	1	Lord Justice Clerk, Supreme Court of Scotland

4. Hearings

Length of hearings

Figure 18: Length of hearings in all cases heard by UKSC 2009-13 (n=261)

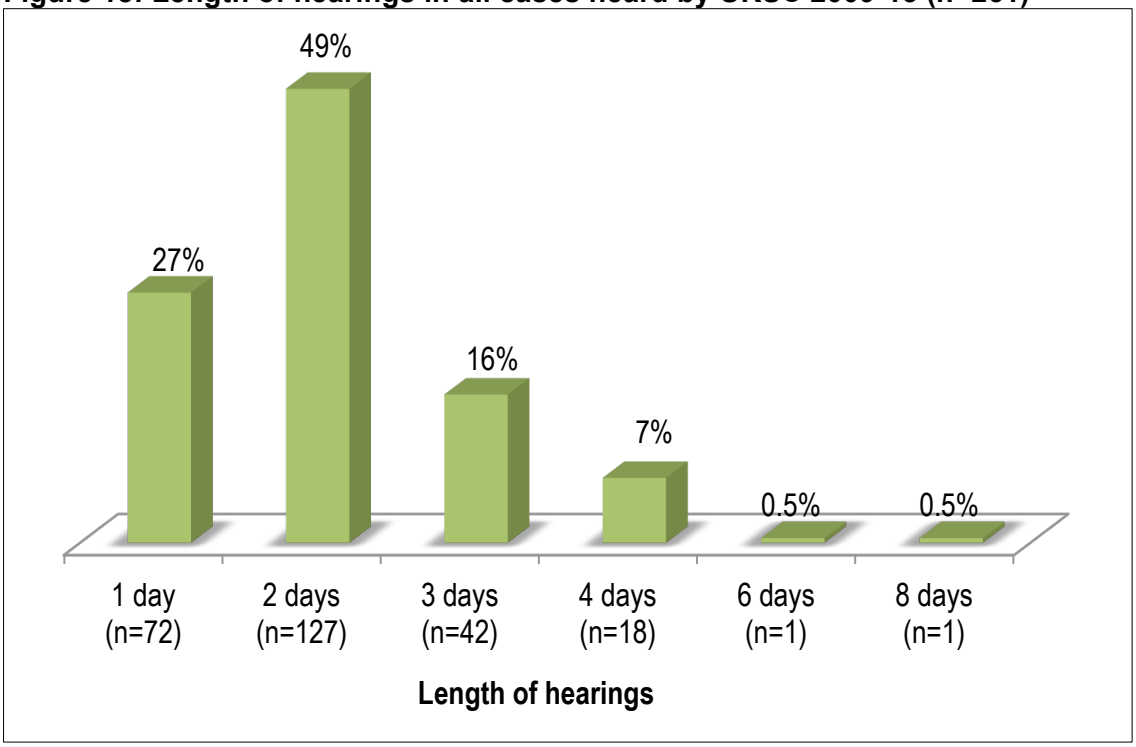
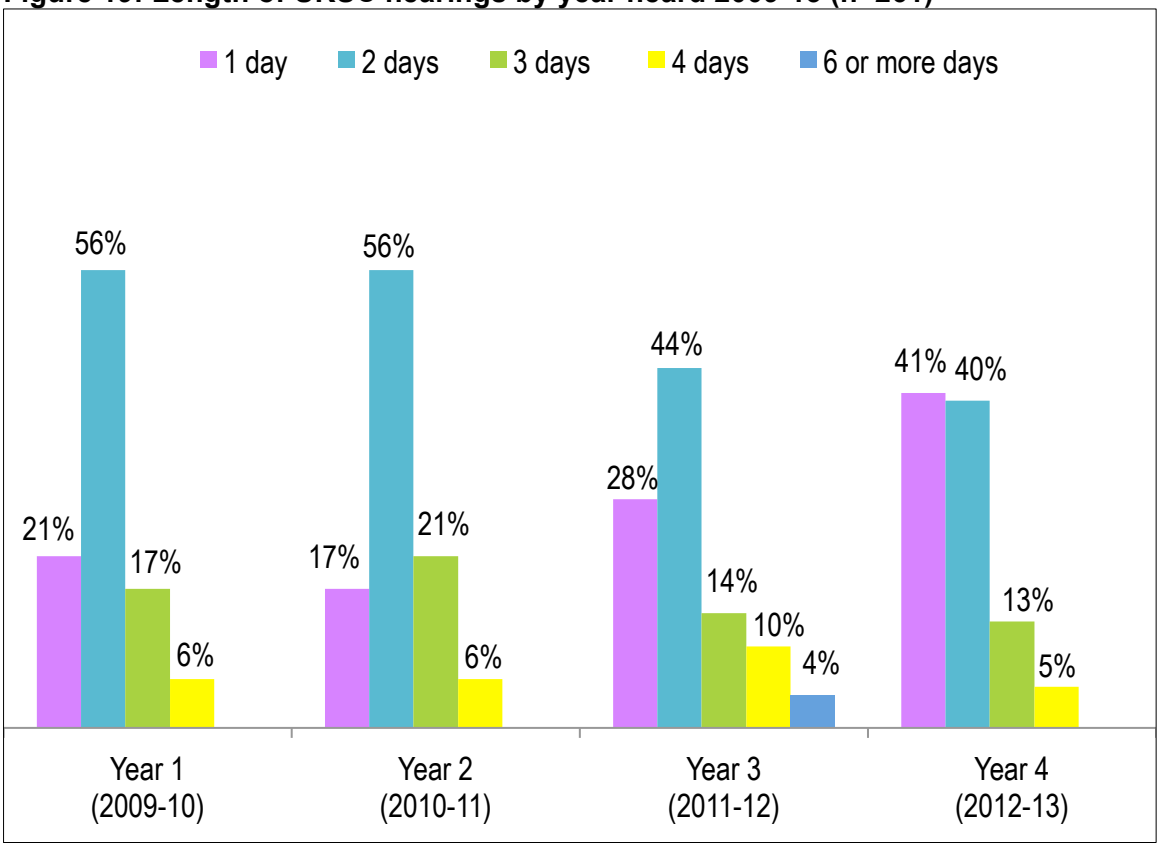
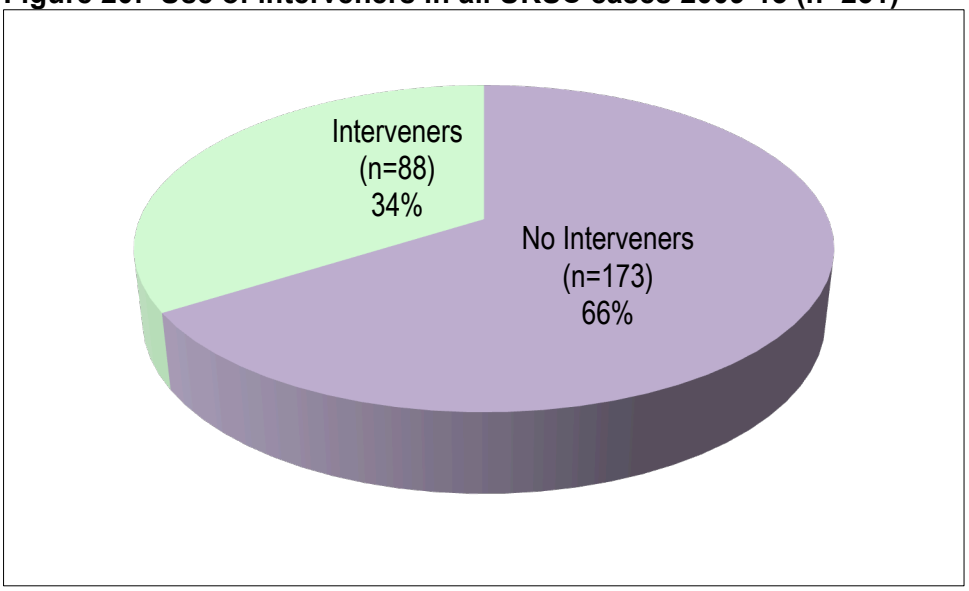


Figure 19: Length of UKSC hearings by year heard 2009-13 (n=261)



Interveners

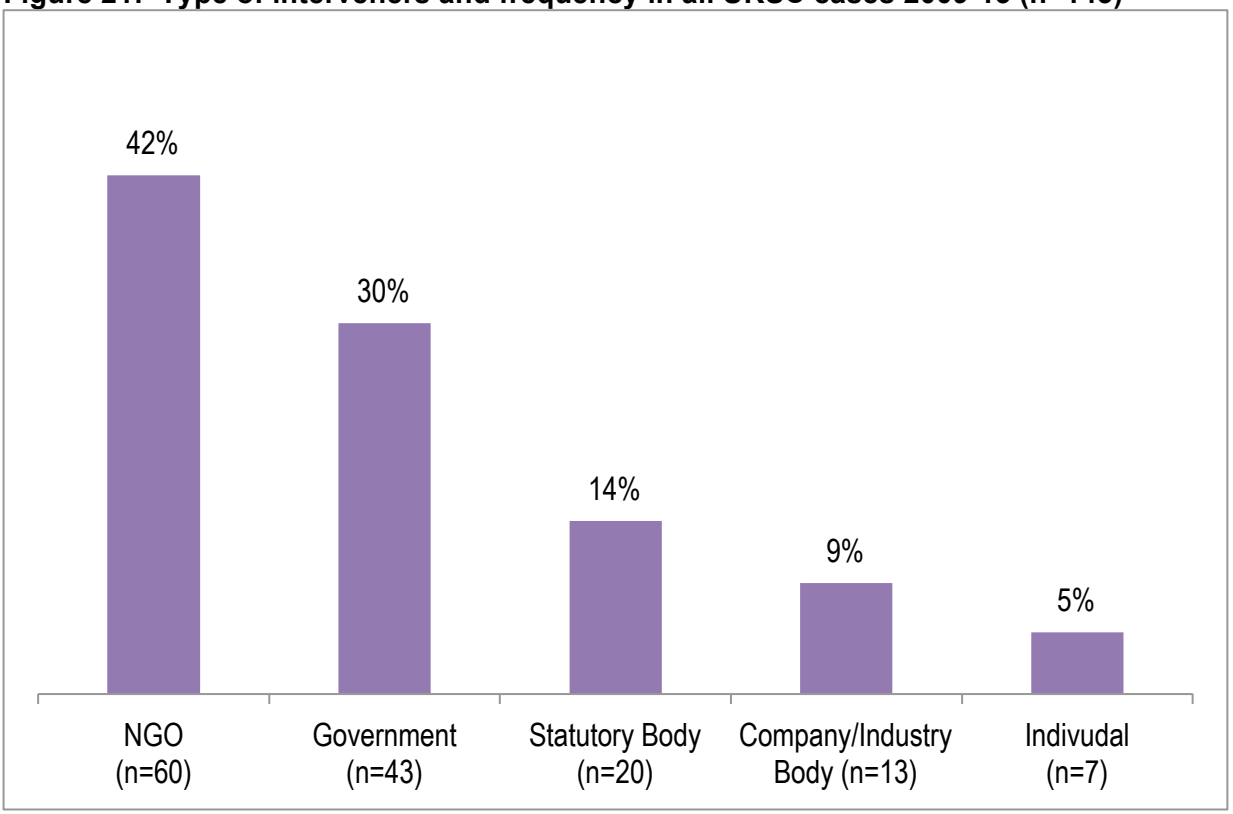
Figure 20: Use of interveners in all UKSC cases 2009-13 (n=261)



There was a single intervener in 55% of all cases with interveners (n=48) and multiple interveners in 45% of the intervener cases (n=40).

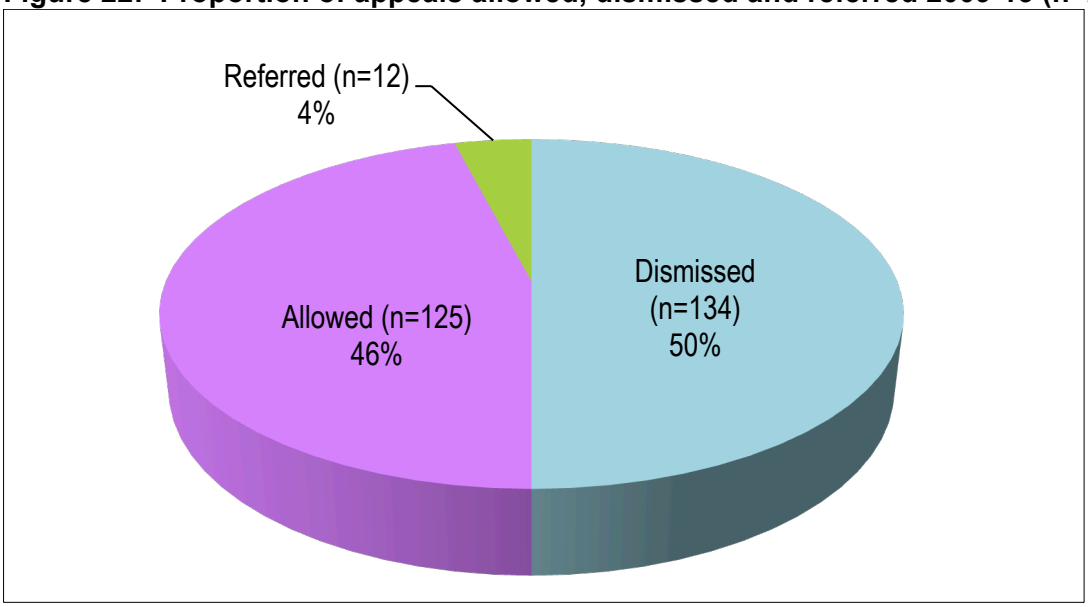
Type of Interveners

Figure 21: Type of interveners and frequency in all UKSC cases 2009-13 (n=143)



5. Outcome of Cases

Figure 22: Proportion of appeals allowed, dismissed and referred 2009-13 (n=271)



Note: The number of total outcomes (271) reflects multiple decisions in some cases.

Figure 23: Outcome of appeals by court appealed from: 2009-13 (n=271)

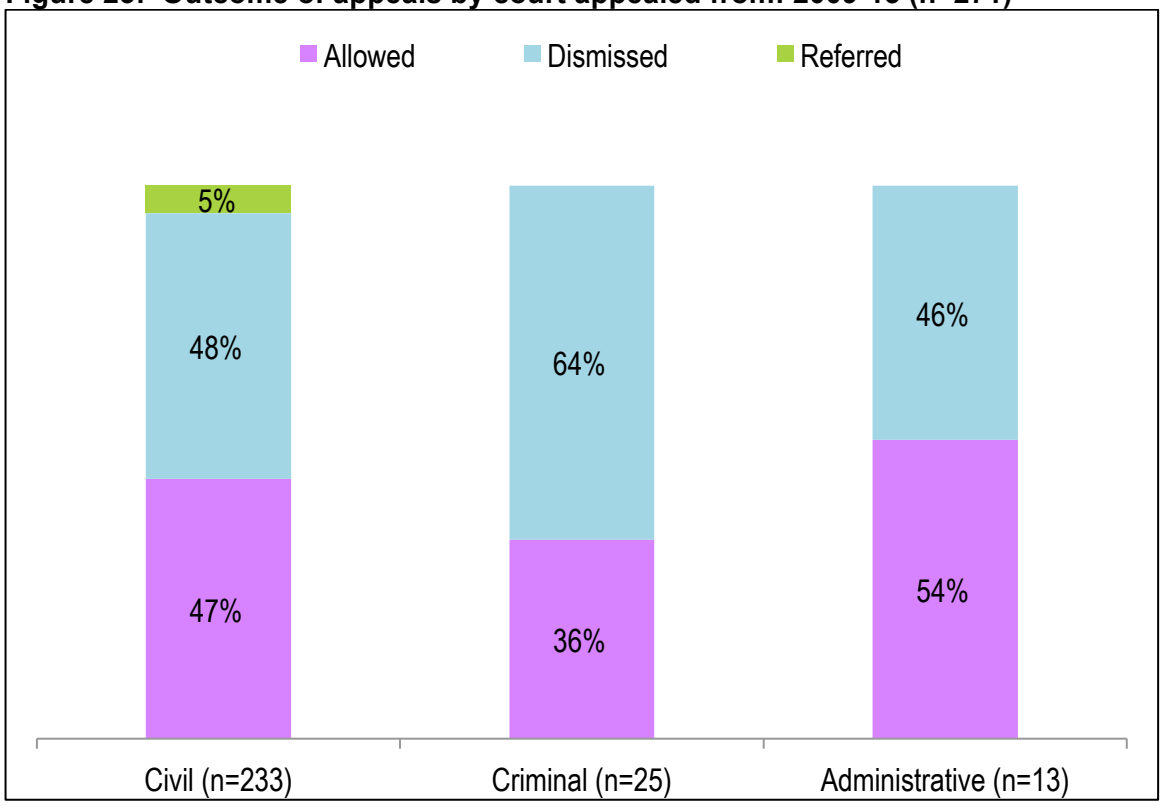
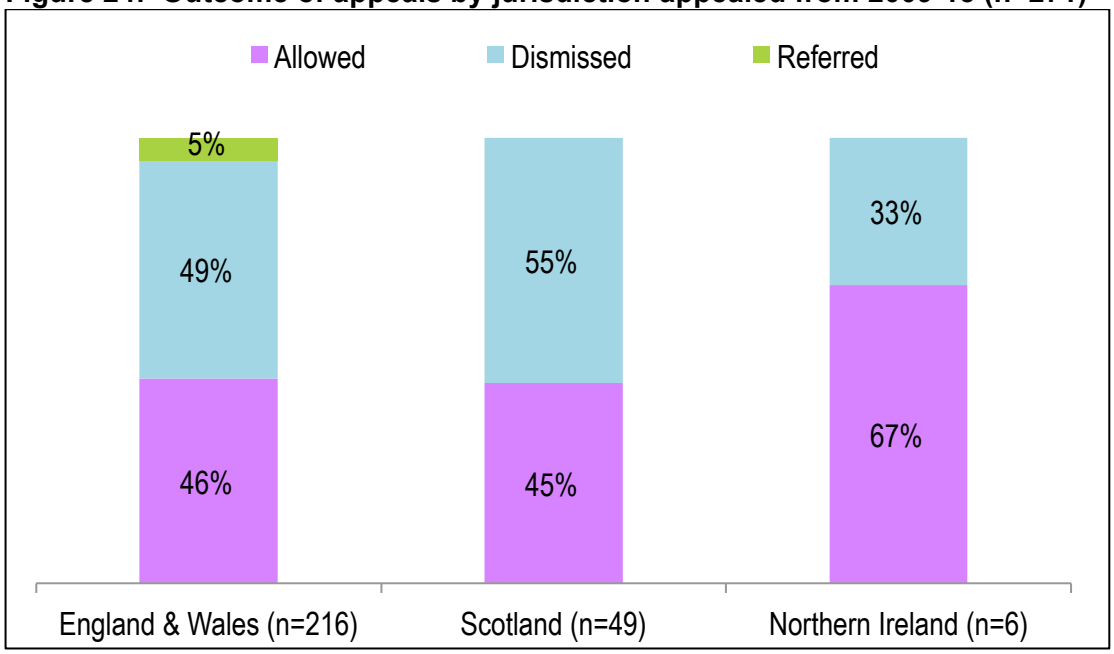


Figure 24: Outcome of appeals by jurisdiction appealed from 2009-13 (n=271)



Time from hearing to Judgment

Figure 25: Time from hearing to Judgment in all cases heard 2009-13 (n=261)

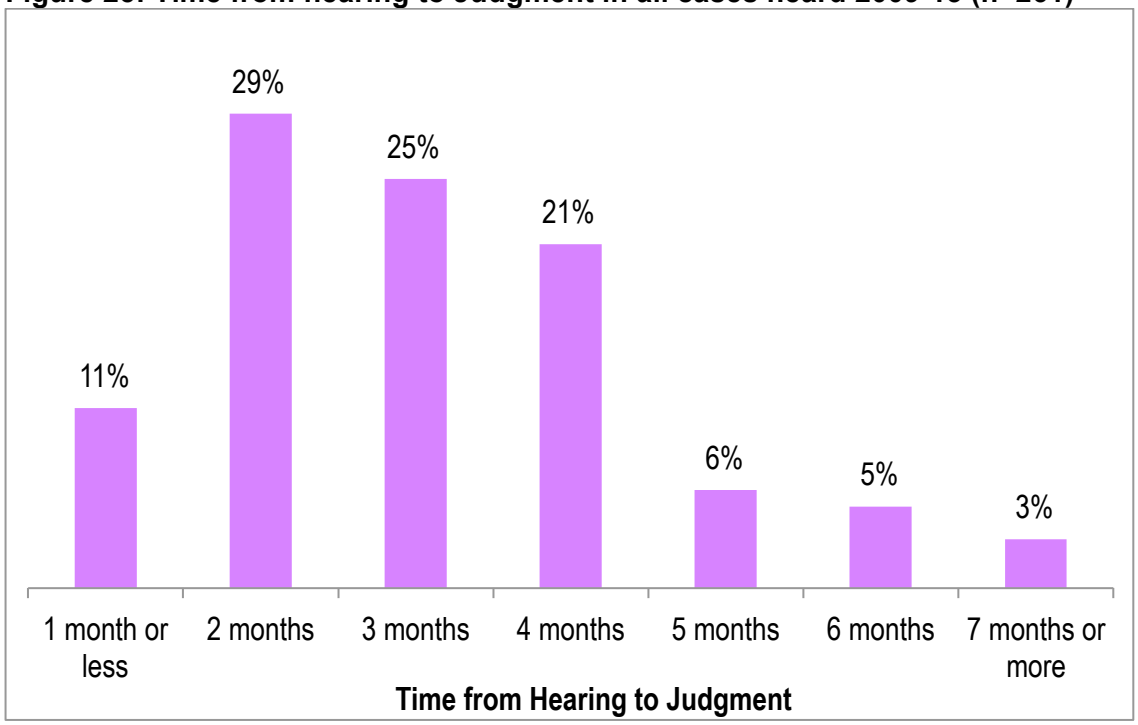


Table 3: Days from hearing to judgment by UKSC: 2009-13

Court Year	Average number of days from hearing to judgment
Year 1 (2009-10)	79 days
Year 2 (2010-11)	91 days
Year 3 (2011-12)	80 days
Year 4 (2012-13)	59 days

6. Judgments

Type of Judgment

Figure 26: Proportion of Unanimous and Majority Judgments 2009-13

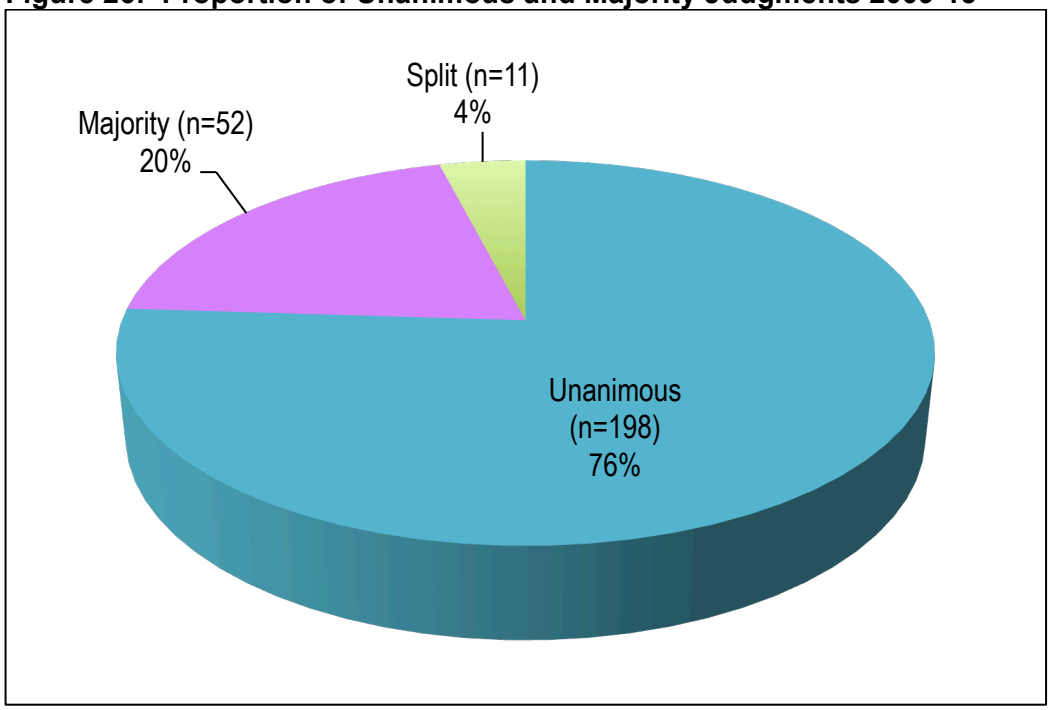


Figure 27: Type of Judgments issued by UKSC by year (n=261)

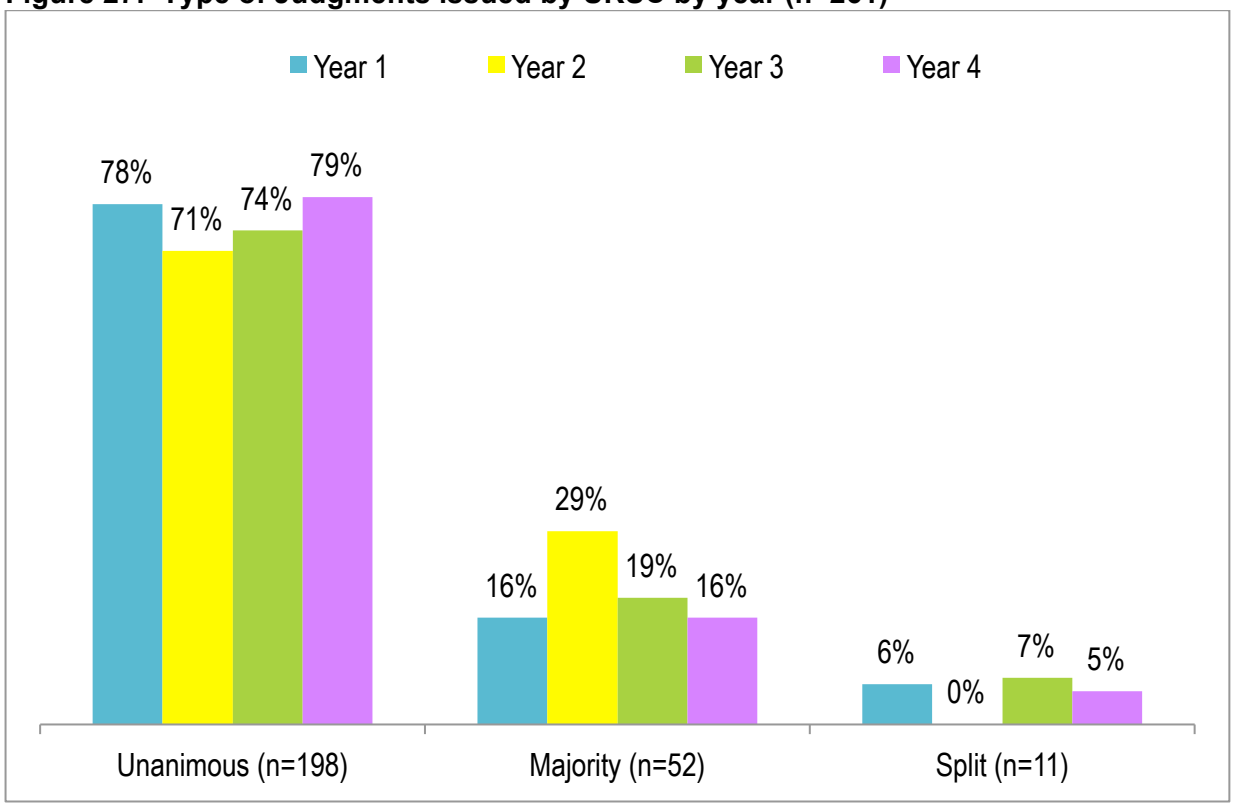
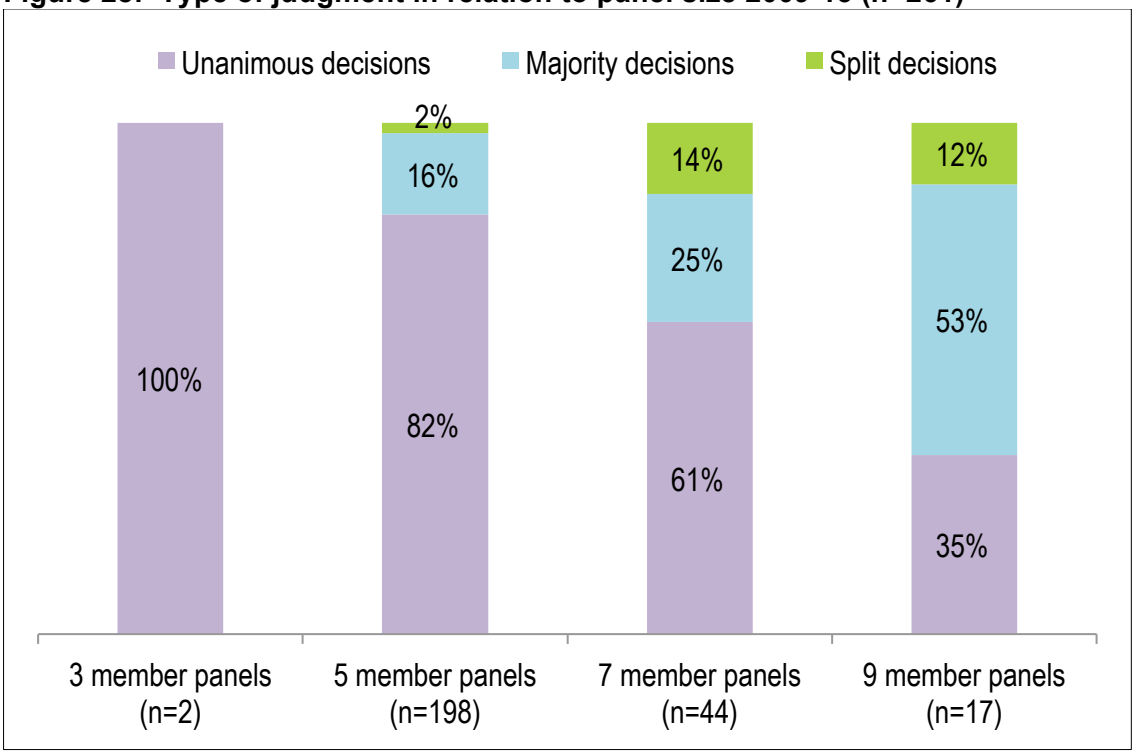
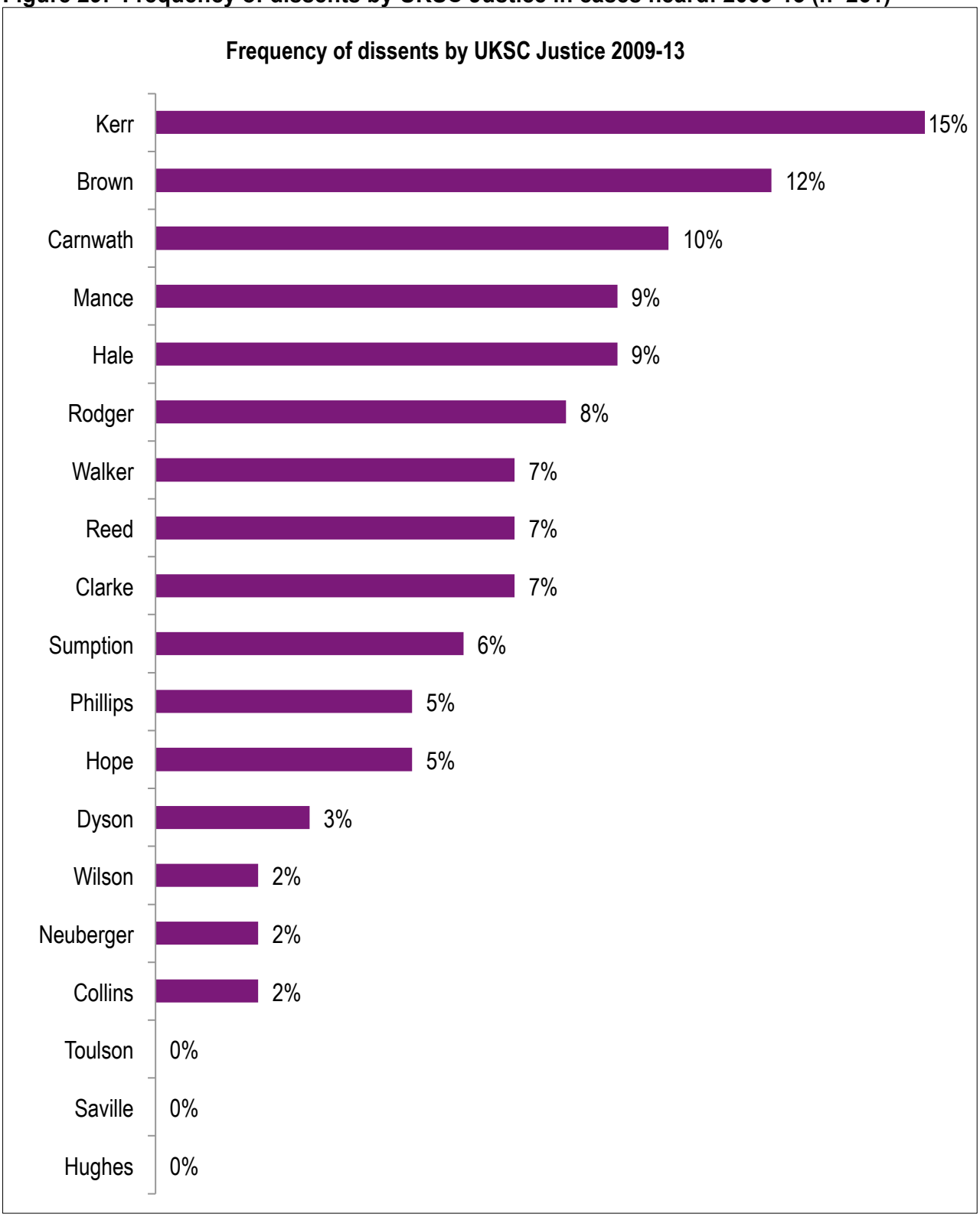


Figure 28: Type of judgment in relation to panel size 2009-13 (n=261)



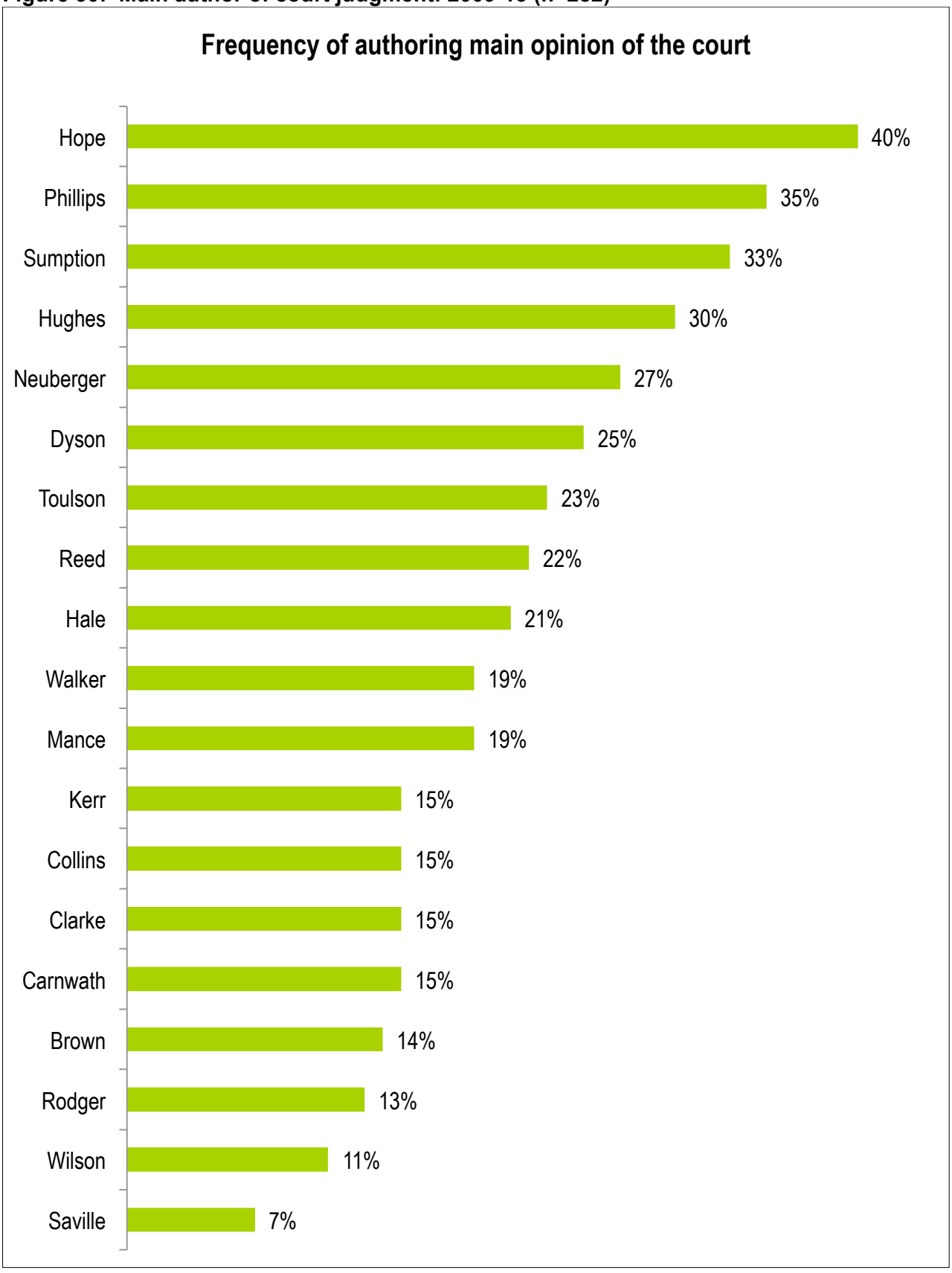
Dissents

Figure 29: Frequency of dissents by UKSC Justice in cases heard: 2009-13 (n=261)



Note: Frequency is calculated as dissents per cases heard for each individual Justice

Figure 30: Main author of court judgment: 2009-13 (n=282)



Note: calculated as proportion of main opinions authored per times in majority/unanimity

Part 2:
Decision-making of the Judicial Committee of the Privy Council: 2009-13

The Judicial Committee of the Privy Council

In addition to sitting in the United Kingdom Supreme Court, Justices of the Supreme Court sit in the Judicial Committee of the Privy Council (JCPC). The Judicial Committee of the Privy Council is the highest court of appeal for a number of Commonwealth countries, as well as the United Kingdom's overseas territories, crown dependencies and military sovereign base areas. It also hears very occasional appeals from a number of ancient and ecclesiastical courts. The Judicial Committee of the Privy Council was formally created by the Judicial Committee Act 1833 (as amended by the Constitutional Reform Act 2005, Schedule 16, paragraph 2). Although the JCPC was instituted by a United Kingdom Act, the substantive law which it applies is the law of the Country or Territory from which the appeal comes. The Judicial Committee therefore plays an important role in the development of law in the various constituent jurisdictions, and the impact of its decisions extends far beyond the parties involved in any given case and often involves questions arising out of the relevant constitution and/or the fundamental rights and freedoms of the inhabitants of the country or territory.

Jurisdiction of the JCPC

Following the Statute of Westminster 1931, which enabled dominions to discontinue appeals, Canada withdrew all appeals in 1949, India withdrew on independence in 1947, and subsequently appeals from Ceylon (as it was then), a number of African countries, Australia, Malaysia, Singapore, Hong Kong, New Zealand and most recently Belize (in 2011) have all been withdrawn. The JCPC is now the final court of appeal for more than 30 overseas jurisdictions, many of which are independent states that could unilaterally opt to discontinue appeals to the JCPC[10]. The majority of the overseas jurisdictions are in the Caribbean, but there are some jurisdictions in the Southern Hemisphere as well. The committee also hears appeals from the Channel Islands and the Isle of Man (which are Crown Dependencies), admiralty appeals from the Cinq Ports and (in time of war) the Prize Courts, as well as appeals from the Disciplinary Committee of the Royal College of Veterinary Surgeons, appeals against certain schemes of the Church Commissioners under the Pastoral Measure 1983 and disputes under the House of Commons Disqualification Act 1975[11].

In recent years the overseas jurisdiction of the JCPC has been the subject of much discussion and critique from independent observers[12], members of overseas jurisdictions[13] and members of the JCPC itself[14]. The creation of the Caribbean Court of Justice by an Agreement between countries in the Caribbean Community (Caricom) in 2001 provided an alternative court of final appeal for ten countries within the jurisdiction of the Judicial Committee of the Privy Council. This Agreement allows a state to enter a reservation in respect of the Caribbean Court's appellate jurisdiction, which would replace appeals to the JCPC. To date, three of the ten states (Barbados, Guyana and Belize) have accepted the Caribbean Court of Justice's appellate jurisdiction. While there are arguments that the JCPC should cease to be the final court of appeal for a number of overseas jurisdictions, a recent proposal by Mauritius regarding appeals from Honduras has demonstrated that it is also possible for the scope of the JCPC to be extended[15].

JCPC and the UK Supreme Court

The Judicial Committee of the Privy Council was co-located with the Supreme Court in October 2009, moving from a courtroom and offices in Downing Street to the new combined courthouse in Parliament Square. Today, it shares an administration with the Supreme Court, and its bench is largely constituted by the Justices of the UK Supreme Court (supplemented occasionally by other judicial members of the Privy Council). The judges sit as a "Board" of the Judicial Committee, which is one of a number of the Privy Council's standing committees, and the Board's role is to advise Her Majesty whether to grant or refuse an appellant's petition[16].

Empirical Analysis

The JCPC database currently includes all 166 judgments issued by the Judicial Committee of the Privy Council since October 2009 through four full legal years (2009-10 through 2012-13). The

analysis presented in Part 2 of this report covers all of the following aspects of JCPC decision-making from 2009 – 2013:

1. Cases heard: by jurisdiction and type of jurisdiction, as well as volume of cases.

2. Legal issues arising in JCPC appeals: in all cases heard, by jurisdiction and type of jurisdiction

3. Criminal appeals: underlying offence and main legal issue

4. Civil appeal: areas of law addressed in JCPC appeals

5. UKSC Justices: frequency of sitting on JCPC appeals

6. Hearings: length, year on year change, comparison with UKSC.

7. Judgments: time from haring to judgment, comparison with UKSC, main authors of judgments.

8. Case outcomes

1. Cases heard

Figure 31: JCPC cases 2009-13 by type of jurisdiction (n=165)

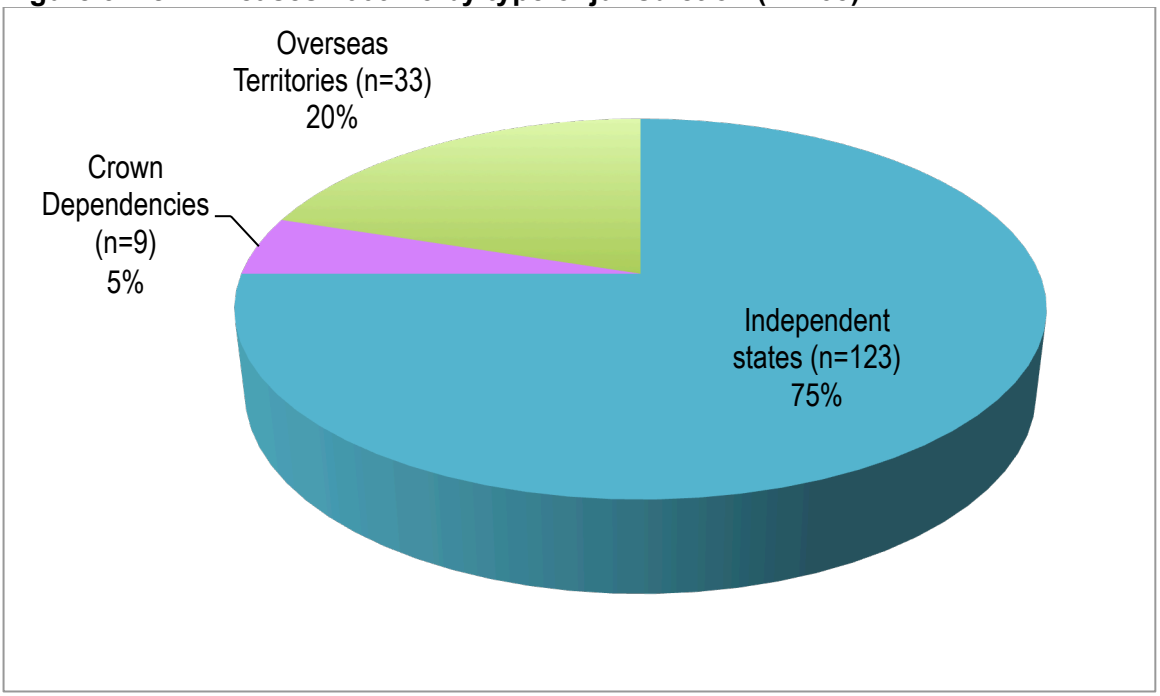
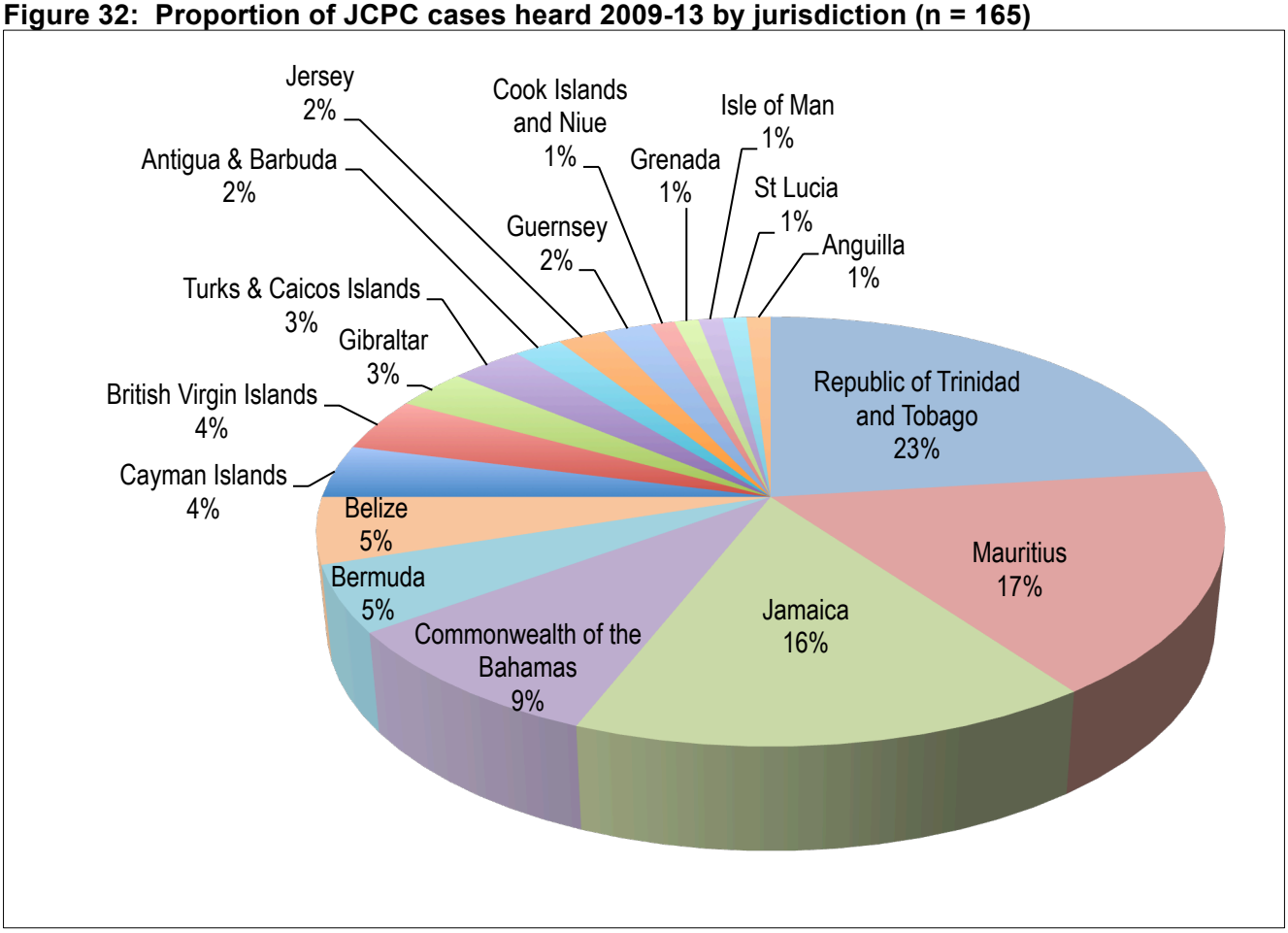


Figure 32: Proportion of JCPC cases heard 2009-13 by jurisdiction (n = 165)



As Table 4 shows, 106 of the 166 appeals (64%) to the JCPC in 2009-2013 came from three independent countries that could unilaterally opt out of the jurisdiction of the JCPC: Jamaica, Trinidad and Tobago, Mauritius and the Bahamas.

Table 4: JCPC cases heard per jurisdiction: 2009-13

Jurisdiction	Number of Cases (2009-13)	Total
Independent states		**123**
Antigua & Barbuda	4	
Commonwealth of the Bahamas	14	
*Belize	8	
*Cook Islands and Niue	2	
Grenada	2	
Jamaica	26	
Mauritius	28	
Republic of Trinidad and Tobago	38	
St Lucia	1	
Overseas Territories		**33**
Anguilla	1	
Bermuda	9	
British Virgin Islands	6	
Cayman Islands	7	
Gibraltar	5	
Turks & Caicos Islands	5	
Crown Dependencies		**9**
Guernsey	3	
Isle of Man	2	
Jersey	4	
Other		**1**
Royal College of Veterinary Surgeons	1	
TOTAL		**166**

*** Notes:** The last case from Belize was heard by the JCPC on 6 July 2011 (*The Belize Bank Limited v The Attorney General and Others)*. The Cook Islands and Niue are Associated States of New Zealand, and have the formal status of self-government in free association.

The Caricom member states, which can now choose to transfer jurisdiction for appeals from the JCPC to the Caribbean Court of Justice, have consistently made up almost half of all JCPC cases since 1996, contributing 47% of all JCPC appeals from 1996-99 and 46% of all appeals from 2009-2013.

Table 5: Appeals from Caricom states to the JCPC: 1996 - 2013

	1996-1999[17]	2009-2013
Antigua & Barbuda	5	4
Barbados *	8	0
Belize *	4	8
Grenada	3	2
Commonwealth of Dominica	0	0
Guyana*	0	0
Jamaica	29	26
St Christopher & St Kitts	0	0
St Lucia	2	1
St Vincent & the Grenadines	4	0
Republic of Trinidad & Tobago	35	38
Total Caricom appeals	**90**	**79**
Total JCPC appeals	***193***	***166***

* Barbados, Belize and Guyana have now withdrawn from the JCPC and have accepted the Caribbean Court of Justice's appellate jurisdiction.

2. Legal issues in JCPC Cases

Figure 33: Types of case appealed to JCPC 2009-13 (n = 165)

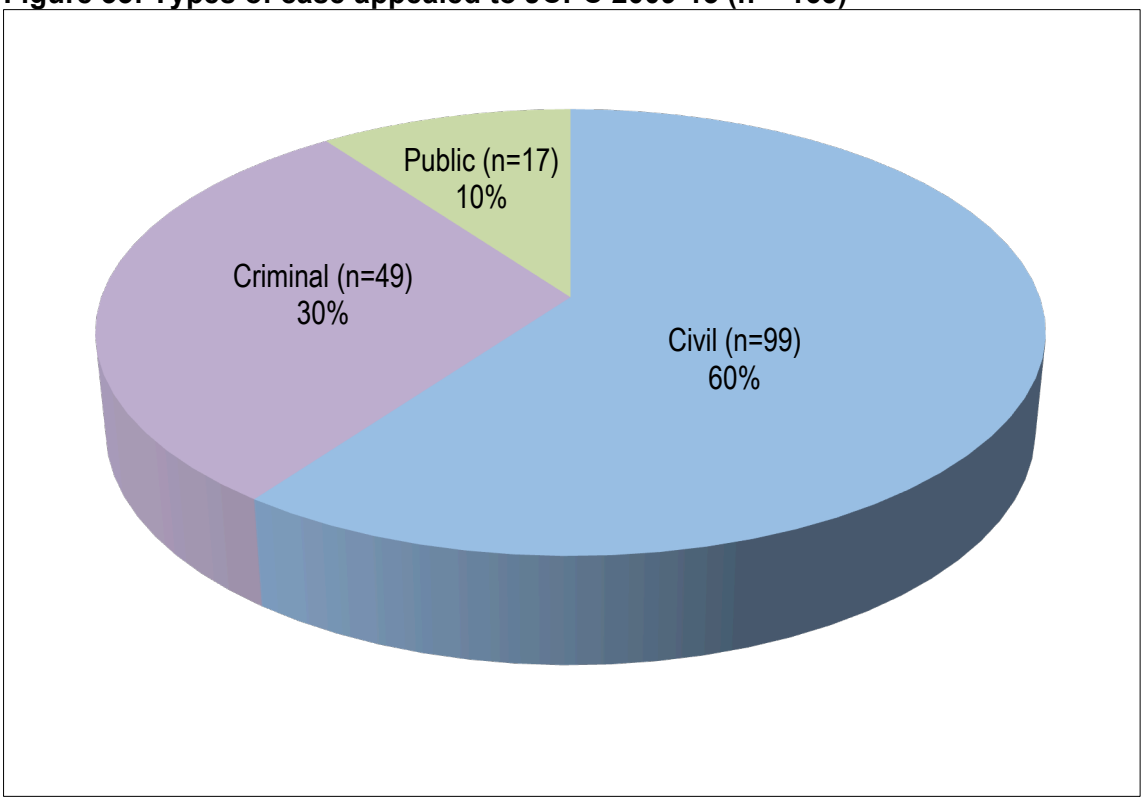


Figure 34: Type of case heard by JCPC by jurisdiction type 2009-13 (n=165)

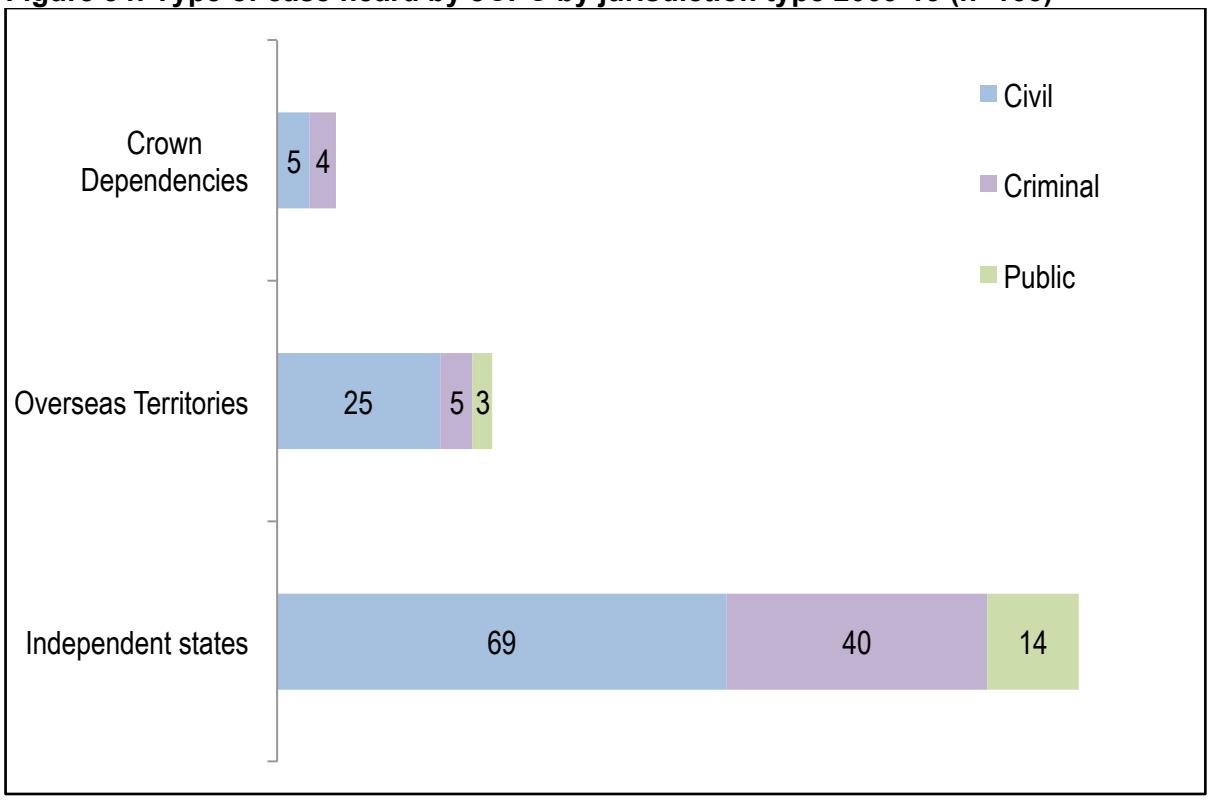
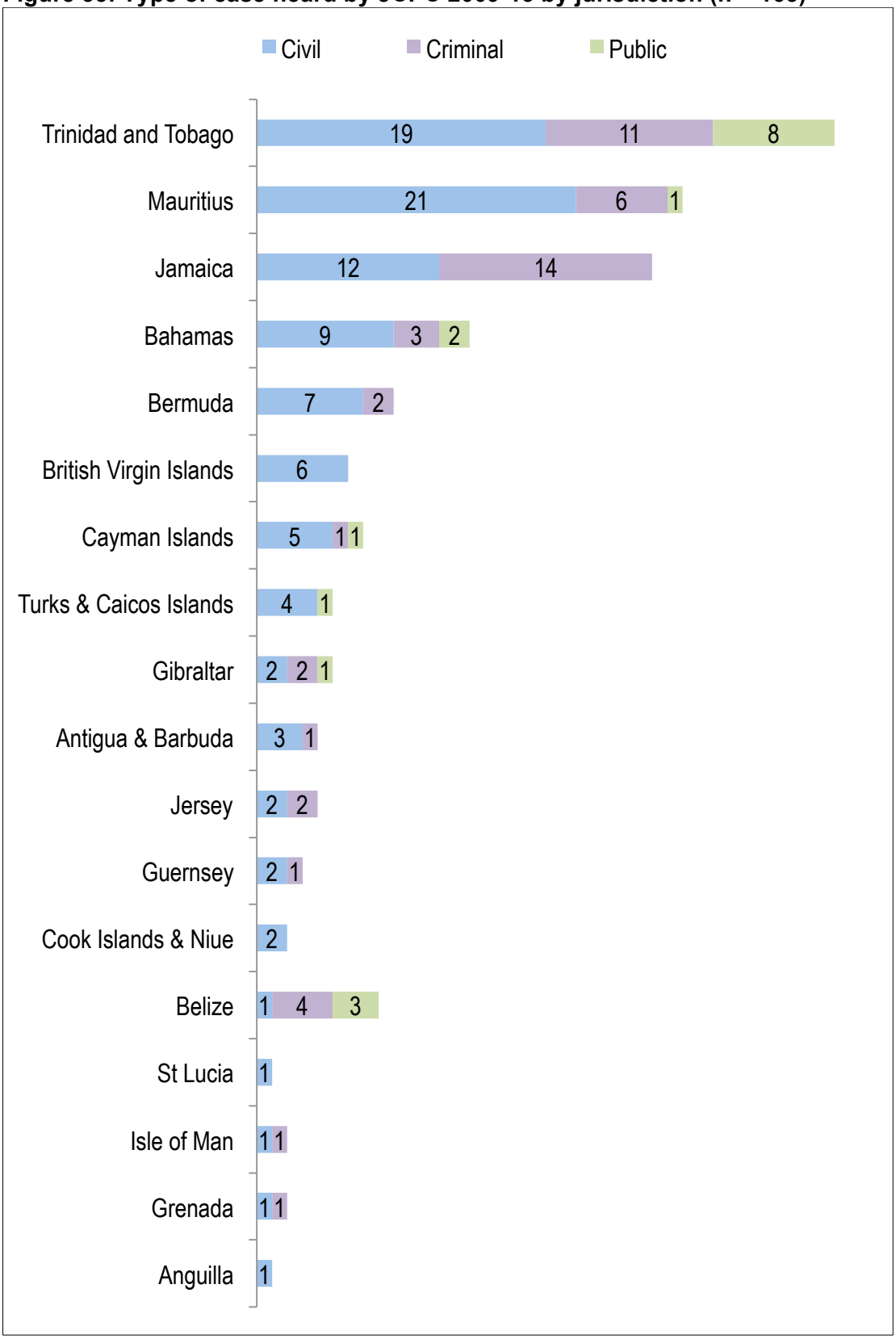


Figure 35: Type of case heard by JCPC 2009-13 by jurisdiction (n = 165)



3. Criminal Appeals to the JCPC

Figure 36: Underlying criminal offence in JCPC appeals 2009-13 (n=50)

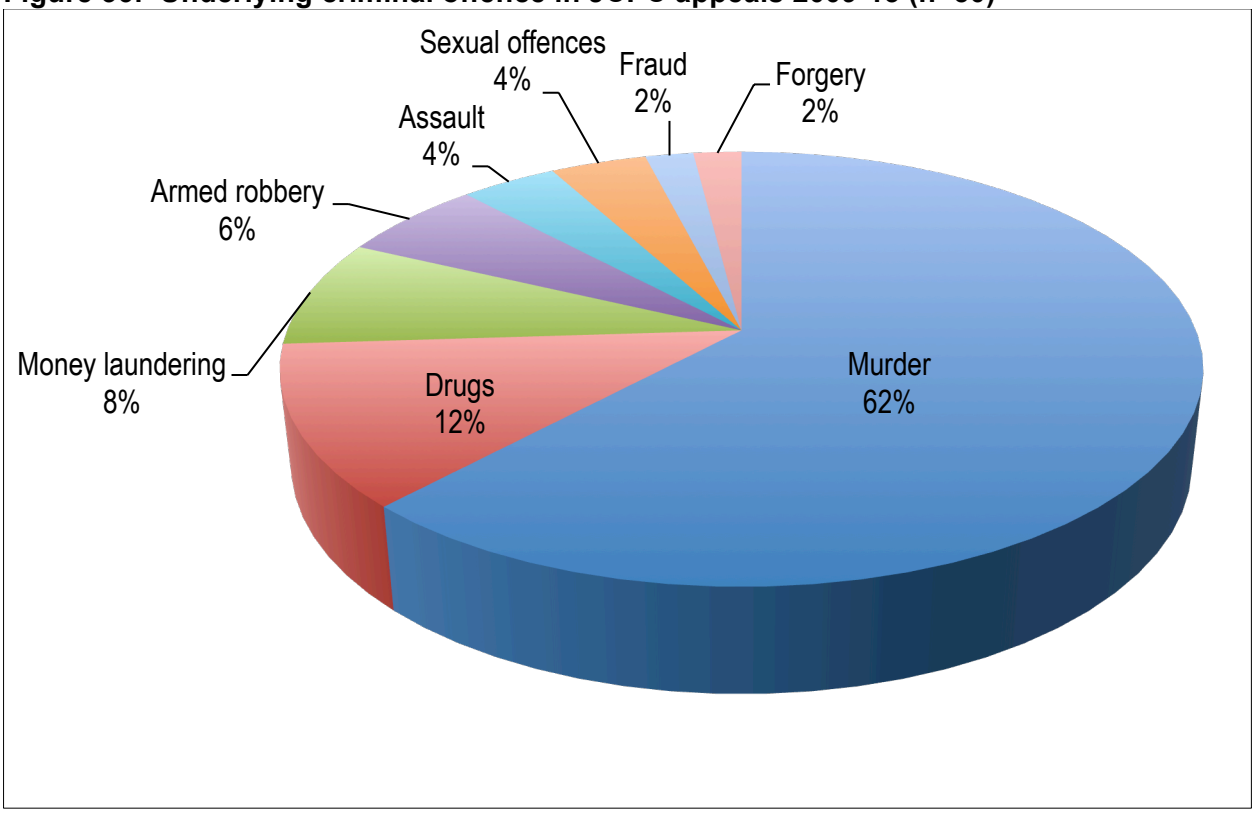
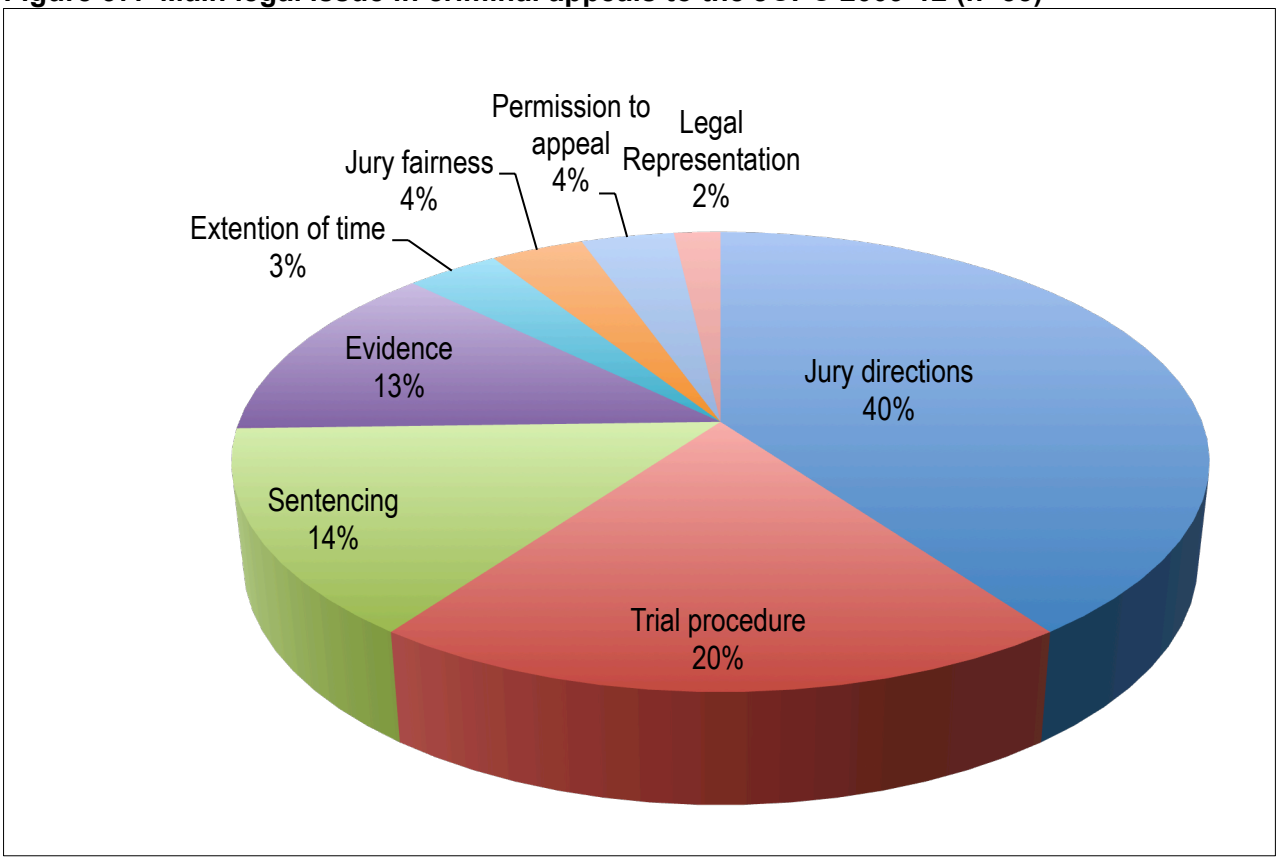


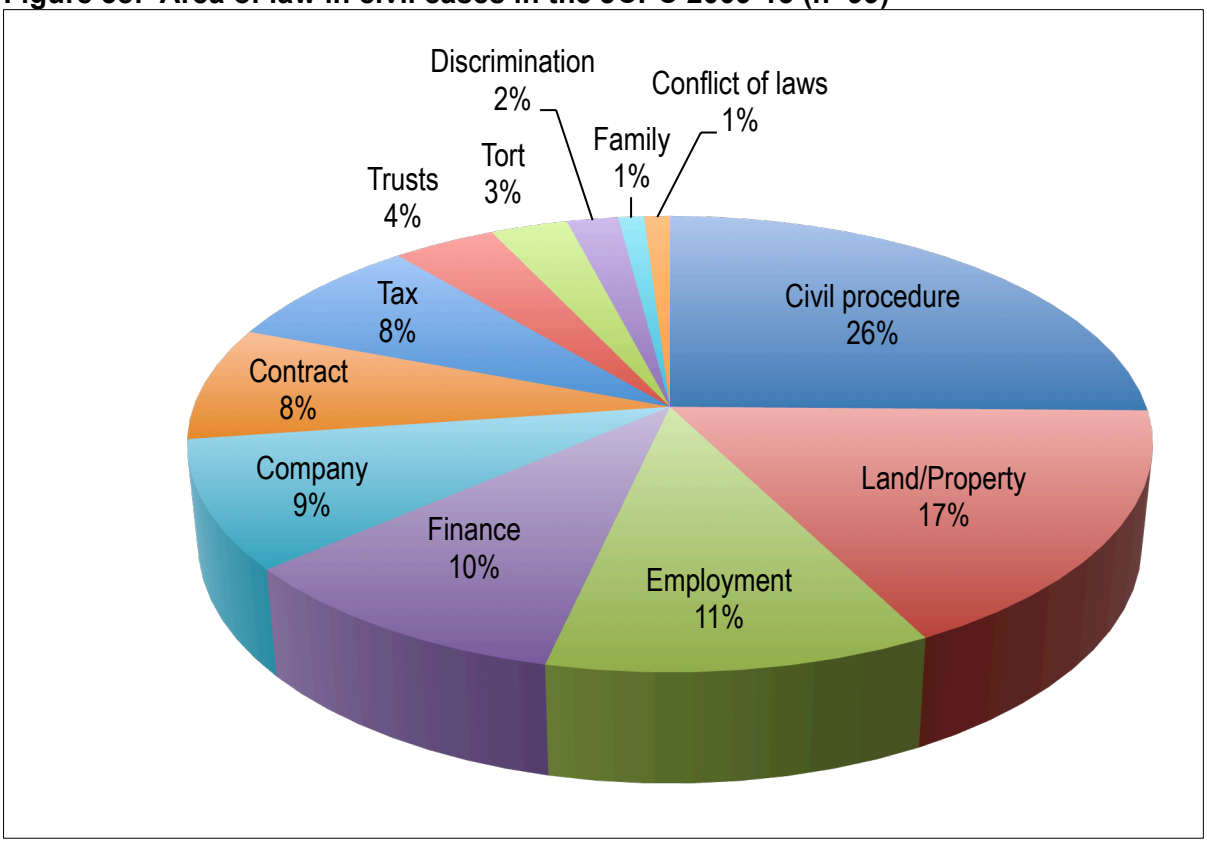
Figure 37: Main legal issue in criminal appeals to the JCPC 2009-12 (n=55)



Note: This is based on a total of 49 cases, with some cases raising multiple issues.

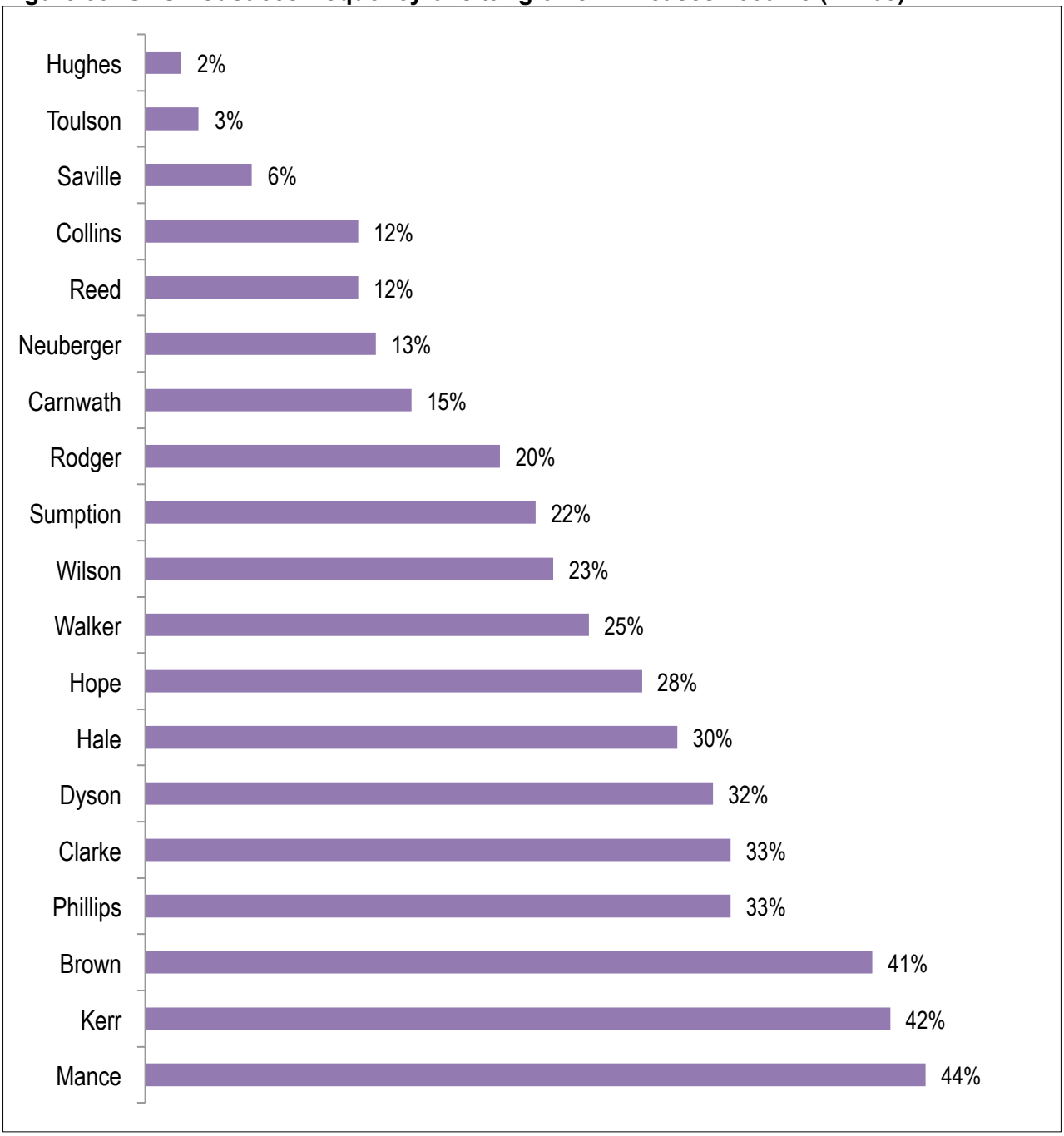
4. Civil appeals to the JCPC

Figure 38: Area of law in civil cases in the JCPC 2009-13 (n=99)



5. UKSC Justice involvement in JCPC appeals

Figure 39: UKSC Justices frequency of sitting on JCPC cases 2009-13 (n=165)



Note: Frequency of sitting will be affected by a Justice's length of tenure.

6. Length of cases

Figure 40: Length of hearings in JCPC 2009-13 (n=165)

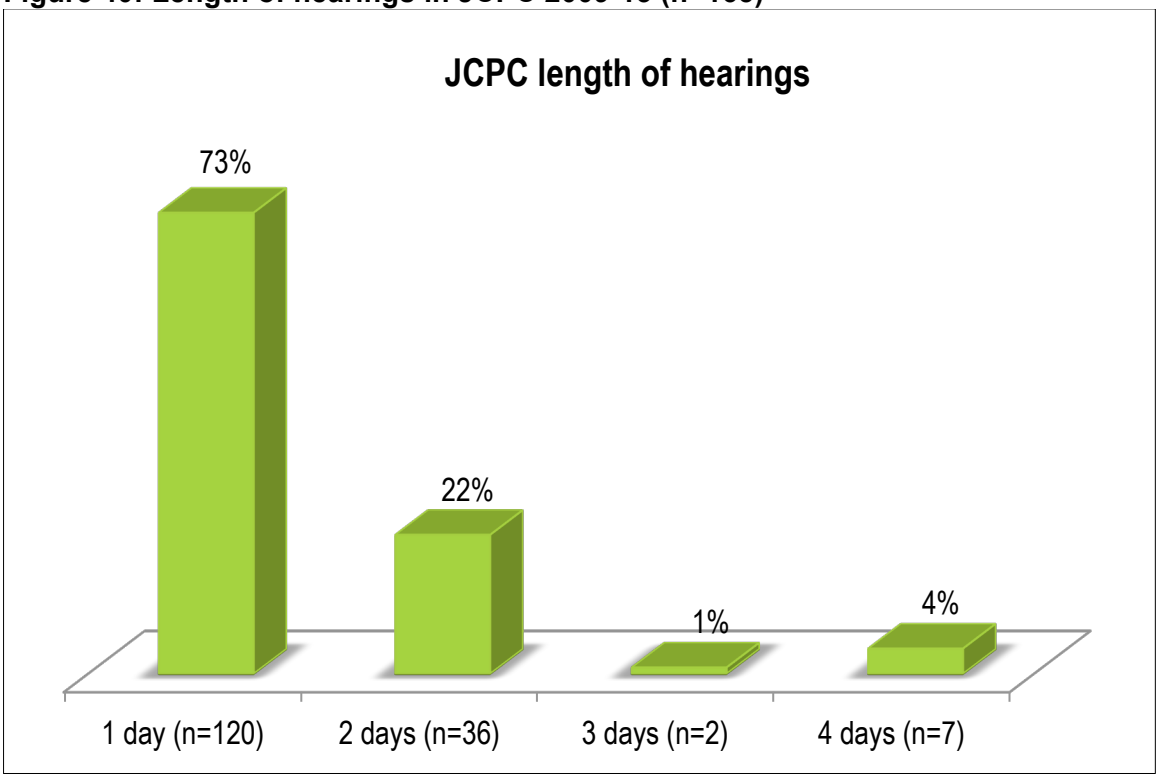
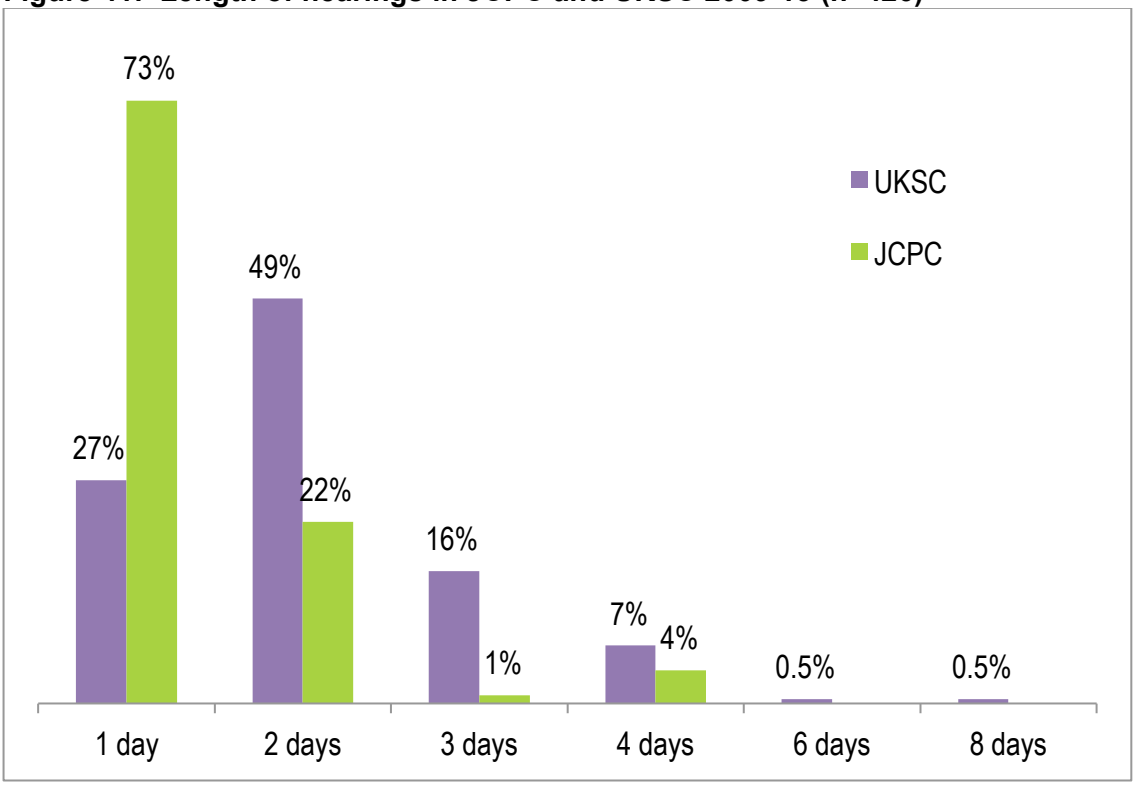


Figure 41: Length of hearings in JCPC and UKSC 2009-13 (n=426)



7. Judgments

Figure 42: Time from hearing to judgments in the JCPC (2009-13)

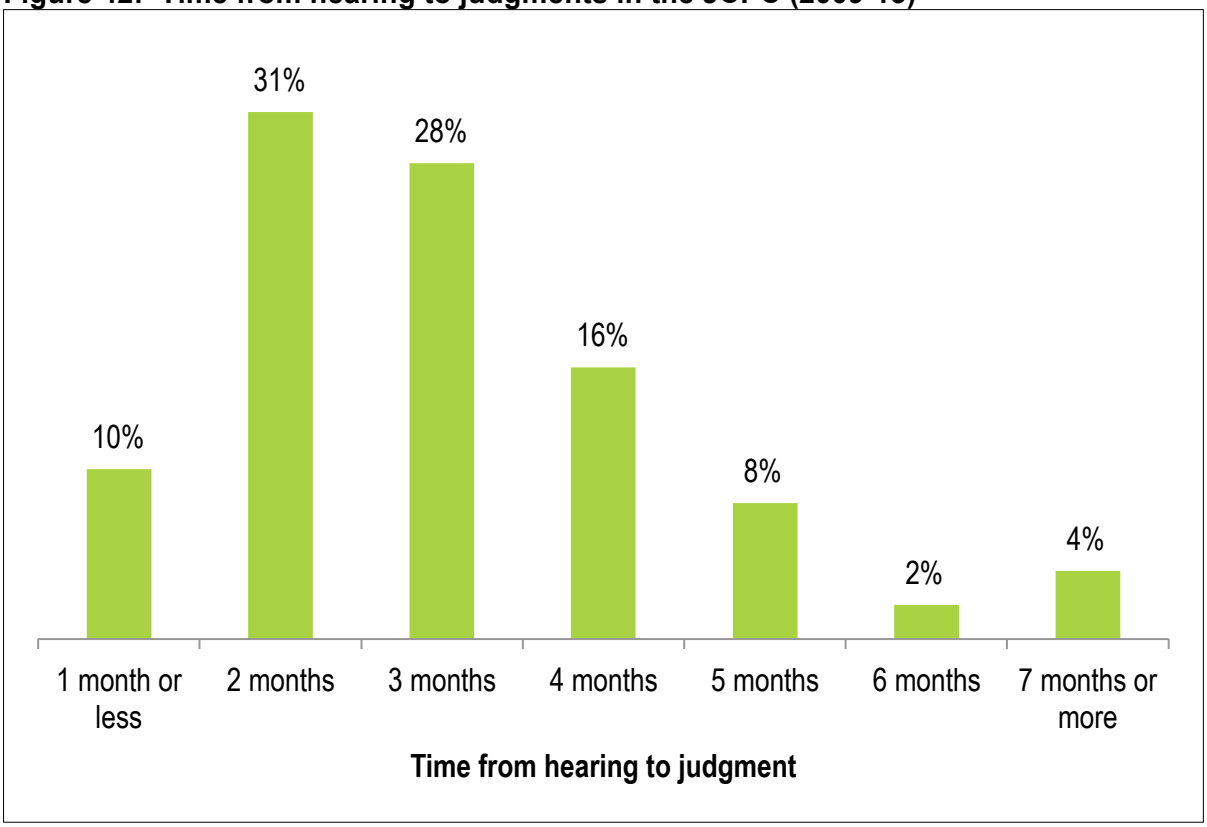


Figure 43: Time from hearing to judgment in JCPC and UKSC 2009-13 (n=426)

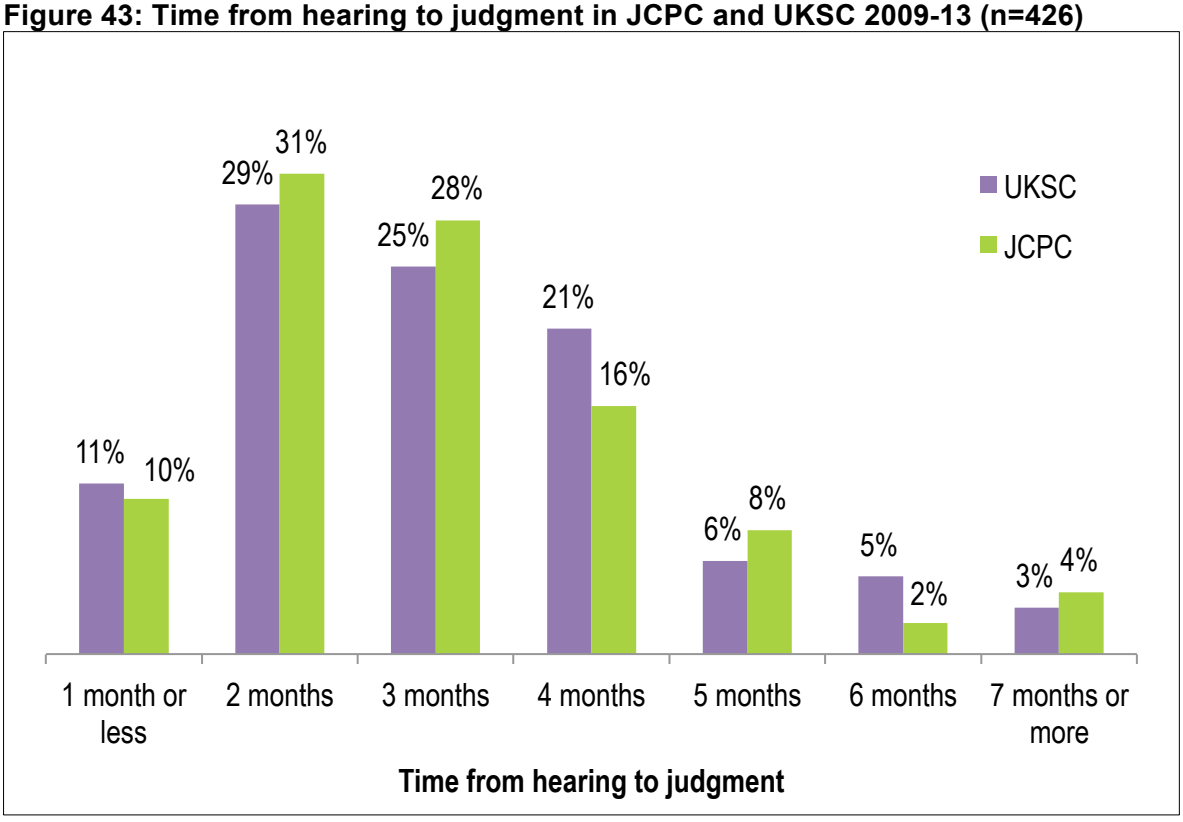
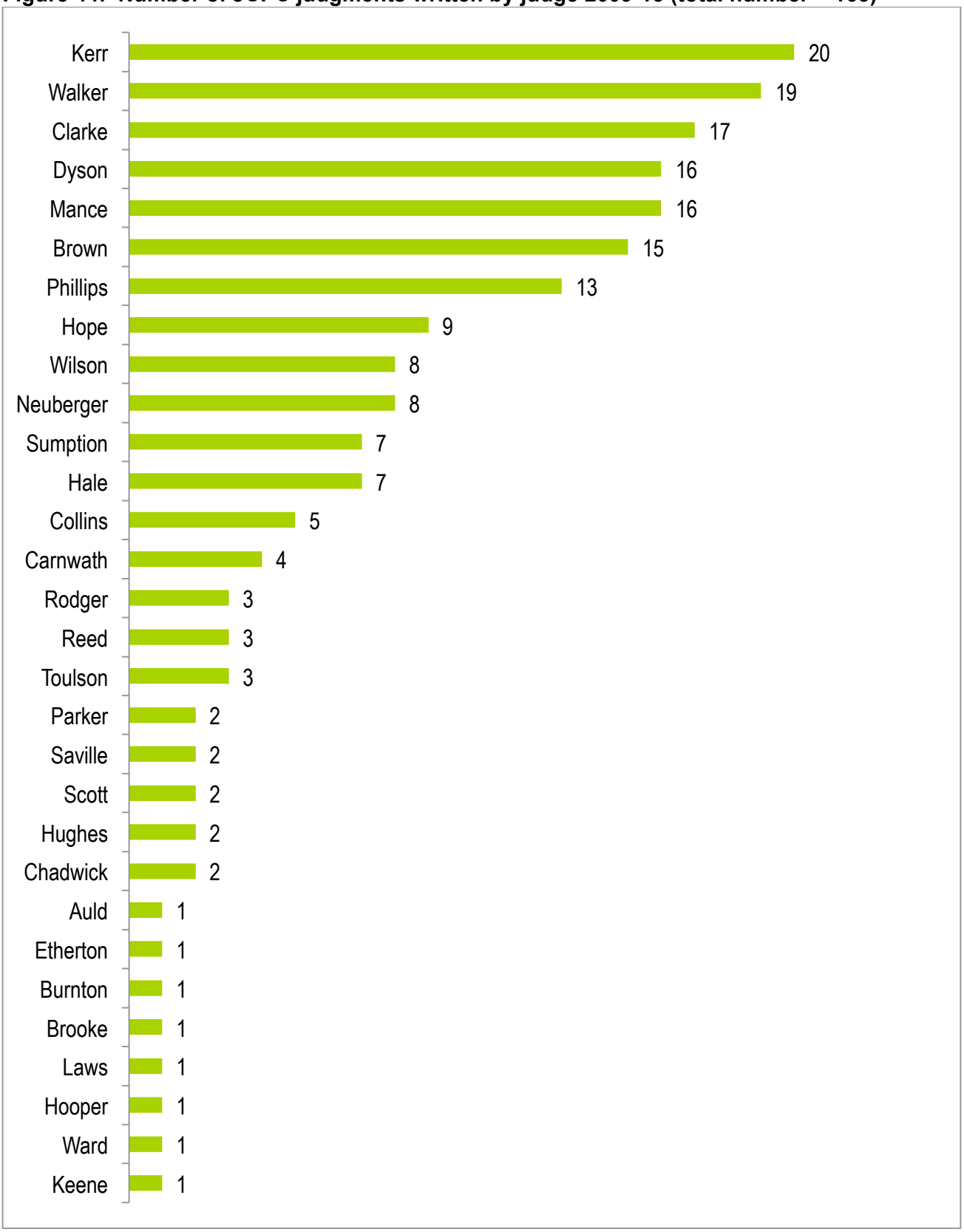


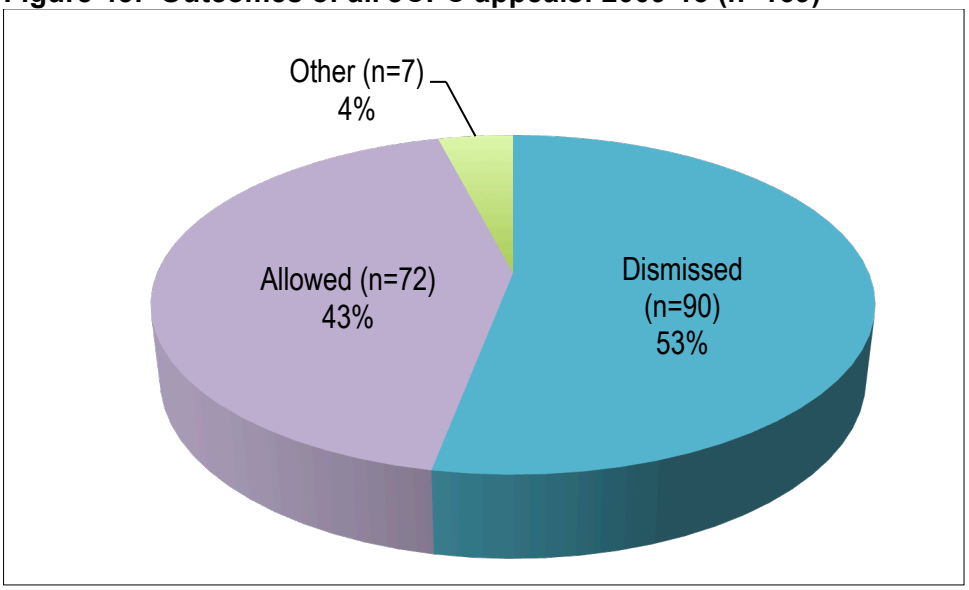
Figure 44: Number of JCPC judgments written by judge 2009-13 (total number = 165)



Note: The total number includes any jointly authored judgments. Frequency of judgment writing will be affected by length of tenure on the JCPC

8. Case outcomes

Figure 45: Outcomes of all JCPC appeals: 2009-13 (n=169)



Note: The number of total outcomes (169) reflects multiple decisions in some cases.

End Notes

[1] See The Supreme Court Database: http://scdb.wustl.edu. This Database, established in the 1980s by Harold J. Spaeth of Michigan State University and housed at Washington University in St. Louis, currently contains over two hundred pieces of information about each case decided by the US Supreme Court between the 1946 and 2012 terms. This large-scale, publicly accessible database project has been funded by the US National Science Foundation.

[2] See for instance the US Court of Appeal Database Project, housed at Western Michigan University http://www.wmich.edu/nsf-coa/; US Federal Judges Database housed at the University of South Carolina http://artsandsciences.sc.edu/poli/juri/attributes.htm; National High Courts Judicial Database housed at the University of South Carolina http://artsandsciences.sc.edu/poli/juri/highcts.htm ; International Courts Data housed at Georgetown University http://www9.georgetown.edu/faculty/ev42/ICdata.htm

[3] For a history of the foundations of judicial behavioural scholarship see N Maveety, *The Pioneers of Judicial Behavior* (University of Michigan Press, 2002).

[4] This includes 9 cases heard before October 2009 but delivered after the UK Supreme Court began sitting in October 2009.

[5] UCL Judicial Institute, *The UK Supreme Court: Taking Stock Two Years On*, 18 November 2011

[6] UCL Judicial Institute, *The Future of the Judicial Committee of the Privy Council*, 26 November 2012.

[7] Some data on dissents by UK Supreme Court Justices was published in the Chris Hanretty Blog on 28 August 2012: http://chrishanretty.co.uk/blog/index.php/2012/08/28/dissent-on-the-uksc-update/, and some additional quantitative data on the Court is presented in A. Paterson *The Final Judgment* (Hart, 2013)

[8] See Note of the UKSC/JCPC User Group Meeting, 20 January 2012: http://www.supremecourt.gov.uk/docs/uksc-user-group-120120.pdf

[9] See Supreme Court Permission to Appeal webpages at: http://www.supremecourt.gov.uk/news/permission-to-appeal.html

[10] Jurisdictions that could opt out of JCPC unilaterally are the Independent Republics of Dominica, Mauritius, Trinidad & Tobago and Kiribati (for cases involving constitutional rights only); the Commonwealth Realms of Antigua and Barbuda, the Bahamas, Grenada, Jamaica, St Kitts & Nevis, St Lucia, St Vincent and the Grenadines, and Tuvalu; the New Zealand states of the Cook Islands and Niue, and Brunei. Jurisdictions that cannot opt out of the JCPC unilaterally are the Crown Dependencies of Jersey, Guernsey and the Isle of Man; and the UK Overseas Territories of Anguila, Bermuda, BAT, BIOT, Cayman Islands, Falkland Island, Gibraltar, Monserrat, Pitcairn Islands, St Helena, South Georgia, SBAs, Turks and Caicos islands and the British Virgin Islands.

[11] See G. McBain, "Modernising the English Court System – Time for a Gastric Band", Journal of Politics and Law, Vol.6, No.3 (2013).

[12] See for instance, O. Bowcott and M. Wolfe-Robinson, "West Indian death row prisoners to be defended by British lawyers: Privy Council will rule on condemned islanders, but Caribbean countries are pressing to limit the UK's judicial role" *The Guardian*, 12 June 2011.

[13] See for instance, Judge Patrick Robinson, *The Monarchy, Republicanism and the Privy Council: The Enduring Cry for Freedom*, Speech to the University of London, 19 June 2012.

[14] See for instance M. Peel and J. Croft, "Privy Council hampers Supreme Court" *Financial Times*, 20 September 2010; Lord Neuberger, "The Judicial Committee of the Privy Council in the 21st Century" Annual Caroline Weatherill Memorial Lecture, Isle of Man (11 October 2013): http://www.supremecourt.gov.uk/docs/speech-131011.pdf

[15] See O. Bowcott and M. Wolfe-Robinson, "Honduras may appeal to London courts" *The Guardian*, 22 July 2012.

[16] In the case of Brunei, the Board of the JCPC reports its opinion directly to the Sultan.

[17] Data from A. Le Sueur, *What is the future for the Judicial Committee of the Privy Council?* (May 2001) available on the UCL Constitution Unit website: http://www.ucl.ac.uk/spp/publications/unit-publications/72.pdf