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**Unfitness to Plead: Appendix A**  
**Unfitness to Plead – Data on Formal Findings from 2002  
to 2014**

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## **Unfitness to Plead – Data on Formal Findings from 2002 to 2014**

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### Introduction

In October 2010 the Law Commission published its Consultation Paper (CP) on Unfitness to Plead. Included within it was my empirical study entitled “Unfitness to Plead – Data on Formal Findings from 2002 to 2008”.<sup>1</sup> The conclusion to that study confirmed that the number of findings of unfitness to plead (UTP) had continued to rise from a maximum of 80 findings in 1999 to a peak of 118 findings in 2005. Although hospital disposals continued to predominate (65.2%), with 36.2 per cent being imposed with restrictions, the percentage of restriction orders had fallen from 38.9 per cent. In addition, although the percentage of supervision (and treatment) orders had fallen from 17.9 per cent to 15.7 per cent there had been a marked increase in the use of absolute discharges from 3.6 per cent to 6.3 per cent. Overall, however, the percentage of non-hospital disposals had fallen from 27.6 per cent to 25.6 per cent.

The study which follows is an update of the Law Commission CP study and includes an additional six years from 2009 to 2014. This updated study therefore covers the thirteen year period 2002 to 2014. Once again, however, the limitations to this current study need to be emphasised for just as in my Law Commission CP study - unlike my three earlier empirical studies of UTP<sup>2</sup> - on this occasion access to court files, and in particular relevant psychiatric

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<sup>1</sup> Law Commission, Unfitness to Plead, Consultation Paper No 197 at Appendix C.

<sup>2</sup> See RD Mackay ‘The Decline of Disability in Relation to the Trial’ [1991] Criminal Law Review 87; RD Mackay and Gerry Kearns ‘An Upturn in Unfitness to Plead - More Disability in Relation to the Trial under the 1991 Act’ [2000] Criminal Law Review 532; RD Mackay, Barry Mitchell and Leonie Howe ‘A continued upturn in unfitness to plead - More disability in relation to the trial under the 1991 Act’ [2007] Criminal Law Review 530.

reports, was unavailable. Despite this, however, it is hoped that the following research will give an up to date picture relating to unfitness to plead findings in England and Wales. In addition, although the Statistics on Restricted Patients continue to give the number of unfitness to plead cases annually in relation to such patients,<sup>3</sup> no official statistics are published on the use of unfitness to plead where other disposals are given. A final caveat, therefore, relates to the consistency of the data which were collected for this study using two statistical returns from the Ministry of Justice. Inevitably, although some disparity has been found in relation to these two sources as complete a picture as seems possible of UTP findings has emerged for the purpose of this research for which grateful thanks is acknowledged to the agencies and personnel involved for all the assistance given.

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<sup>3</sup> See Restricted Patients 2014, Ministry of Justice Statistics Bulletin, 29 April 2015 Table 7 of which gives the figures for the years 2003 to 2014 and Ministry of Justice Offender Management Caseload Statistics 2012 at Table 6.5 for the figure for the year 2002. It should also be noted that the Ministry of Justice figures are based on the date of the hospital warrant rather than the date of the finding. This may have led to some inconsistency in relation to the actual number of annual findings. Thus the total number of UTP findings which resulted in hospital orders with restrictions recorded by the Ministry of Justice for the thirteen year period 2002 to 2014 is 465 while the number contained in this study for the same period is 417. It is likely that an additional explanation for this inconsistency results from the fact that some UTP findings which resulted in restriction orders may have been mistakenly entered on the MOJ database used in this study as ordinary (unrestricted) hospital orders.

**Table 1- Findings of UTP by 5 Year Periods from 1987-2011**

<u>1a 1964 Act</u> <u>Final 5 years</u>		<u>1b1991 Act</u> <u>1<sup>st</sup> 5 years</u>		<u>1c 1991 Act</u> <u>2<sup>nd</sup> 5 years</u>		<u>1d 1991 Act</u> <u>3<sup>rd</sup> 5 Years</u>		<u>1e 1991Act</u> <u>4<sup>th</sup> 5 years</u>	
Year	Number	Year	Number	Year	Number	Year	Number	Year	Number
1987	16	1992	11	1997	50	2002	115	2007	100
1988	13	1993	13	1998	53	2003	92	2008	114
1989	11	1994	31	1999	80	2004	85	2009	82
1990	13	1995	35	2000	70	2005	118	2010	91
1991	10	1996	33	2001	76	2006	109	2011	101
<b>Total</b>	<b>63</b>	<b>Total</b>	<b>123</b>	<b>Total</b>	<b>329</b>	<b>Total</b>	<b>519</b>	<b>Total</b>	<b>488</b>

## The research findings

### The Number of UTP findings

Table 1 above gives the annual number of findings of UTP for the final 5 years of the operation of the original Criminal Procedure (Insanity) Act 1964, the first 5 years, the second 5 years and the third and fourth 5 years of the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 which introduced both flexibility of disposal and the “trial of the facts”. Until the third five year period of the 1991 Act the picture was of a continuing but steady rise in the number of UTP findings. However, in the fourth 5 year period there has been a decline. Thus, in the fourth 5 years there was an annual average of 97.6 UTP findings compared with an average of 103.8 in the third five year period while in the second 5 years there was an annual average of 65.8 UTP findings and 24.6 findings in first five year period.

This compares to an average of 12.6 from 1987-91 (although in the previous 11 years from 1976-1986 the average was 19.8) with an overall total of 1,459 UTP findings for the first twenty years of the 1991 Act, giving an annual average of 73 findings.

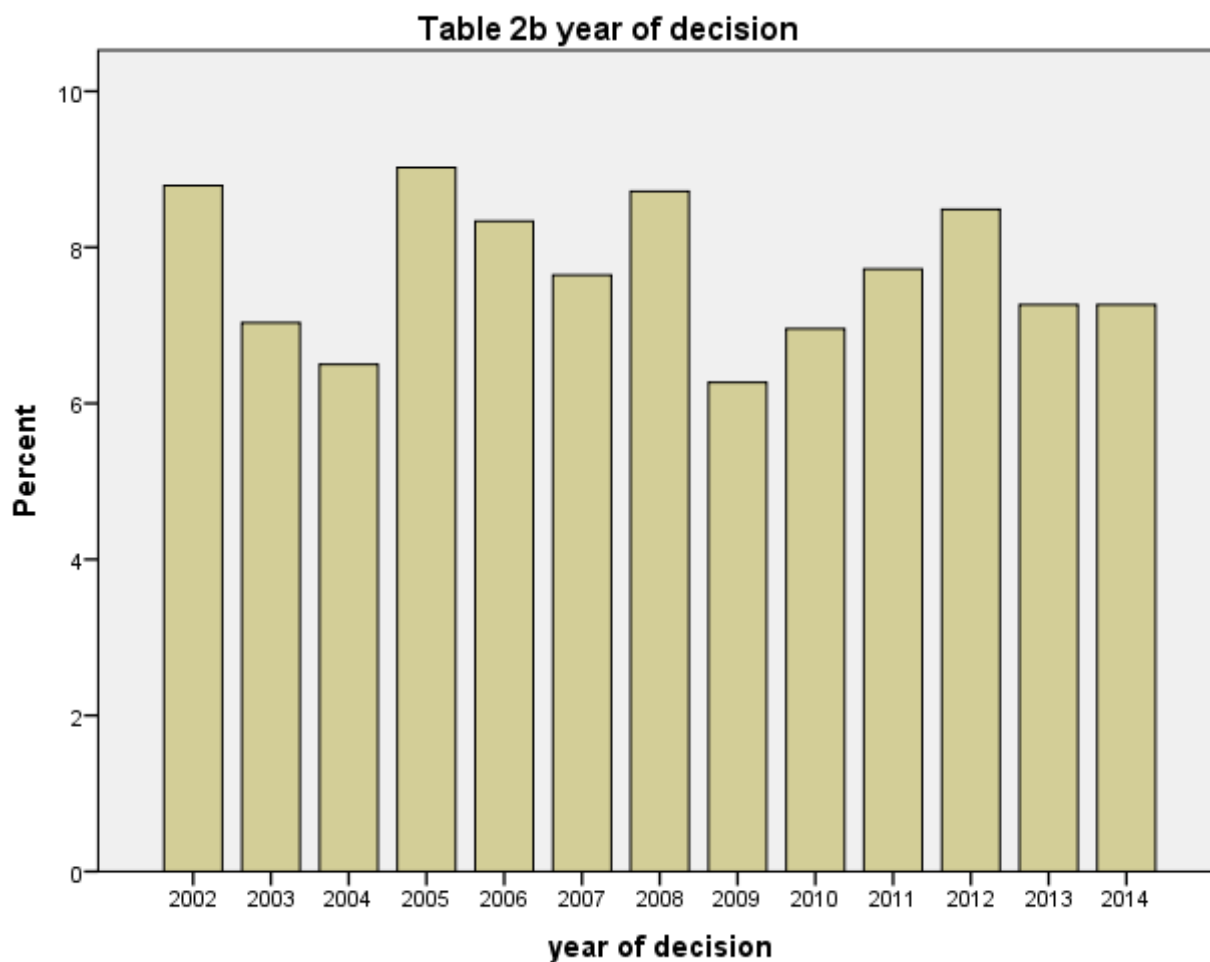
Table 2a below gives the annual number of findings of UTP for the research period for this study, namely the thirteen years from 2002 to 2014.<sup>4</sup> The total of UTP findings during this period was 1,308 giving an annual average of 100.6. Table 2b shows the annual percentage of UTP findings.

**Table 2a- Findings of UTP 2002-2014**

	Frequency	Percent	Cumulative Percent
2002	115	8.8	8.8
2003	92	7.0	15.8
2004	85	6.5	22.3
2005	118	9.0	31.3
2006	109	8.3	39.7
2007	100	7.6	47.3
2008	114	8.7	56.0
2009	82	6.3	62.3
2010	91	7.0	69.3
2011	101	7.7	77.0
2012	111	8.5	85.5
2013	95	7.3	92.7
2014	95	7.3	100.0
Total	1308	100.0	

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<sup>4</sup> All subsequent tables relate to the period of the research study, namely 2002 to 2014.



### **Some demographic data**

As far as sex and age distribution are concerned, Table 3a shows that the vast majority of those found UTP continue to be males at 89.7 per cent (n=1,173), compared to 10.3 per cent for females (n=135).

Table 3b gives the age ranges as a percentage. The mean age at the time of the offence was 36.2

(range 12 to 89), with males having a mean age of 36.1, whilst females had a higher mean age of 36.8.

The most prevalent age range for both males and females is 20-29 (n=404, 30.9%) with the vast

majority of those found UTP falling within the age ranges of 20-29 or 30-39 (n=708, 54.1%). Data for

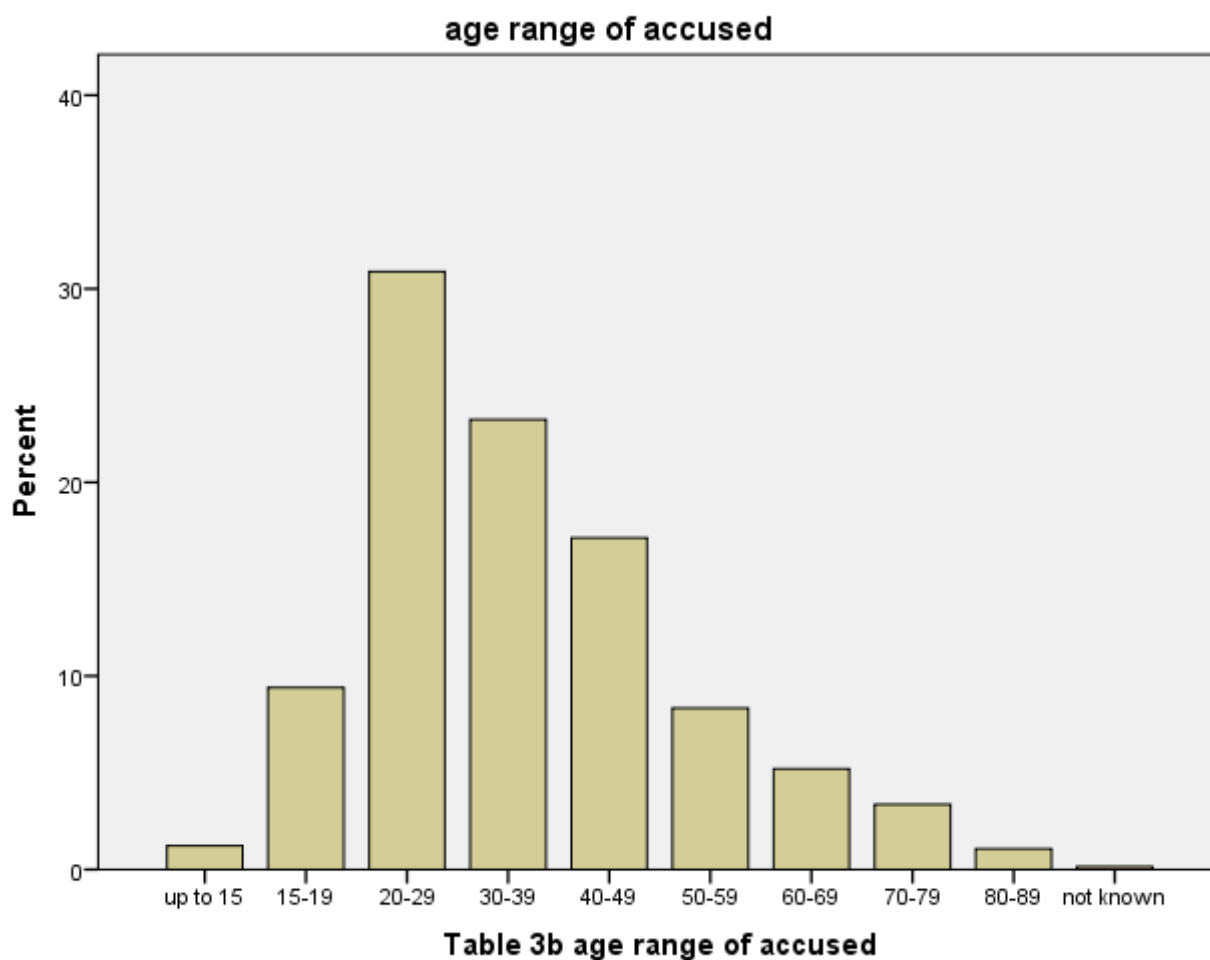
ethnicity was too limited to be reliable as in the majority of cases it was either unavailable or not recorded. Neither was any information available on criminal records, psychiatric history or psychiatric diagnoses.<sup>5</sup>

**Table 3a Sex/age distribution**

		sex of accused		Total
		male	female	
age range of accused	up to 15	15	1	16
	15-19	114	9	123
	20-29	367	37	404
	30-39	274	30	304
	40-49	183	41	224
	50-59	100	9	109
	60-69	61	7	68
	70-79	43	1	44
	80-89	14	0	14
	not known	2	0	2
Total		1173	135	1308

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<sup>5</sup> For data relating to these issues see my earlier studies referred to above at note 2.



### The courts involved in UTP proceedings

Table 4 below gives a breakdown of the Crown courts which were involved in the UTP proceedings.

It can be seen from this that there was a wide geographical distribution with Snaresbrook being the most frequent venue with 81 cases (6.2%), followed by Birmingham with 78 cases (6.0%).

**Table 4 Crown court**

	Frequency	Percent	Cumulative Percent
Not known	109	8.3	8.3
Aylesbury	10	.8	9.1



Barnstaple	1	.1	9.2
Basildon	19	1.5	10.6
Birmingham	78	6.0	16.6
Blackfriars	26	2.0	18.6
Blackfriars	1	.1	18.7
Bolton	19	1.5	20.1
Bournemouth	3	.2	20.3
Bradford	27	2.1	22.4
Bristol	13	1.0	23.4
Burnley	8	.6	24.0
Cambridge	5	.4	24.4
Canterbury	15	1.1	25.5
Cardiff	25	1.9	27.4
Carlisle	3	.2	27.7
CCC	30	2.3	30.0
Chelmsford	11	.8	30.8
Chester	7	.5	31.3
Chichester	1	.1	31.4
Coventry	4	.3	31.7
Croydon	27	2.1	33.8
Derby	11	.8	34.6
Doncaster	5	.4	35.0
Durham	6	.5	35.5
Exeter	8	.6	36.1
Gloucester	13	1.0	37.1
Great Grimsby	2	.2	37.2
Grimsby	1	.1	37.3
Guildford	2	.2	37.5
Guilford	6	.5	37.9
Harrow	21	1.6	39.5
Haverford West	1	.1	39.6
Hull	9	.7	40.3
Inner London	28	2.1	42.4
Ipswich	5	.4	42.8
Isleworth	29	2.2	45.0
Kingston	36	2.8	47.8
Knutsford	3	.2	48.0

Lancaster	2	.2	48.2
Leeds	37	2.8	51.0
Leicester	19	1.5	52.4
Lewes	23	1.8	54.2
Lincoln	18	1.4	55.6
Liverpool	18	1.4	57.0
Luton	10	.8	57.7
Maidstone	13	1.0	58.7
Manchester	46	3.5	62.2
Merthyr Tydfil	9	.7	62.9
Middlesex	10	.8	63.7
Newcastle	22	1.7	65.4
Newport	2	.2	65.5
Newport (IOW)	1	.1	65.6
Northampton	11	.8	66.4
Norwich	8	.6	67.0
Nottingham	39	3.0	70.0
Oxford	14	1.1	71.1
Peterborough	1	.1	71.2
Plymouth	3	.2	71.4
Portsmouth	8	.6	72.0
Preston	13	1.0	73.0
Reading	23	1.8	74.8
Sheffield	28	2.1	76.9
Shrewsbury	5	.4	77.3
Snaresbrook	81	6.2	83.5
Southampton	4	.3	83.8
Southend	1	.1	83.9
Southwark	14	1.1	84.9
St Albans	15	1.1	86.1
Stafford	8	.6	86.7
Stoke	1	.1	86.8
Stoke on Trent	5	.4	87.2
Swansea	13	1.0	88.1
Swindon	15	1.1	89.3
Taunton	3	.2	89.5
Teesside	1	.1	89.6

Teesside	17	1.3	90.9
Truro	3	.2	91.1
Warrington	3	.2	91.4
Warwick	11	.8	92.2
Weymouth	2	.2	92.4
Winchester	8	.6	93.0
Wolverhampton	36	2.8	95.7
Wood Green	18	1.4	97.1
Woolwich	13	1.0	98.1
Worcester	11	.8	98.9
York	14	1.1	100.0
Total	1308	100.0	

### The offences charged

Table 5 gives the main offence charged which in each case led to a finding of UTP. It can be seen from this that although there was a wide spread of offences, the most prevalent continues to be indecent/sexual assault (n=247, 18.9%), followed by grievous bodily harm (GBH, n=149, 11.4%), and actual bodily harm (ABH, n=143, 10.9%). Table 6 gives a breakdown of the broad types of offence.

**Table 5 main offence charged**

	Frequency	Percent	Cumulative Percent
murder	55	4.2	4.2
attempted murder	28	2.1	6.3
manslaughter	10	.8	7.1
GBH	149	11.4	18.5
ABH	143	10.9	29.4
arson	115	8.8	38.2
criminal damage	16	1.2	39.4
robbery	89	6.8	46.3
burglary	53	4.1	50.3
rape	63	4.8	55.1
indecent/sexual assault	247	18.9	74.0

threats to kill	23	1.8	75.8
kidnap/child abduction	13	1.0	76.8
(death by)dangerous driving	17	1.3	78.1
possession/ importation/supply of drugs	17	1.3	79.4
threatening words/behaviour	5	.4	79.7
possession of firearm with intent	17	1.3	81.0
make explosive substance with intent	1	.1	81.1
breach restraining order	11	.8	82.0
affray	40	3.1	85.0
false imprisonment	6	.5	85.5
having article with blade	33	2.5	88.0
theft	22	1.7	89.7
obstruct engine on railway	1	.1	89.8
immigration offence	6	.5	90.2
racially aggravated assault	9	.7	90.9
bomb hoax	4	.3	91.2
Possess weapons designed for discharge of noxious liquid etc.	2	.2	91.4
child cruelty	3	.2	91.6
pervert course of justice	6	.5	92.0
make indecent photos of child	13	1.0	93.0
possession offensive weapon	7	.5	93.6
putting people in fear of violence	14	1.1	94.6
false accounting	4	.3	95.0
Cause/incite child prostitution	1	.1	95.0
obtain property/money transfer by deception	7	.5	95.6
forgery	2	.2	95.7
indecent exposure	14	1.1	96.8
conspiracy to cheat public revenue	2	.2	96.9

blackmail	1	.1	97.0
Disqualified person managing company	1	.1	97.1
breach ASBO	3	.2	97.3
breach sex offence prevention order	2	.2	97.5
trespass w/i to commit sex offence	1	.1	97.6
harassment	2	.2	97.7
handling stolen goods	4	.3	98.0
possession false documents	4	.3	98.3
not known	2	.2	98.5
Conspiracy to defraud	2	.2	98.6
voyeurism	2	.2	98.8
act outraging public decency	2	.2	98.9
fraud	7	.5	99.5
money laundering	3	.2	99.7
cheat the public revenue	1	.1	99.8
kidnap w/i to commit sex offence	1	.1	99.8
dangerous dog offence	1	.1	99.9
stalking	1	.1	100.0
Total	1308	100.0	

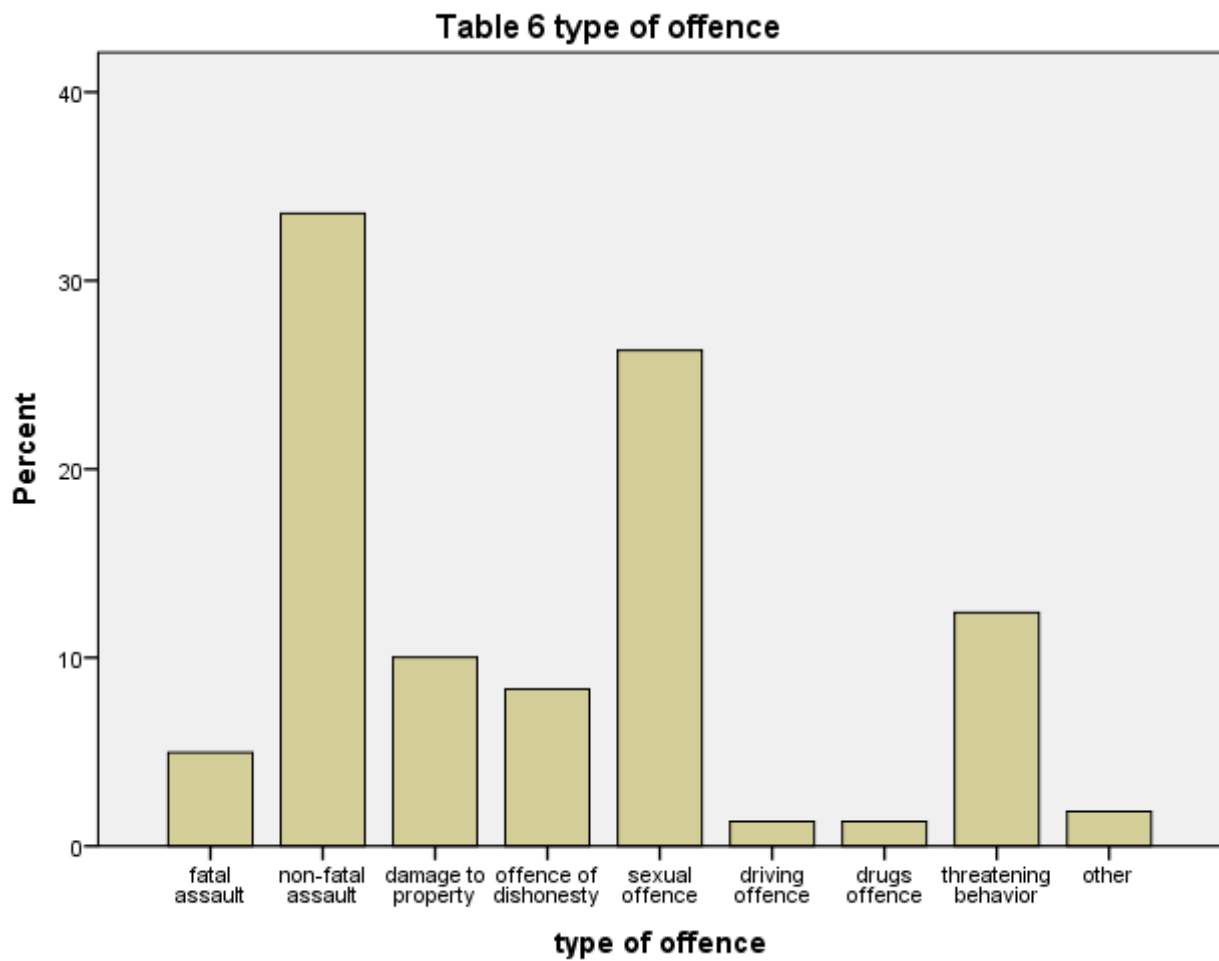


Table 7 gives a breakdown of the main offence charged cross tabulated with the broad types of offences involved. As in previous studies, offences against the person (including robbery, kidnap/child abduction, false imprisonment and child cruelty) remain the most common type of offence with a total of 440 (33.6%), (n=503, 38.5% including rape), non-fatal and 65 (5.0%) fatal offences followed by sexual offences (n=344, 26.3%).







Disqualified person managing company	0	0	0	1	0	0	0	0	0	1
breach ASBO	0	0	0	0	0	0	0	0	3	3
breach sex offence prevention order	0	0	0	0	2	0	0	0	0	2
trespass w/i to commit sex offence	0	0	0	0	1	0	0	0	0	1
harassment	0	0	0	0	0	0	0	2	0	2
handling stolen goods	0	0	0	4	0	0	0	0	0	4
possession false documents	0	0	0	0	0	0	0	0	4	4
not known	0	0	0	0	0	0	0	0	2	2
Conspiracy to defraud	0	0	0	2	0	0	0	0	0	2
voyeurism	0	0	0	0	2	0	0	0	0	2
act outraging public decency	0	0	0	0	0	0	0	0	2	2
fraud	0	0	0	7	0	0	0	0	0	7
money laundering	0	0	0	3	0	0	0	0	0	3
cheat the public revenue	0	0	0	1	0	0	0	0	0	1
kidnap w/i to commit sex offence	0	0	0	0	1	0	0	0	0	1
dangerous dog offence	0	0	0	0	0	0	0	0	1	1
stalking	0	0	0	0	0	0	0	1	0	1
<b>Total</b>	<b>65</b>	<b>440</b>	<b>131</b>	<b>108</b>	<b>344</b>	<b>17</b>	<b>17</b>	<b>162</b>	<b>24</b>	<b>1308</b>

## **The 'Trial of the Facts'**

The 'trial of the facts' (TOF) follows the trial of the issue of UTP and is mandatory once the accused has been found UTP in relation to the offence(s) charged. The result of the TOF is given below in Table 8a, although in 290 (22.2%) cases the result is coded as 'uncertain' as there was no information on this issue. As in my earlier study of UTP cases from 1997-2001, there were some cases where no TOF took place. The reasons were as follows. In 17 cases the prosecution offered no evidence. In 13 cases the judge ordered the indictment to remain on file or stayed the proceedings (no further details are available as to why this was done). In one case a nolle prosequi was issued, in two cases the accused was certified insane prior to arraignment, and in a single case the indictment was quashed. In total, therefore, there were 34 cases where no TOF took place. In the vast majority of cases where some information about the TOF was available the accused was found to have done the act on all the charges (n=899, 68.7%). In only 32 cases was it clear that the accused had done the act on one or more offence but had been acquitted on other(s). In 34 cases (2.6%) the accused was acquitted of all offences. Table 8b below gives the main offence charged cross-tabulated with the TOF result. It can be seen from this that 12 of the 34 acquittals were in respect of indecent/sexual assault, which as mentioned above continues to be the most prevalent single offence. It is also of note, however, that there are five acquittals for burglary, two for murder and two for rape. There are also single acquittals for attempted murder, GBH, ABH, arson and robbery. It seems clear, therefore, that acquittals are continuing to take place for some serious offences.

Table 8a result of trial of facts

	Frequency	Percent	Cumulative Percent
D did the act on all	899	68.7	68.7
did the act on some, acquitted on others	32	2.4	71.2
acquitted on all	34	2.6	73.8
TOF did not take place as no evidence offered	17	1.3	75.1
uncertain	290	22.2	97.2
indictment to remain on file/stayed	13	1.0	98.2
nolle prosequi	1	.1	98.3
D discharged	19	1.5	99.8
no TOF as certified insane before arraignment	2	.2	99.9
indictment quashed	1	.1	100.0
Total	1308	100.0	

Table 8b main offence charged \* result of trial of facts Crosstabulation

		result of trial of facts										Total
		D did the act on all	did the act on some, acquitted on others	acquitted on all	TOF did not take place as no evidence offered	uncertain	indictment to remain on file/stayed	nolle prosequi	D discharged	no TOF as certified insane before arraignment	indictment quashed	
main offence charged	murder	39	1	2	0	13	0	0	0	0	0	55
	attempted murder	16	0	1	0	10	1	0	0	0	0	28
	manslaughter	7	0	0	0	3	0	0	0	0	0	10
	GBH	106	0	1	3	36	1	0	2	0	0	149
	ABH	107	3	1	3	25	0	0	3	1	0	143
	arson	72	3	1	3	32	1	0	2	1	0	115
	criminal damage	12	0	0	0	4	0	0	0	0	0	16
	robbery	66	1	1	0	17	1	0	3	0	0	89
	burglary	32	0	5	0	15	1	0	0	0	0	53
	rape	28	4	2	1	22	1	1	4	0	0	63
	indecent/sexual assault	166	9	12	2	52	4	0	2	0	0	247
	threats to kill	19	0	0	0	4	0	0	0	0	0	23
	kidnap/child abduction	8	0	0	0	5	0	0	0	0	0	13
	(death by)dangerous driving	15	0	0	0	2	0	0	0	0	0	17
	possession/importation/supply of drugs	9	1	1	2	4	0	0	0	0	0	17
	threatening words/behaviour	2	1	0	0	2	0	0	0	0	0	5
	possession of firearm with intent	14	0	1	0	2	0	0	0	0	0	17
	make explosive substance with intent	1	0	0	0	0	0	0	0	0	0	1
	breach restraining order	8	1	0	0	2	0	0	0	0	0	11
	affray	27	2	0	0	10	0	0	1	0	0	40
	false imprisonment	4	0	0	0	1	0	0	1	0	0	6
	having article with blade	26	1	0	0	6	0	0	0	0	0	33



trespass w/i to												
commit sex	1	0	0	0	0	0	0	0	0	0	0	1
offence												
harassment	2	0	0	0	0	0	0	0	0	0	0	2
handling stolen												
goods	4	0	0	0	0	0	0	0	0	0	0	4
possession false												
documents	2	0	0	0	1	1	0	0	0	0	0	4
not known	0	0	0	0	2	0	0	0	0	0	0	2
Conspiracy to												
defraud	0	0	1	0	0	0	0	1	0	0	0	2
voyeurism	1	1	0	0	0	0	0	0	0	0	0	2
act outraging												
public decency	2	0	0	0	0	0	0	0	0	0	0	2
fraud	6	0	0	0	0	1	0	0	0	0	0	7
money laundering	1	0	1	0	1	0	0	0	0	0	0	3
cheat the public												
revenue	1	0	0	0	0	0	0	0	0	0	0	1
kidnap w/i to												
commit sex	0	0	1	0	0	0	0	0	0	0	0	1
offence												
dangerous dog												
offence	1	0	0	0	0	0	0	0	0	0	0	1
stalking	1	0	0	0	0	0	0	0	0	0	0	1
Total	899	32	34	17	290	13	1	19	2	1	1	1308

## The disposals

My earlier studies of UTP revealed that although hospital based disposals continued to dominate, many are imposed without restrictions leading to the conclusion that flexibility of disposal was being fully utilised. Indeed in my 1997-2001 study it was found that “the overall percentage of hospital based disposals has fallen from 77.4% to 62.9%”.<sup>6</sup>

Tables 9a and 9b and 9c below give the disposals for the current study. In 64 cases no disposal was given for the reasons indicated in Table 8a above. In addition, in three cases D died prior to disposal and in 23 cases the accused was discharged but it was unclear whether these disposals followed a TOF or not. With regard to the other disposals, restriction orders continue to fall from 38.9 per cent in my 1997-2001 study to 36.2 per cent in my CP study to 31.9 per cent (n=417) in this study. In contrast, the percentage of hospital orders rose from 24 per cent in my 1997-2001 study to 29 per cent in my CP study and remains at that level in this study (28.6%, n=374). These figures, however, have to be read in the light of the caveat mentioned in note 3 above, namely that the MOJ statistics reveal a total of 465 restriction orders for the same period of 13 years which gives 35.5 per cent which is still an overall but smaller reduction. In turn, however, this reduces the number of hospital orders without restrictions from 374 to 326 (24.9%) which is a reduction from the 29 per cent in my CP study.

Interestingly, irrespective of the disparity over the number of restriction orders, this means that although there was an overall increase in all hospital based disposals from 62.9 per cent in my 1997-2001 study to 65.2 per cent in my CP study this has altered in the current study to represent a decrease to 60.5% (n=791). In addition, although the percentage of supervision

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<sup>6</sup> [2007] Crim LR at 541 see Table 11.

(and treatment) orders fell from 17.9 per cent in my 1997-2001 study to 15.7 per cent in my CP study there has been an increase in the current study to 19.7 per cent (n=257) together with an increase in the use of absolute discharges from 3.6 per cent in my 1997-2001 study to 6.3 per cent in my CP study and now 7.5 per cent (n=98). Overall, therefore, the percentage of non-hospital disposals has risen from 27.6 per cent in my 1997-2001 study, 25.6 per cent in my CP study to 28.7 per cent, n=375, in this study (30.4%, n=398 if the defendants who were discharged are included). Further, Table 10 below shows that both supervision (and treatment) orders and absolute discharges continue to be given for serious offences such as GBH (n=17), arson (n=11, although there are also 4 guardianship orders give for arson) and robbery (n=20). Finally, the percentage of guardianship orders has fallen from 6.1 per cent to 1.5 per cent (n=20) which is hardly surprising in view of the fact that this form of disposal was abolished by the Domestic Violence, Crime and Victims Act 2004. The 2004 Act was implemented on March 31, 2005. Apart from abolishing the role of the jury in relation to the trial of the issue, the Act reduced UTP disposals to three, namely:

- a hospital order (with or without a restriction order);<sup>7</sup>
- a supervision order;
- an order for an absolute discharge.

With regard to the present study which spans a period of thirteen years, 39 (25%) months of the research period were prior to the implementation of the 2004 Act and 117 (75%) months post implementation.<sup>8</sup>

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<sup>7</sup> The hospital order is now identical to one made under the Mental Health Act 1983 and where the unfit to plead accused is charged with murder and the court has the power to make such an order, it must impose restrictions.



**Table 9a- disposals**

	Frequency	Percent	Cumulative Percent
none given	64	4.9	4.9
restriction order without limit of time	411	31.4	36.3
restriction order with limit of time	6	.5	36.8
hospital order	374	28.6	65.4
guardianship order	20	1.5	66.9
supervision (& treatment) order - 2 years	214	16.4	83.3
supervision (& treatment) order -under 2 years	43	3.3	86.5
absolute discharge	98	7.5	94.0
D died prior to disposal	3	.2	94.3
not known	52	4.0	98.2
defendant discharged	23	1.8	100.0
Total	1308	100.0	

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<sup>8</sup> Only those defendants arraigned on or after March 31, 2005 are subject to the new disposal regime See R v Hussein [2005] EWCA Crim 3556 at para 14, 'The fact that the appellant was committed or sent to the Crown Court long before 31st March 2005 is nothing to the point.'

Table 9b disposals

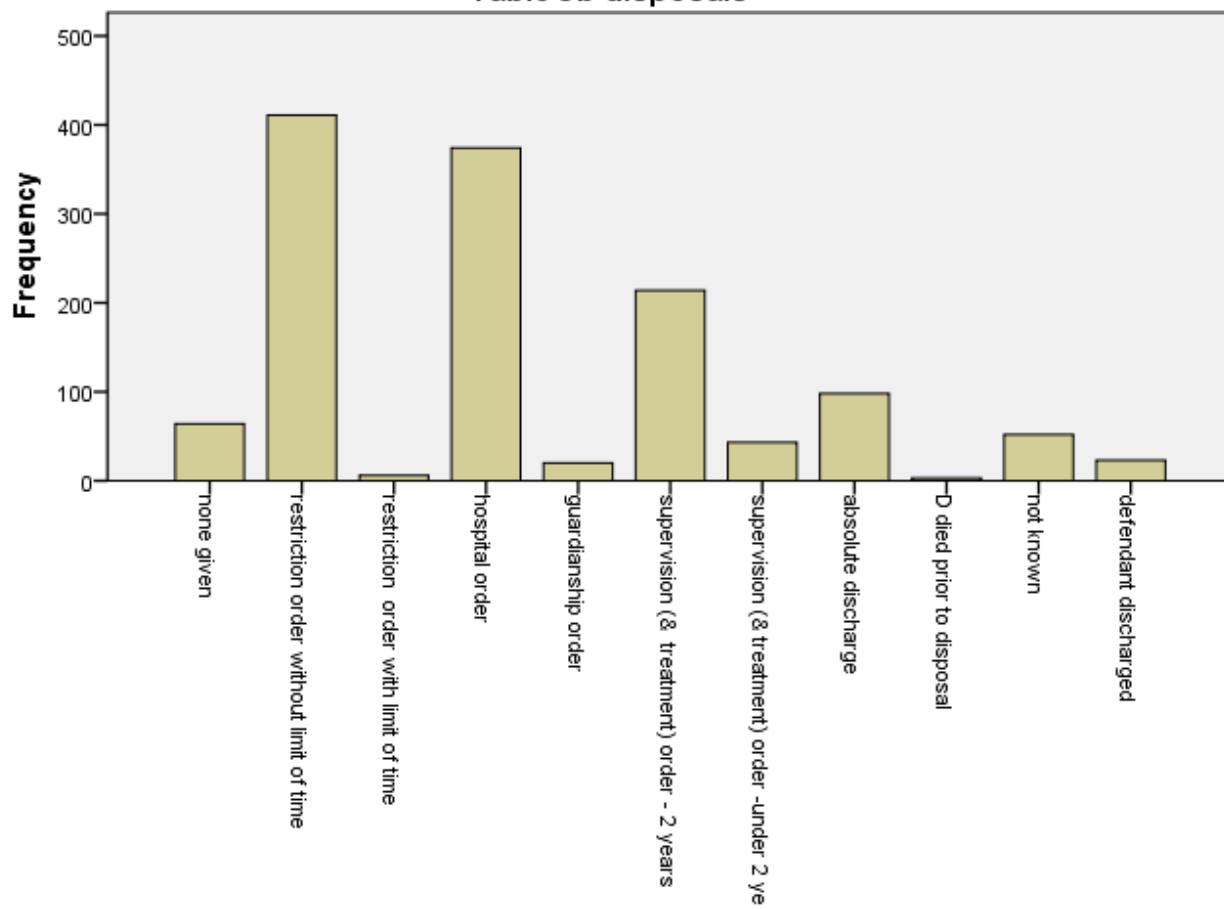


Table 9c disposals \* year of decision Crosstabulation

	year of decision													Total
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	
disposals none given	5	5	1	17	9	1	6	1	4	1	5	6	3	64
restriction order without limit of time	44	38	44	38	36	34	25	26	25	42	23	20	16	411
restriction order with limit of time	2	1	0	0	1	0	1	0	0	0	0	0	1	6
hospital order	33	27	26	25	26	36	40	26	28	25	28	29	25	374
guardianship order	4	7	0	8	1	0	0	0	0	0	0	0	0	20
supervision (& treatment) order - 2 years	11	7	9	15	18	16	25	15	15	14	26	19	24	214
supervision (& treatment) order -under 2 years	1	2	1	3	1	3	7	3	3	2	5	2	10	43
absolute discharge	7	5	4	8	11	5	6	5	8	6	12	11	10	98
D died prior to disposal	0	0	0	1	1	1	0	0	0	0	0	0	0	3
not known	7	0	0	1	3	4	4	4	5	7	5	8	4	52
defendant discharged	1	0	0	2	2	0	0	2	3	4	7	0	2	23
<b>Total</b>	<b>115</b>	<b>92</b>	<b>85</b>	<b>118</b>	<b>109</b>	<b>100</b>	<b>114</b>	<b>82</b>	<b>91</b>	<b>101</b>	<b>111</b>	<b>95</b>	<b>95</b>	<b>1308</b>

Table 10 main offence charged \* disposals Crosstabulation

		disposals											Total	
		none given	restriction order without limit of time	restriction order with limit of time	hospital order	guardianship order	supervision (& treatment) order - 2 years	supervision (& treatment) order - 2 years	absolute discharge	D died prior to disposal	not known	defendant discharged		
main offence charged	murder	2	53	0	0	0	0	0	0	0	0	0	0	55
	attempted murder	2	23	0	3	0	0	0	0	0	0	0	0	28
	manslaughter	0	4	0	3	0	3	0	0	0	0	0	0	10
	GBH	3	85	0	35	0	7	1	9	0	5	4	4	149
	ABH	5	45	2	42	2	19	5	14	1	5	3	3	143
	arson	6	48	0	44	4	8	1	2	0	0	2	2	115
	criminal damage	0	5	0	8	0	1	1	1	0	0	0	0	16
	robbery	2	24	1	35	0	18	0	2	0	4	3	3	89
	burglary	6	9	0	25	0	7	0	2	0	4	0	0	53
	rape	4	21	1	11	1	13	1	2	1	3	5	5	63
	indecent/sexual assault	18	50	1	62	9	56	19	15	1	14	2	2	247
	threats to kill	0	9	0	10	0	3	0	1	0	0	0	0	23
	kidnap/child abduction	0	5	0	2	1	1	0	1	0	3	0	0	13
	(death by)dangerous driving	0	0	0	4	0	6	1	6	0	0	0	0	17
	possession/importation/supply of drugs	3	2	0	5	0	4	0	1	0	2	0	0	17
	threatening words/behaviour	0	0	0	3	0	2	0	0	0	0	0	0	5
	possession of firearm with intent	1	5	1	2	1	5	0	1	0	1	0	0	17
	make explosive substance with intent	0	1	0	0	0	0	0	0	0	0	0	0	1
	breach restraining order	0	3	0	6	0	1	1	0	0	0	0	0	11

affray	0	9	0	10	0	10	1	6	0	3	1	40
false imprisonment	0	0	0	3	0	2	0	0	0	0	1	6
having article with blade	0	4	0	15	0	4	2	4	0	4	0	33
theft	1	1	0	7	1	6	2	4	0	0	0	22
obstruct engine on railway	0	0	0	1	0	0	0	0	0	0	0	1
immigration offence	1	0	0	4	0	1	0	0	0	0	0	6
racially aggravated assault	0	0	0	4	0	3	0	1	0	1	0	9
bomb hoax	1	1	0	1	0	0	0	1	0	0	0	4
Possess weapons designed for discharge of noxious liquid etc.	1	0	0	0	0	0	0	1	0	0	0	2
child cruelty	1	0	0	0	0	2	0	0	0	0	0	3
pervert course of justice	0	0	0	2	1	1	1	1	0	0	0	6
make indecent photos of child	0	1	0	1	0	6	0	4	0	1	0	13
possession offensive weapon	0	0	0	2	0	4	0	0	0	1	0	7
putting people in fear of violence	0	1	0	6	0	5	0	2	0	0	0	14
false accounting	0	0	0	0	0	3	0	1	0	0	0	4
Cause/incite child prostitution	0	0	0	0	0	0	1	0	0	0	0	1
obtain property/money transfer by deception	1	0	0	1	0	2	1	1	0	0	1	7
forgery	0	0	0	1	0	0	0	1	0	0	0	2
indecent exposure	0	1	0	8	0	2	0	3	0	0	0	14
conspiracy to cheat public revenue	1	0	0	0	0	0	0	1	0	0	0	2
blackmail	0	1	0	0	0	0	0	0	0	0	0	1
Disqualified person managing company	0	0	0	0	0	0	0	1	0	0	0	1

breach ASBO	0	0	0	1	0	0	1	1	0	0	0	3
breach sex offence prevention order	0	0	0	1	0	1	0	0	0	0	0	2
trespass w/i to commit sex offence	0	0	0	0	0	1	0	0	0	0	0	1
harassment	0	0	0	1	0	0	0	1	0	0	0	2
handling stolen goods	0	0	0	1	0	1	0	2	0	0	0	4
possession false documents	1	0	0	0	0	1	2	0	0	0	0	4
not known	0	0	0	1	0	0	0	1	0	0	0	2
Conspiracy to defraud	1	0	0	0	0	0	0	0	0	0	1	2
voyeurism	0	0	0	1	0	1	0	0	0	0	0	2
act outraging public decency	0	0	0	1	0	0	0	1	0	0	0	2
fraud	1	0	0	0	0	2	2	2	0	0	0	7
money laundering	1	0	0	0	0	0	0	1	0	1	0	3
cheat the public revenue	0	0	0	0	0	1	0	0	0	0	0	1
kidnap w/i to commit sex offence	1	0	0	0	0	0	0	0	0	0	0	1
dangerous dog offence	0	0	0	0	0	1	0	0	0	0	0	1
stalking	0	0	0	1	0	0	0	0	0	0	0	1
<b>Total</b>	<b>64</b>	<b>411</b>	<b>6</b>	<b>374</b>	<b>20</b>	<b>214</b>	<b>43</b>	<b>98</b>	<b>3</b>	<b>52</b>	<b>23</b>	<b>1308</b>

### Concluding Remarks

My CP study reported an increase from a maximum of 80 findings in 1999 to a peak of 118 findings in 2005 which it was stated “strongly suggests that the legislative changes contained in the 1991 and 2004 Acts are having an ongoing effect”.<sup>9</sup> However, the total number of

<sup>9</sup> Ibid at p. 232.

findings for the five-year period 2007 to 2011 shows a decrease to 488 from 519 in the previous five-year period of 2002 to 2006. It is possible, therefore, that the number of UTP findings may have reached a plateau.

For the thirteen year period of this research study, although hospital based disposals still predominate in UTP (60.5%, n=791) with 31.9 per cent (n= 417) being imposed with restrictions, the percentage of restriction orders has fallen from 36.2 per cent in my CP study to 31.9 per cent (35.5%, n=465 using the MOJ statistics). Further, irrespective of the disparity over the number of restriction orders, this means that although there was an overall increase in all hospital based disposals from 62.9 per cent in my 1997-2001 study to 65.2 per cent in my CP study, this has altered in the current study to represent a decrease to 60.5% (n=791). In addition, although the percentage of supervision (and treatment) orders fell from 17.9 per cent in my 1997-2001 study to 15.7 per cent in my CP study, there has been an increase in the current study to 19.6 per cent (n=257) together with an increase in the use of absolute discharges from 3.6 per cent in my 1997-2001 study to 6.3 per cent in my CP study and now 7.5%, (n=98). Overall, therefore, the percentage of non-hospital disposals has risen from 27.6 per cent in my 1997-2001 study, 25.6 per cent in my CP study to 28.7 per cent, n=375 (30.4%, n=398 if the defendants who were discharged are included).

Finally, although these disposal figures indicate the continued importance and use of disposal flexibility, it does seem probable that without meaningful reform of the *Pritchard* test the annual number of findings of UTP is unlikely to increase beyond present levels.