



**LORD WOOLF'S INQUIRY: ACCESS TO  
JUSTICE**

**RESEARCH CONDUCTED FOR THE  
FINAL REPORT TO THE LORD CHANCELLOR**

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**Survey of Litigation Costs**

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# 1. INTRODUCTION

## BACKGROUND

1. Concern about the cost of civil litigation has been growing in recent years. Anecdotal evidence and fragments of empirical data collected about costs<sup>1</sup> in specific areas of civil litigation have led to a relatively widespread view that costs in many kinds of actions are high in absolute terms, and more particularly, that costs are often out of proportion to the amount at stake in many civil actions. It is argued that one result of high costs levels is that those who might want to litigate are prevented from doing so because they cannot afford to litigate, representing a denial of access to justice. For those who can afford to litigate, high litigation costs represent a drain on personal and business resources. Despite this general concern about litigation costs, there has not been available systematic information about litigation costs across a range of case types that would confirm or refute assumptions about costs, or assist in understanding the factors that might drive costs up.

2. In order to provide information on these issues and to inform the work of his inquiry into civil litigation, in 1995 Lord Woolf asked the Supreme Court Taxing Office (SCTO) to collect information from bills submitted for taxation that would permit comparisons to be made between cases of different type, weight, and value. The files of the SCTO comprise a centralised record system of taxed bills capable of revealing important information about absolute levels of costs in High Court litigation and about the differences in costs in different categories of litigation. Bills submitted to the SCTO are drafted in great detail and contain information about the nature of the issues or dispute which represent the subject-matter of the case, the steps taken to progress the case, and the eventual outcome of the case. The detail of the activities which attract costs and the timing of those activities, as well as the amounts paid to counsel and to experts, offers a unique opportunity to describe and account for the current level of litigation costs.

3. After several months' data collection during 1994 by the SCTO, a preliminary analysis of costs in 673 cases was undertaken and some of the results of that exercise were published as part of the Inquiry's Interim Report *Access to Justice* in June 1995. On the basis of the experience of the preliminary exercise, some modifications were made to the approach to data collection and to the analysis of data. Between June and September 1995 additional information was extracted from taxed bills by the SCTO in order to provide a reliable sample with a sufficient number of cases in each case type category to undertake detailed analysis and statistical modelling of litigation costs.

4. This report describes the results of the analysis of costs in High Court litigation based on information drawn from 2,184 cases sampled from those submitted to the SCTO during the period 1990-1995.

## THE WORK OF THE SUPREME COURT TAXING OFFICE

5. The SCTO deals with cases heard in the High Court and the Court of Appeal. The cases cover a very wide spread. About 12,000 to 15,000 cases are submitted to the taxing

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<sup>1</sup> See for example: J Garrett, et al *Civil Justice Review Study of Personal Injury Litigation*, Inbucon, 1986; Harris et al, *Compensation and Support for Illness and Injury*, Clarendon, 1984; *Personal Injury Compensation: How Much is Enough?*, Law Commission Report No 225, 1994.

office annually by losing parties (responsible for the costs of the winning parties under the costs rules) who wish to challenge winning parties' costs. In recent years the number of cases being submitted for taxation has marginally increased. Although much personal injury work has been lost as a result of changes in the jurisdiction of the High Court and county courts, there has been an increase in the number of judicial review cases submitted for taxation.

6. In the vast majority of civil cases the parties settle as to costs. The submission of a bill for taxation to the SCTO suggests either that the case has been particularly contentious and the losing party is not prepared to accept the costs as drawn, or that the costs are relatively high. However, many of the cases that come for taxation do not have high absolute or relative costs and some parties may challenge costs as a matter of routine rather than conviction. Examples offered by taxing office personnel of this approach to taxation are insurance companies and trade unions.

7. The SCTO charges for undertaking taxation at the rate of 5p in the pound of costs allowed. If, after a bill has been submitted for taxation, the dispute about costs is settled in advance of a taxation hearing, the SCTO charges an amount for work already undertaken on the bill. The cost of taxation is borne by the party challenging costs.

#### **Contested cases**

8. About 60%-70% of cases submitted for taxation are "contested" cases, i.e. where the bill has been submitted by the paying party in order to achieve a reduction in the bill. A proportion of these cases will settle without a hearing before a taxing officer. The average annual figure for settlement prior to a hearing runs at about 10%-20% of cases. However, in the majority of cases, once the case has been submitted to the SCTO for taxation, the case will proceed to a hearing before a taxing officer (if the bill is less than £35,000) or a taxing master (if the costs claimed are in excess of £35,000). Taxing officers are non-legally qualified civil servants. Taxing masters are barristers or solicitors of 7 years call.

#### **Non-contested cases**

9. Non-contested cases (or "legal aid only" cases) are those in which the solicitor acting for a legally-aided losing party makes a claim for his costs against the Legal Aid Board. In these cases all bills are required to be submitted automatically for taxation. A solicitor cannot be paid from the legal aid fund unless he has a taxation certificate.

10. Other categories of non-contested cases are those in which the court has made no award of costs against the opposing party, Court of Protection jurisdiction, and probate cases where legal costs to be paid out of the deceased's estate must be taxed. Cases in which a client seeks to challenge his own solicitor's bill under the provisions of the Solicitors' Act 1974 are always heard by a taxing master.

11. None of these non-contested cases were included in the sample. Cases analysed in this report are those that had proceeded to a hearing before a taxing officer or master.

#### **The taxation process**

12. An understanding of the process of taxation is important for assessing the extent to which taxed cases are likely to be representative of litigation costs more generally.

13. **Contested cases:** Inter-parties taxation is an adversarial process. Before a hearing,

the paying party must lodge a note of the issues in dispute seven days prior to the hearing. A copy is sent to the receiving party. The receiving party is entitled to respond but is not required to do so before the hearing. A taxing officer or master will *only* rule on points raised by the paying party or those in dispute. Thus the final costs allowed by the taxing officer or master reflect the nature of challenges made by the paying party. For example, if a paying party challenges the number of hours claimed but not the hourly rate, the taxing officer will make no ruling on the hourly rate, irrespective of his own views about whether the rate claimed was reasonable in the circumstances. In contested cases, the function of the taxing office is to resolve disputes between the paying and receiving party. It is not to undertake an independent assessment of the costs claimed as a whole. Thus a bill could be allowed as drawn, even though the challenge is not considered to have been particularly competent.

14. According to the SCTO this adversarial process is only about 15 years old. Before the introduction of the current approach the SCTO used to decide cases on the basis of the view taken by the taxing officer or master as to what costs were appropriate and reasonable. The present method of dealing with cases is based on an analogy with the adversarial approach in court in which the judge is required to make a finding on the issues in dispute.

15. **Non-contested cases:** In hearings on "legal aid only" cases, the taxing officer deals only with the solicitor who wants his bill paid. The hearings are "inquisitorial" and the solicitor must justify his costs to the taxing officer.

16. In both contentious and non-contentious cases the rates allowed for costs by the taxing officers and masters are based on value judgments and experience rather than on any specific tariffs or schedules.

17. Decisions of taxing officers and taxing masters can be challenged. Taxing masters will hold re-hearings and can hear cases *de novo* and will give reasons for their decisions in writing. Decisions of taxing masters can be reviewed by a judge in chambers.

#### IMPLICATIONS OF USING TAXED BILLS AS SOURCE OF DATA

18. There can be no doubt that an assessment of litigation costs based on a representative sample of both taxed and untaxed bills would be easier to interpret. In the absence of information about untaxed bills, however, it is necessary to judge the extent to which analysing only taxed cases is likely to provide an untypical picture of litigation costs. The following characteristics of taxed cases must therefore be borne in mind.

19. **Winning party:** The costs being assessed are always those of *the winning party*. The costs rule in English civil litigation is normally that costs follow the event, i.e. that the losing party pays the costs of the winning party. In general, then, bills of costs submitted for taxation to the SCTO, and included in this study, are those of the winning party. The losing party has to pay his own costs and those of the winning party.

20. **Value of cases:** Because the SCTO deals with High Court litigation it is reasonable to assume that the average value of the claims being litigated will be higher than the average in the county courts because of the monetary threshold for High Court litigation. However, as is discussed below (see Table 1.2) more than a third of cases within the sample were concluded on the basis of a monetary recovery of £25,000 or less and about a fifth of all cases in the sample recovered £12,500 or less.



21. **Contentiousness of case:** If it is true that in many cases the failure to agree costs is a reflection of the degree of contentiousness of a case, then it is possible that the sample contains a higher than average proportion of particularly contentious cases. The effect of this on costs is difficult to judge. It is arguable, however, that because of the risk of taxation, bills in the most contentious cases may be *restrictively* drawn as compared with those cases in which solicitors on both sides are on good terms, where the bills might be drawn more generously since there is little fear of taxation. This would suggest that bills submitted for taxation might provide an under-estimate of average costs in similar less contentious cases, rather than an over-estimate of average costs.

22. **The relationship between taxed and untaxed costs:** It is evident that in a proportion of cases in the sample, the winning party's bill would have been submitted for taxation because the paying party believed that the costs claimed were excessive. The average reduction on taxation appears to be around 20%. In all of the analyses undertaken for this study, the figures used were the costs *allowed* by the SCTO, rather than the amount claimed by the winning party, in order to minimise the impact of inflated costs on average figures.

23. In the absence of large-scale information about untaxed bills it is impossible to establish the extent to which untaxed bills might be, on average, higher, lower or the same as those submitted for taxation. Where a case has been settled on terms satisfactory to the parties, higher than average costs on the part of the winning party may well be tolerated by a paying party simply in order to avoid the delay, trouble and cost of going through the taxation procedure. Indeed, anecdotal evidence from practitioners suggests that many rarely bother with taxation for those reasons, even though they may be aware that a bill is high. It is also the case that in settlement negotiations agreement *not* to challenge costs, even though costs are high, may be used as a deliberate strategy to promote a settlement on good terms.

## Conclusion

24. Given the lack of available information about costs levels in untaxed cases it is inevitable that the inferences drawn from an analysis of taxed bills must be approached with some caution. It seems reasonable to assume that **absolute** average figures based on taxed bills, even after bills have been reduced by the SCTO, might be somewhat higher than if the exercise had included untaxed bills. It is impossible, however, to judge exactly how much higher the figures might be.

25. What is less likely to be affected by the absence of data about untaxed bills, is the **relative** differences between costs in different categories of case and the **relationship** between costs and other characteristics of cases such as the duration of claims, the weight of claim, interlocutory activity, the stage reached in the case, the means of concluding the claim, and analyses of the effect of legal aid on duration and other factors.

26. In reading the information contained within this report it should always be remembered that the costs cited represent the costs of only **one side** in the action - the winning party. The total cost of actions, i.e. those of both the winning and the losing party, will evidently be considerably more.

## STRUCTURE OF THE REPORT

27. In the next section of the report, the procedure by which data were collected for the study is described. This is followed by a description of the main characteristics of the cases in the sample in terms of case weight, claim value, case duration, legal aid, stage of proceedings reached and means by which cases were concluded.

28. Section 2 of the report describes average costs allowed in the sample, and compares average costs in cases of different type, weight, and value. The relationship of costs to claim value are analysed and detailed information about the subject-matter of the litigation is given among cases in which the costs to claim value ratio is particularly high.

29. In Section 3 of the report, the components of bills submitted for taxation are broken down to display average costs of counsel fees, experts fees, and the costs attributed to discovery and documents. Comparisons are made between average costs of these components in cases of different type, weight and value, as well as in relation to the stage reached in proceedings, and the method by which claims were concluded.

30. Interlocutory activity and other features of cases in the sample are described in Section 4 of the report, and comparisons are made between levels of activity in cases of different type, weight and claim value.

31. In Section 5 of the report, information is presented about average case duration in the sample and average periods of delay between the date of first instruction and the issue of proceedings. Mean and median case durations are compared between different case types, different costs categories, between cases of different weight and different claim value. Duration is also analysed in relation to legal aid, stage reached in proceedings, interlocutory activity, and method of concluding cases. Mean and median periods of delay between instruction and issue are also described in relation to case type, value of claim, legal aid and costs allowed.

32. Section 6 of the report presents the results of three separate statistical modelling exercises. The purpose of the modelling was to attempt to understand, rather than merely describe, data relating to costs and duration. The approach makes it possible to isolate *systematic* relationships between costs and other variables and to estimate the effect of explanatory variables on the level of costs and on the duration of cases. The objective of these exercises is to indicate general trends, rather than to provide a complete explanation of case duration and costs levels in civil litigation. Section 6A presents an analysis of delay between first instruction and issue of proceedings; Section 6B presents the results of the modelling of total case duration from date of instruction to conclusion of case; and in Section 6C, the results of the costs modelling are presented. At the end of each of the sections, there is a summary of the main effects of the explanatory variables and a discussion of the findings on delay, duration and costs.

33. The report concludes with a summary of the main findings of the study.

## THE SAMPLE

### Data collection procedure

34. Information about costs was extracted from SCTO case files and entered onto a spreadsheet (EXCEL) by members of the SCTO. Data were later transferred to a special data analysis programme (SPSS) in order to carry out more detailed analyses<sup>2</sup>.

35. The sample of cases for analysis was constructed by selecting every case adjudicated by the taxing office starting from March 1995 and working backwards until information was available for approximately 200 cases in each of 10 different categories of case type as follows: medical negligence, personal injury, professional negligence, Official Referee, breach of contract, judicial review, Chancery, Queen's Bench other, commercial, bankruptcy and companies court. As a result of variation between cases in the volume of bills submitted for taxation it was necessary to go back further in time for some case types in order to achieve the required sample of 200 cases in each of the 10 case type categories.

36. For each taxed bill information was collected about a wide range of matters including: costs claimed and allowed; weight of case; value of claim in terms of the amount recovered; counsel fees claimed and allowed; expert fees claimed and allowed; hours and cost of discovery and documents; stage reached in proceedings; means of concluding case; interlocutory activity; identity of successful party; length of case; and whether the winning party was legally-aided<sup>3</sup>.

### Excluded cases

37. "Legal aid only" cases were excluded from the sample so that the sample is representative of "contested" taxed bills only. At an early stage in the data collection process by the SCTO a decision was also made to exclude cases where claimed costs came in at less than £6,000. Subsequently, a sample of excluded cases was drawn and analysed and all data presented in the tables have been corrected to take account of this. The analysis, therefore, is representative of the full range of bills submitted in respect of contentious taxations.

## CHARACTERISTICS OF SAMPLE

### Case type

38. The sample comprises 2,184 cases categorised into ten case types. There are about 200 cases in each case type in the sample, with the exception of personal injury in which there are 323 cases. Because of the significant variation in the characteristics of bills relating to different case types, most of the analyses have been carried out in a way that reveals these differences.

### Value of claims

39. An important objective of the research was to analyse costs in relation to the value of the case being litigated. It was not feasible to assess claim value on the basis of the

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<sup>2</sup> For further information about statistical operations please see Appendix B.

<sup>3</sup> A full list of variables and notes on the variables is given in Appendix A.



amount of money. The term "value of claim" as used in this report represents the amount of money either awarded by court or the amount for which the claim was finally settled, *excluding any money paid by the losing party in legal costs.*

40. Although in most cases it is a simple matter to note the amount of money obtained as a result of litigation, in others it is difficult to identify a monetary value, or there may be no monetary value because the case concerns a declaration about the law. The most obvious example is judicial review cases. In Commercial cases, and in bankruptcy and companies court cases, there is also a substantial proportion of cases for which no claim value exists. Throughout this report, therefore, all judicial review cases, Commercial cases, and companies court cases without a claim value have been excluded from analyses involving claim value (438 in total), and in most tables and figures, Commercial and companies cases, with and without a claim value, have been separated.

41. It is important to bear in mind that even where the amount recovered as a result of litigation is available, that figure may not accurately reflect the true amount at stake in an action. For example, a modest breach of contract claim may stimulate a substantial counterclaim and although the plaintiff may recover roughly the sum originally claimed, the costs of the action will include the cost of defending a substantial counterclaim during the course of the action. The case studies of high costs-to-claim-value ratio discussed later in the report (see below Table 2.9) clearly illustrate this problem.

42. Among the 1,746 cases in which the amount recovered could be assessed, there was a very wide range of claim values. The highest claim value in the sample was in a Commercial case where a total of £660 million was recovered by the winning party<sup>4</sup>. The lowest amount recovered in the sample was £5 in a breach of contract case. Table 1.1 displays the wide range of values both within and between case types. The case type with the highest mean and median recovery was Commercial (mean £10,145,884; median £118,454), with bankruptcy/companies court and personal injury cases both having median recovery values of about £50,000. The lowest median claim value was among Queen's Bench 'other' cases (median £29,000). The large differences between mean figures (the arithmetic average) and median figures (the mid-point value) reflects the very wide variation in amounts recovered *within* case types, shown by comparing maximum claim values and minimum claim values.

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<sup>4</sup> There were six cases in the sample having very high values. These cases have not been excluded from the sample and their details are displayed in Table 2.10 below.

TABLE 1.1 CLAIM VALUES BY CASE TYPE

Case type	Value of Claim £			
	Mean	Median	Max	Min
Whole sample	801,973	40,000	660,000,000	5
Medical Negligence	134,748	33,381	2,000,000	750
Personal Injury	98,434	50,000	1,800,000	1,500
Prof Negligence	107,849	34,000	2,000,000	800
Official Referee	112,633	34,764	2,500,000	750
Chancery	636,735	36,109	56,000,000	32
Breach of Contract	124,010	37,875	4,193,548	5
Queens Bench 'other'	143,482	29,000	3,400,000	50
Commercial	10,145,884	118,454	660,000,000	2,008
Bank and Comp Court	442,488	50,269	18,000,000	2,500

43. For the purposes of analysis, claim values (where available) were divided into six bands as follows: £12,500 or less; more than £12,500 and up to £25,000; more than £25,000 and up to £50,000; more than £50,000 and up to £100,000; more than £100,000 and up to £250,000; and more than £250,000. A fifth of all cases in the sample (21%) were concluded on the basis of an award or settlement of £12,500 or less; 16% recovered between £12,500 and £25,000. One case in five (20%) recovered between £25,000 and £50,000, and one-quarter of cases in the sample recovered £100,000 or more. The proportion of cases in the sample in which relatively low sums were recovered by the winning party illustrates two important facts: first, that a proportion of actions in the sample were commenced before the changes to the High Court jurisdiction under the Courts and Legal Services Act 1990; and second, that although at the outset of a case the claim may be assessed as having a relatively high value, the amount awarded at trial or in a settlement is often substantially lower.

TABLE 1.2 DISTRIBUTION OF CLAIM VALUES WITHIN BANDS

Value of claim	N	%
<=£12,500	361	21
>£12,500 & <=£25,000	287	16
>£25,000 & <=£50,000	355	20
>£50,000 & <=£100,000	303	17
>£100,000 & <=£250,000	248	14
>£250,000	192	11
Whole Sample	1746	100

&lt;= Less than or equal to

&gt;= Greater than or equal to

## Weight of case

44. The weight of cases in the sample was assessed by the SCTO office using five categories: category A (heaviest weight) to category E (least heavy). Factors taken into account by the SCTO in the categorisation were: complexity of issues, importance of case to the parties and to other litigants and potential litigants, unusual expedition, number and importance of documents, quantum.

45. About 90% of cases were categorised by the SCTO as falling into the C-E range (C=21%; D=34%; E=34%). Only 3% of cases in the sample as a whole were placed in the heaviest category A, and only 7% were placed in category B. Since the value of the claim was one of the factors used to assess the weight of the case, the strong relationship observed between value of claim and weight of claim (discussed in various sections below) is to be expected.

46. There was considerable between case types in the proportions of cases assessed as "heavy" or "light". For example, about one-quarter of medical negligence cases and one-fifth of Commercial cases were assessed as being very heavy (A/B). At the other end of the weight spectrum, only 4% of bankruptcy and companies court cases were assessed as being very heavy (A/B), and 80% of those cases were assessed as being light (D/E) (Table 1.3).

TABLE 1.3 CASE WEIGHT BY CASE TYPE

Case type	A (Heaviest) %	B	C %	D %	E (Lightest) %	Total %
Whole sample (N=2184)	3	7	21	34	34	100%
Medical Negligence (N=206)	10	14	24	36	16	100%
Personal Injury (N=323)	1	9	21	32	37	100%
Professional Negligence (N=205)	4	12	22	37	24	100%
Official Referee (N=206)	3	10	28	33	26	100%
Breach of contract (N=214)	1	7	16	34	43	100%
Judicial Review (N=206)	1	5	20	27	46	100%
Chancery (N=204)	1	1	16	41	41	100%
Queen's Bench 'other' (N=205)	2	2	13	32	50	100%
Commercial (N=106)	11	16	30	22	21	100%
Commercial (no value) (N=102)	5	10	32	34	19	100%
Bankruptcy/ Company Ct (N=77)	1	4	19	36	39	100%
Bankruptcy/ Comp Ct (no value) (N=130)	3	1	14	38	44	100%

## Legal Aid

47. In the sample as a whole, some 35% of winning parties had been granted legal aid. As would be expected, there was considerable variation between case types (Table 1.4). All but 8% of winning plaintiffs in medical negligence cases were legally-aided and over half of all winners in personal injury and judicial review cases had legal aid. Over one-third (38%) of winning parties in professional negligence actions were legally-aided. Case types in which winning parties were *least* likely to have had legal aid were Commercial (less than 1%), bankruptcy/companies court (9%), breach of contract (17%), Official Referee (18%) and Queen's Bench other (18%).

TABLE 1.4 LEGAL AID AND CASE TYPE

Case type	% With Legal Aid	N in category
All cases <sup>+</sup>	35	2174
Medical Negligence	92	206
Personal Injury <sup>+</sup>	59	313
Professional Negligence	38	205
Official Referee	18	206
Breach of Contract	17	214
Judicial Review	58	206
Chancery	29	204
Queen's Bench 'other'	18	205
Commercial	*	208
Bankruptcy & Companies Court	9	207

+ In 10 personal injury cases the information about legal aid was missing.

\* Less than 1%

## Stage of proceedings

48. There was considerable variation among cases in the formal stage of litigation that had been reached before proceedings ended. About a quarter of cases got only as far as the issue of proceedings before the case was settled. In just over a quarter of cases the matter was concluded after it had been set down, but before trial. In 17% of cases the parties reached the doors of the court before settling, and about one-third of cases had proceeded all the way to trial.

## How proceedings were concluded

49. Nearly half the cases had been concluded on the basis of a consent order (settlement), and one-quarter on the basis of a judgment. In a further 9% of cases, a payment into court had been accepted; 4% of cases were concluded on the basis of a consent judgment; 2% of cases had been struck out; 1% of cases had been dismissed; 7%



had been concluded following summary judgment; and a further 1% had been withdrawn or discontinued.

### **Successful Party**

50. Some 86% of the cases in the sample had been won by plaintiffs, reflecting the kinds of cases that are submitted for taxation. Among the 206 medical negligence cases in the sample, none had been won by the defendant. This is to be expected since the vast majority of medical negligence plaintiffs proceed on the basis of the grant of a legal aid certificate, and where defendant health authorities are successful against a legally-aided plaintiff, the authority will not generally receive its costs from the legal aid fund. Thus defence costs in medical negligence cases are unlikely to be submitted for taxation, whether or not the defence has succeeded with the case. There was a similar pattern among personal injury and professional negligence cases, with only a very small proportion of cases in the sample having been won by defendants.

### **Duration of cases**

51. In order to assess the total length of cases and to analyse costs in relation to case duration, information was collected from taxed bills about the date of first instruction, the date of issue of proceedings, the date of setting down for trial, and the date of conclusion of cases. Using these data it has been possible to analyse average delays between instruction and issue of proceedings, as well as total case length for each case type.

52. The average length of case from the date of instruction to the conclusion of the case was 34 months<sup>5</sup>. About one-fifth of cases took between 1 and 10 months and a further 17% took between 10 and 20 months from instruction to conclusion.

53. The average length of cases varied substantially between different case types. Medical negligence cases had the longest average length (5 years and 5 months), followed by personal injury cases (4 years and 8 months) and professional negligence cases (3 years and 5 months). The most rapidly concluded cases were judicial review cases (average 12 months), companies court cases (about 13 months) and Commercial cases without a claim value (16 months) (see Table 1.5 below).

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<sup>5</sup> These figures include 93 cases in which the winning party was the defendant and the date of first instruction **was later than** the date of the issue of proceedings.

TABLE 1.5 AVERAGE DURATION (IN MONTHS) FROM DATE OF INSTRUCTION TO CONCLUSION BY CASE TYPE

Case type	Mean	Median	Max	Min	Number of cases in category
Whole sample	34	29	214	0	2184
Medical Negligence	65	61	214	26	206
Personal Injury	56	54	117	1	323
Professional Negligence	41	35	118	7	205
Official Referee	34	30	116	1	206
Chancery	32	27	152	0	204
Breach of Contract	29	25	114	1	214
Queens Bench 'other'	28	21	128	2	205
Commercial	25	20	100	0	106
Commercial (no value)	16	7	93	0	102
Bank/Company (no value)	15	9	118	0	130
Bankruptcy and Company	13	7	118	0	77
Judicial Review	12	11	36	0	206

## 2. ANALYSIS OF AVERAGE COSTS

54. Total costs have been analysed in relation to case type, case weight, claim value, case duration, stage reached in proceedings and means of concluding claims. The results of these analyses are shown in a number of tables. In each table different summary measures of costs are provided in order to display variation in costs levels between cases of different type, weight, value, duration. The tables show average costs (the arithmetic mean), median costs (the figure representing the mid-point in the range of costs within each category), minimum costs (the lowest bill in the case category) and maximum costs (the highest bill in each category). Minimum and maximum figures provide an idea of the spread of bills within each case category. In some of the tables, average and/or median claim values are also provided (where this figure is available) in order to give a sense of the relationship between the costs of actions and the amounts recovered in the actions.

### Costs and Case Type

55. Average costs vary substantially between case types. Table 2.1 shows that Official Referee and Commercial cases had the highest median costs (£19,320 and £18,897 respectively), followed by professional negligence (median £14,834), and medical negligence (median £15,531). The lowest average costs were in bankruptcy/companies court cases (median £7,723) and judicial review cases (median £7,642). Those case types with the highest minimum costs were medical negligence (minimum of £3,759), Commercial cases with a recovery value (£3,703), Queen's Bench 'other' (minimum of £3,311), and Official Referee cases (minimum £,245).

56. The lowest bill allowed in the sample was in a breach of contract case at £1,798 and the highest bill paid was in a Commercial case at £2,135,412.



TABLE 2.1 AVERAGE COSTS IN RELATION TO CASE TYPE

Case type	Mean costs £	Median costs £	Lowest costs £	Highest costs £	Median claim value £
Medical Negligence N=206	29,380	15,531	3,759	182,183	33,381
Personal Injury N=323	19,382	12,134	2,673	159,377	50,000
Professional Negligence N=205	32,866	14,834	2,878	725,000	34,000
Official Referee N=206	35,844	19,320	3,245	327,519	34,764
Breach of Contract N=214	22,575	11,833	1,798	358,449	37,875
Judicial Review N=206	13,233	7,642	2,338	437,348	
Chancery N=204	18,261	10,510	2,678	238,928	36,109
Queen's Bench 'other' N=205	18,852	8,503	3,311	354,713	29,000
Commercial N=106	56,319	18,897	3,703	2,135,412	118,454
Commercial (no value) N=102	25,705	15,796	3,041	252,000	
Banktcy & Comps. Court N=77	14,518	7,723	2,643	170,129	50,269
Companies Court (no value) N=130	12,381	8,545	2,846	62,252	

57. The distribution of cases within different costs bands is shown in Table 2.2. Within the sample as a whole a little under one-half of bills were allowed at £10,000 or less (42%); just over one-quarter of bills (28%) were allowed at between £10,000 and £20,000; 10% of all bills were allowed at between £20,000 and £30,000; and just over one-fifth (21%) of all bills in the sample, on the winning side only, were allowed at more than £30,000.

58. About two-thirds of judicial review cases and bankruptcy/companies court cases (with claim value) had costs of £10,000 or less. Just over half (58%) of Queen's Bench 'other' cases and bankruptcy/companies court cases without value (59%), and just under half of Chancery cases (46%) had costs of £10,000 or less. Medical negligence and Official Referee cases had the smallest proportion of bills allowed at £10,000 or less, with only about a quarter of allowed bills falling in this category.

59. At the most expensive end of the spectrum, cases having the highest proportion of bills allowed at £50,000 or more were Commercial, Official Referee, professional negligence and medical negligence cases.

#### **Costs and Case Weight:**

60. All cases were assessed in order to provide a measure of the "weight" of the case. This exercise was undertaken by the SCTO (see above section 1). Some case types tended to have a higher percentage of heavy cases. For example, about one-quarter of medical negligence cases and one-fifth of Commercial cases were assessed as being very heavy (A or B). By contrast, only 4% of bankruptcy and companies court cases were assessed as A or B while 80% were assessed as being D or E (lightest). The vast majority of breach of contract, judicial review and Queen's Bench 'other' cases, were judged to be in the lightest weight categories D and E (76%, 73%, and 82% respectively). This difference in the weight profile of case types to some extent accounts for observed variations in average costs between case types.

61. From Table 2.3 it can be seen that there is an association between average costs and case weight. As the weight of cases increases so do the costs allowed. Among the heaviest weight cases (category A) median costs were £107,089, as compared with a median of £6,469 among the lightest weight cases (category E).

62. Table 2.3 also shows a clear association between the average value of claims and case weight. The average claim value among cases in category A is £2,368,164 and the average claim value among cases in category E is £62,422. This relationship is to be expected since claim value was one of the factors taken into account in assessing case weight.

63. Differences in median costs between case types appear somewhat smaller when comparing cases of similar weight (Table 2.4). So, for example, among the lightest cases (E), median costs ranged from £5,559 in bankruptcy/companies court cases to £7,462 among Official Referee cases. The table also shows that the average level of costs among the most straightforward cases is around £6,000 in all case types. It should be borne in mind that these represent the costs of *only the winning side* in the actions.

64. In addition, Table 2.4 illustrates the extent of the difference in costs between cases of different weight. Among most case types, the average costs double, simply by moving up from weight E to weight D. In all case types, there were substantial differences in average costs between the heaviest and lightest cases. Among medical negligence cases, for example, median costs for the lightest cases were £6,139 while median costs for the heaviest medical negligence cases were £92,472.

65. The relationship between case weight and costs is explored more fully below in Section 6 of the report.

TABLE 2.2: CATEGORIES OF COSTS BY CASE TYPE

Case Type	Costs Allowed £						Total
	<=10,000	>10,000 & <=20,000	>20,000 & <=30,000	>30,000 & <=40,000	>40,000 & <=50,000	>50,000	
Medical Negligence (N=206)	25%	35%	11%	9%	4%	16%	100%
Personal Injury (N=323)	38%	36%	10%	5%	3%	7%	100%
Professional Negligence (N=205)	32%	28%	10%	9%	5%	16%	100%
Official Referee (N=206)	24%	28%	11%	13%	6%	17%	100%
Breach of Contract (N=214)	43%	27%	12%	6%	3%	9%	100%
Judicial Review (N=206)	68%	20%	5%	4%	1%	1%	100%
Chancery (N=204)	46%	29%	11%	6%	3%	5%	100%
Queen's Bench other (N=205)	58%	23%	8%	2%	6%	3%	100%
Commercial (N=106)	29%	21%	15%	9%	3%	23%	100%
Commercial (no value) (N=102)	36%	22%	15%	9%	8%	11%	100%
Bankruptcy/Companies Court (N=77)	65%	17%	6%	5%	3%	4%	100%
Bankruptcy/Companies Court (no value) (N=130)	59%	29%	4%	5%	1%	2%	100%
All cases (N=2184)	42%	28%	10%	7%	4%	10%	100%

<= Less than or equal to >= Greater than or equal to

TABLE 2.3 : COSTS IN RELATION TO WEIGHT OF CASE: WHOLE SAMPLE

	Assessment of Weight of Case				
	A (Heaviest) N=75	B N=165	C N=454	D N=736	E (Lightest) N=754
Costs allowed £					
Mean	166,985	66,835	30,247	13,769	7,271
Median	107,089	54,962	27,277	12,094	6,469
Highest	2,135,412	327,519	159,154	63,009	37,336
Lowest	14,630	6,399	3,464	2,515	1,798
Average claim value £	2,368,164	5,261,257	1,136,569	87,243	62,422

TABLE 2.4 : MEDIAN COSTS AMONG CASE TYPES IN RELATION TO CASE WEIGHT

Median costs Number and % of cases in category	Assessment of Weight of Case											
	A (Heaviest)		B		C		D		E (Lightest)		TOTAL	
	£	N %	£	N %	£	N %	£	N %	£	N %	N %	
Medical Negligence	92,472	(21) 10	56,746	(29) 14	24,982	(49) 24	12,418	(75) 36	6,139	(32) 16	206	100
Personal Injury	91,720	(3) 1	54,962	(29) 9	21,429	(68) 21	12,879	(104) 32	7,264	(119) 37	323	100
Professional Negligence	150,556	(9) 4	70,408	(24) 12	31,974	(46) 22	12,845	(76) 37	6,096	(50) 24	205	100
Official Referee	133,805	(7) 3	88,220	(20) 10	35,384	(57) 28	15,382	(69) 33	7,462	(53) 26	206	100
Breach of Contract	245,208	(2) 1	89,484	(15) 7	33,418	(34) 16	14,626	(72) 34	6,471	(91) 43	214	100
Judicial Review	29,207	(3) 1	27,782	(11) 5	15,234	(42) 20	7,807	(55) 27	6,132	(95) 46	206	100
Chancery	199,222	(3) 1	122,061	(2) 1	31,779	(33) 16	12,374	(84) 41	6,329	(82) 41	204	100
Queen's Bench other	231,395	(5) 2	42,546	(4) 2	27,761	(27) 13	11,382	(68) 32	6,208	(101) 50	205	100
Commercial	135,521	(12) 11	45,321	(17) 16	21,697	(32) 30	13,606	(23) 22	6,494	(22) 21	106	100
Commercial (no value)	95,911	(5) 5	39,997	(10) 10	27,690	(33) 32	10,153	(35) 34	5,774	(19) 19	102	100
Bankruptcy/Comp Ct	170,129	(1) 1	44,795	(3) 4	22,168	(15) 19	9,306	(28) 36	5,559	(30) 39	77	100
Bankruptcy/Comp (no val)	42,280	(4) 3	54,700	(1) 1	18,110	(18) 14	10,446	(50) 38	6,076	(57) 44	130	100
Whole Sample	107,089	(75) 3	54,962	(165) 7	27,277	(454) 21	12,094	(739) 34	6,469	(751) 34	2184	100



## Costs and value of claim

66. In Table 2.5 the value of claims (among the 1,746 cases where value was available) has been divided into six bands. The analysis shows: first, that as the amount recovered by the successful party rises, so does the average amount of costs; and second, that there is a huge amount of variation in the level of costs charged for cases of similar value. Among the lowest value claims (£12,500 or less) median costs in the sample as a whole were £8,318, but costs for claims with value not exceeding £12,500 ranged from £1,798 to £200,515. The highest value claims (more than £250,000) had median costs of £36,951, with costs ranging from £3,001 to £2,135,412.

TABLE 2.5: COSTS IN RELATION TO VALUE OF CLAIM: WHOLE SAMPLE

Costs allowed £	Value of Claim £						
	<=12,500 N=361	>12,500- <=25,000 N=287	>25,000- <=50,000 N=355	>50,000- <=100,000 N=303	>100,000- <=250,000 N=248	>250,000 N=192	No value given N=438
Mean	11,908	13,472	17,733	25,205	36,674	76,825	15,884
Median	8,318	9,541	12,927	15,300	21,815	36,951	8,756
Lowest	1,798	2,673	2,684	3,205	2,515	3,001	2,338
Highest	200,515	91,154	132,227	242,381	319,447	2,135,412	437,348

<= Less than or equal to >= Greater than or equal to

67. Analysis of the broad relationship between costs and claim value reveals that as claim value rises, the proportion of costs allowed at less than £10,000 steadily falls (Table 2.6). Among the lowest value claims, 60% of cases had costs of less than £10,000; among the highest value claims (over £250,000), only 18% had costs of less than £10,000, and 41% had costs of over £50,000.

68. There is a lack of proportionality between costs and claim value at the lower end of the claim value scale. Among cases with a value of less than £12,500 about one-third (31%) had costs between £10,000 and £20,000, with a further 9% of cases having costs in excess of £20,000. Thus in 40% of the lowest value claims, the costs *on one side alone* were close to, or exceeded the total value of the claim. By way of contrast, in 60% of claims over £250,000, costs represented less than 20% of the value of the claim.

69. There were substantial differences between case types in the average levels of costs for similar value claims (Table 2.7). For example, among cases with a claim value below £12,500, the median costs figure in medical negligence cases was £10,482, and in Official Referee cases the figure was £12,245; median costs in commercial cases in this claim value category were about half, at £6,187, and the median figure for personal injury cases was £7,099.

70. Table 2.7 also shows the differences between case types in the proportion of cases falling within different claim value bands. Personal injury and Commercial cases had the lowest proportions of cases with values of £12,500 or less (14% and 9% respectively), while all of the other case types had between a fifth and a quarter of cases in the lowest claim value band.

71. When costs are expressed as a percentage of the value of the claim<sup>6</sup>, median costs among the lowest value claims (under £12,500) consistently represent more than 100% of claim value, and this holds true among all case types (Table 2.8). The lower the claim value, the higher the percentage of the claim value that costs represent. At the lowest end of the claim value spectrum, the costs of the **winning party only**, substantially exceed the value of the claim. Among claims with a value of between £12,500 and £25,000, costs as a percentage of claim value range from 41% among personal injury cases to 96% among Official Referee cases. At the highest end of the claim value scale, costs range from around 1% of claim value among Chancery, and bankruptcy/companies court cases, to 19% of claim value among Official Referee cases.

72. In order to gain a more detailed view of the relationship between costs and the value of claims, Table 2.9 lists details of 30 cases in which allowed costs represented more than 500% of the value of the claim. For each case in the table the case type, case weight, costs allowed, value of claim, and costs as a percentage of claim value are given. Those cases where the winning party had been granted legal aid are also identified. The listing reveals that in many of these high-costs-to-value cases, the weight of the case was relatively light and the amount recovered as a result of the claim was often quite small.

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<sup>6</sup> This was calculated as follows: for each case, costs allowed were divided by claim value x 100; then the median value was taken across all cases in each case type.

TABLE 2.6: CATEGORIES OF COSTS IN RELATION TO VALUE OF CLAIM: WHOLE SAMPLE

Total costs allowed by court £	Value of Claim							No Value Given N=438
	<=12,500 N=361	<12,500- <=25,000 N=287	>25,000- <=50,000 N=355	>50,000- <=100,000 N=303	>100,000- <=250,000 N=248	>250,000 N=192		
<=10,000	60%	52%	36%	29%	22%	18%	58%	
>10,000 & <=20,000	31%	30%	35%	29%	24%	18%	23%	
>20,000 & <=30,000	4%	10%	13%	14%	14%	8%	7%	
>30,000 & <=40,000	2%	3%	8%	12%	10%	9%	5%	
>40,000 & <=50,000	1%	3%	5%	5%	8%	6%	3%	
>50,000	2%	2%	3%	10%	23%	41%	4%	
Total	100%	100%	100%	100%	100%	100%	100%	



TABLE 2.7: MEDIAN COSTS ALLOWED BY CLAIM VALUE

Median costs £ Number and % of cases in category	Value of Claim £																			
	<=12,500 N=361			>12,500- <=25,000 N=287			>25,000- <=50,000 N=355			>50,000- <=100,000 N=303			>100,000- <=250,000 N=248			>250,000 N=192			Total	
	£	N	%	£	N	%	£	N	%	£	N	%	£	N	%	£	N	%	N	%
Med Negligence	10,482	56	27	12,464	30	15	15,655	44	21	24,982	27	13	35,936	19	9	76,011	30	15	206	100
Personal Injury	7,099	45	14	8,006	47	14	10,474	71	22	14,881	76	23	18,688	66	20	64,435	18	6	323	100
Professional Neg	9,440	42	20	9,688	42	20	13,250	41	20	27,524	37	18	34,208	23	11	78,904	20	10	205	100
Official Ref	12,245	51	25	19,696	38	18	17,272	41	20	34,355	25	12	43,865	36	17	133,805	15	7	206	100
Breach of Cont	8,882	432	20	7,774	43	14	13,405	57	27	14,993	47	22	14,632	19	9	31,610	18	8	214	100
Chancery	7,316	49	24	11,150	49	16	13,434	35	17	10,757	35	17	9,421	27	13	11,906	25	12	204	100
Queen's Bench	6,693	51	25	7,751	43	21	10,677	43	21	9,912	21	10	8,876	24	12	16,199	23	11	205	100
Commercial	6,187	10	9	10,907	10	9	13,522	13	12	20,262	15	14	27,537	26	24	26,503	32	30	106	100
Bankruptcy/Comp	6,785	14	18	7,050	14	18	5,748	10	13	9,015	20	26	16,592	8	10	13,042	11	14	77	100
Whole sample	8,318	361	21	9,541	287	16	12,927	355	20	15,300	303	17	21,815	248	14	36,951	192	11	1746	100

<= Less than or equal to >= Greater than or equal to

\*Median = 50% of cases have costs higher and 50% lower than the median figure

TABLE 2.8: COSTS AS A PERCENTAGE OF VALUE OF CLAIM (costs/value x 100)

Costs as a % of claim value (median)	Value of Claim £					
	<=12,500 N=361	>12,500- <=25,000 N=287	>25,000- <=50,000 N=355	>50,000- <=100,000 N=303	>100,000- <=250,000 N=248	>250,000 N=192
Med Negligence	137%	57%	46%	33%	21%	12%
Personal Injury	135%	41%	28%	22%	13%	11%
Professional Neg	135%	54%	43%	41%	27%	15%
Official Ref	158%	96%	48%	53%	31%	19%
Breach of Cont	138%	46%	32%	21%	12%	5%
Chancery	119%	62%	40%	17%	8%	2%
Queen's Bench	154%	44%	33%	14%	5%	3%
Commercial	174%	54%	27%	38%	16%	2%
Bankruptcy/Comp	115%	39%	18%	15%	10%	1%

<= Less than or equal to >= Greater than or equal to

TABLE 2.9 : COSTS AS A PERCENTAGE OF THE VALUE OF CLAIM - TOP 30 CASES

Type of Case	Weight	Value of Claim £	Costs allowed £	Costs as % of value
Breach of Contract	C	5	80,867	1617340
Chancery++	D	32	22,240	69500
Queen's Bench 'other'	E	50	5,314	10628
Medical Negligence++	C	750	43,535	5805
Breach of Contract	B	3,250	106,372	3273
Queen's Bench 'other'	D	1,317	25,942	1970
Queen's Bench 'other'++	A	10,860	200,515	1846
Medical Negligence++	D	950	15,362	1617
Medical Negligence	D	750	10,091	1345
Queen's Bench 'other'	E	500	6,280	1256
Medical Negligence++	D	1,000	12,198	1220
Medical Negligence++	D	1,000	11,438	1144
Medical Negligence++	B	10,000	97,360	974
Professional Negligence++	E	800	7,622	953
Queen's Bench 'other'	B	5,000	41,749	835
Official Referee	C	6,000	49,848	831
Breach of Contract	E	500	4,027	805
Official Referee	E	750	5,182	691
Breach of Contract++	D	2,489	16,626	668
Chancery	D	4,000	26,415	660
Queen's Bench 'other'++	D	9,635	63,009	654
Queen's Bench 'other'	E	780	5,0334	645
Professional Negligence++	E	1,750	11,287	645
Chancery	C	5,000	31,592	632
Breach of Contract	C	5,000	30,913	618
Breach of Contract	B	15,500	91,154	588
Commercial	C	3,000	17,584	586
Chancery	E	750	4,326	577
Professional Negligence	D	3,000	16,754	558
Queen's Bench 'other'	E	993	5,182	522

Weight of case: A = Heaviest E = Lightest

++ Cases where winning party granted Legal Aid

### Details of cases with very high costs to claim value ratio

73. The list in Table 2.9 alone does not reveal the nature of issues at stake and thus fails to provide an explanation of why the parties were apparently willing to invest disproportionate costs to secure a relatively modest financial settlement or award. In order to shed further light on these cases, brief details were extracted from SCTO files about the subject of the dispute and this information is summarised below:

**Breach of Contract:** P claimed damages from D for failing to seek planning permission to construct houses over period of 5 years. Trial lasted 9 days. D instructed experts. Judgment: D was in breach of contract but P had not suffered loss under the contract. Nominal damages awarded of £5.00. P to pay D's costs of £80,867.

**QB 'other':** P company argued D attempting to pass-off goods as those of P. P agreed to accept nominal damages of £50. P's costs £5,314.

**Medical negligence:** P claimed damages for negligence relating to birth of baby. Evidence complex. Counsel assessed P's loss at £900,000. Six days before trial £5,000 paid into court. At trial judge found for P in sum of £750 plus interest and costs to date of payment in. P's total costs £43,535. P had legal aid.

**Breach of Contract:** P suing for non-payment of professional fees for around £4,000. Three sets of proceedings commenced in county court against three defendants. One D counterclaimed for £110,000 claiming negligent performance of professional services. Experts instructed. Case lasted from 1988 to 1991. After lengthy negotiations the case was settled as follows: 1st D paid £839; 2nd D paid £1,350; third D paid £1,061. Ds to pay costs of P and costs of defending counterclaim. P's total costs £106,372.

**QB 'other':** P suing for unpaid professional fees. D counterclaimed alleging negligent advice. Experts instructed. 5 day hearing in court. Judgment for P in sum of £1,317. Counterclaim dismissed. P's costs £25,942. Case lasted three years.

**QB 'other':** P claimed damages in tort relating to murder of daughter. Experts used. Judgment for P in sum of £10,801. Case lasted six years. P's costs £200,000. Both P and D had legal aid.

**Medical Negligence:** P claimed damages for negligence in relation to medical treatment. Experts used. D denied liability but then paid £750 into court. Case lasted six years. Two weeks before trial payment-in accepted. P's costs £15,362. P had legal aid.

**Medical Negligence:** P claimed damages for negligent treatment. Case lasted six years. D paid £750 into court and sum accepted just before trial. P's costs £10,000. No legal aid.

**QB 'other':** Claim for damages against receiver for loss of use of enjoyment of the works they were administering. Failed to collect fees due. Agreed £500 in settlement one year after action began. P's costs £6,280.

**Medical Negligence:** P claimed damages for negligent treatment. Complex issues of liability and causation. Action lasted four years. Ds disputed liability. P finally accepted £1,000. P's costs £12,000. P had legal aid.

**Medical Negligence:** P claimed damages for negligent treatment during operation. Claim

took six years to conclude. Ds denied liability but admitted doctor not formally registered at time of incident. Claim settled for £1,000. P's costs £13,000. P had legal aid.

**Medical Negligence:** P claimed damages for negligent failure to treat condition discovered during operation for separate condition. Case lasted for nine years. £10,000 paid into court before trial. Hearing lasted ten days. Damages awarded of £10,000. P's costs of £93,000.

**Professional Negligence:** P sued for negligent performance of services. After four years case settled for £800. P's costs £7,000.

**QB 'other':** P company sued an employee for reimbursement of expenses which had not been accounted for amounting to around £8,000. After two years the case went to trial. Judgment entered for P for £5,000 plus costs. P's costs £41,749. D had legal aid.

**Official Referee:** P was a company suing for money owed for goods and services supplied and installed as sub-contractors to D in relation to a building project. P claimed £34,087. D counterclaimed for £36,830 claiming breach of contract. The case went to a hearing before the Official Referee lasting four days. The case was settled for £6,000 plus costs. P's costs were £49,000. The case lasted four years.

**Breach of Contract:** P company sued for damages from an ex-employee claiming breach of a restraint of trade clause. P also sought an injunction to restrain D from soliciting P's customers. The injunction was granted and D paid £500 into court which P accepted. P's costs were £4,000.

**Official Referee:** In 1990 the P company claimed damages for damage done to the company's workshop by work allegedly being negligently carried out on neighbouring premises. The D company denied liability. The case involved considerable inspections and expert evidence. In 1992 D paid £750 into court which was accepted by P. P's costs were £5,182. Some costs were disallowed.

**Chancery:** Dispute over use of right of way. P wished to buy the right of way. Evidence that right would be valuable if land developed. D refused to settle and P tried to bar use. D counterclaimed arguing right to fee simple. Six day trial in 1987. Declaration that D entitled to use of right of way. Trial on damages set for 1990. P died before trial and claim settled two days before hearing. P paid £4,000 in respect of D's counterclaim. D's costs £26,415 over three years of case.

**Breach of Contract:** P was an artist claiming work damaged by D firm's negligence. P claimed £80,000. Trial over five days. Judgment given to P for £2,489 (£1,762 damages plus £727 interest). P's costs £16,626. P had legal aid. Case lasted 18 months.

**QB 'other':** P claiming return of property stored on Ds land by agreement and damages for wrongful interference. At an ex parte hearing the Ds were ordered to return the property and pay £800 in damages to P. P's costs £5,033. Case lasted 7 months.

**Chancery:** P seeking an Anton Pillar Order in relation to copyright dispute. Order granted, further application for order to commit D for alleged contempt of court. D paid £5,000 damages and agreed that no order would be made. D paid P's costs of £31,000. The case lasted one month.

**Breach of Contract:** In 1988 P company claimed special damages of £92,000 and £1,000



per week general damages for breach of covenant for quiet enjoyment of property, nuisance and interference. D argued no cause of action and abuse of process. Trial set for November 1991. In May 1991 D paid £15,500 into court. P accepted payment-in on the Friday before trial due to start on Monday. P's costs £91,000.

**Breach of contract:** In 1989 P company sued seller of boat on ground that boat not of merchantable quality. P's claim quantified between £185,439 (best) and £63,000 (worst). D denied liability and counterclaimed for £3,201 relating to items and services. Case involved a number of technical issues and required expert evidence. In 1992 D went into receivership. P finally accepted £5,000 after the action had been set down for trial. P's costs were £30,913.

**Professional Negligence:** P sued surveyors for negligently failing to report defects in house which P had purchased for £69,995. D relied on a disclaimer. Experts were called. The trial lasted two days. Judgment for P of £1,750 plus interest of £1,050. P's costs were £11,287. P had legal aid.

**Chancery:** P sought a declaration that water from D company's land had flooded P's land and damaged P's house. Expert evidence obtained. The case was settled for £750 damages plus the costs of the action plus D undertaking work to stop the problem. P's costs £4,326.

**Commercial:** Shipping case involving non-payment of legal fees. The case went to trial. The first D was ordered to pay \$845 plus interest. The second D was ordered to pay \$4,200 plus interest. The P's costs were £17,584. The case lasted 18 months.

**Professional negligence:** P sued several D firms for negligent advice concerning construction and laying of pipes on land. Case involved considerable expert evidence. Trial lasted 1 day in the county court. Judgment given for £3,000. P's costs £16,754. The case lasted two years.

### Cases with very high values

74. There was also a group of cases in the sample with very high claim values and in order to complete the picture, details have been provided of the top 30 cases high value cases. Table 2.10 shows the case type, case weight, amount recovered, allowed costs, and allowed costs expressed as a percentage of the value of the claim.

75. Among these cases, 70% were considered by the SCTO to be of the heaviest weight (A or B). One-third of the top 30 high value cases were Commercial cases, with a majority of the remainder being split largely between Chancery, bankruptcy/companies court, breach of contract and Queen's Bench other cases.

76. As might be expected, among many of the cases in this group, allowed costs represent a relatively small percentage of the value of the claim. In the case with highest amount recovered (£660 million Commercial claim) the allowed costs amounted to £39,837 representing .01% of the value of the amount recovered. In the next highest value case (also Commercial with amount recovered of £360,000,000) the costs were £14,861 representing less than .01% of the value of the case. However, the highest bill included in the sample was for £2,135,412 which related to another Commercial claim where the amount recovered was £2,850,000. In that case, the costs represented 75% of the value of the claim.

TABLE 2.10 : COSTS IN RELATION TO HIGH VALUE CLAIMS - TOP 30 CASES

Type of Case	Weight	Value of Claim £	Costs allowed £	Costs as % of value
Commercial	B	660,000,000	39,837	.01
Commercial	C	360,000,000	14,861	.004
Chancery	A	56,000,000	199,222	.36
Chancery	A	50,000,000	238,928	.48
Bankruptcy, Comp Ct++	B	18,000,000	32,999	.18
Commercial	B	12,540,000	77,000	.61
Commercial	E	6,539,575	6,443	.10
Commercial	B	4,431,750	25,608	.58
Breach of Contract	A	4,193,540	358,449	8.55
Queen's Bench 'other'	A	3,400,000	354,713	10.43
Breach of Contract	B	3,000,000	89,484	2.98
Bankruptcy, Comp Ct	C	3,000,000	17,648	.59
Bankruptcy, Comp Ct	B	3,000,000	59,628	1.99
Queen's Bench 'other'	B	3,000,000	104,957	3.50
Commercial	A	2,850,000	2,135,412	74.93
Commercial	B	2,800,000	28,322	1.01
Commercial	D	2,800,000	12,466	.45
Commercial	C	2,500,000	20,955	.84
Official Referee	B	2,500,000	327,519	13.10
Queen's Bench 'other'	D	2,329,061	13,804	.59
Official Referee	E	2,000,000	5,697	.28
Professional negligence	B	2,000,000	236,075	11.80
Medical Negligence++	A	2,000,000	65,842	3.29
Medical Negligence++	A	1,950,128	96,994	4.97
Breach of Contract	B	1,900,000	25,573	1.35
Bankruptcy, Comp Ct	C	1,900,000	41,196	2.17
Chancery	B	1,800,000	76,287	4.24
Personal Injury	A	1,800,000	159,377	8.85
Commercial	A	1,645,126	130,000	7.90
Chancery	D	1,600,000	12,604	.79

Weight of case: A = Heaviest E = Lightest

++ Cases where winning party granted Legal Aid

### **Costs and duration of cases**

77. A simple analysis of average costs in relation to case length suggests that lengthier cases have higher average costs (Table 2.11). Among cases with a total length, from instruction to conclusion, of less than one year, median costs were £8,008. Cases lasting between 1 and 2 years had median costs of £9,431. Cases lasting from 2-4 years had median costs of £14,758, and those lasting from 4-6 years had median costs of £15,168. The effect of case length on costs in different case types is explored more fully through statistical modelling in Section 6 of the report.

### **Costs and stage of proceedings**

78. Each case in the sample was coded according to the formal stages reached in proceedings, prior to conclusion of the claim. Among the cases in the sample as a whole, just under one-quarter (23%) went no further than the issue of proceedings before being settled; a little over one-quarter (28%) of cases had been set down for trial before settlement; some 17% of cases reached the door of the court before settling; and just under one-third of cases had proceeded to trial. In interpreting the information about costs in relation to stage reached in proceedings, it is important to note that a considerable period of time may have elapsed following the issue of proceedings and the conclusion of the case, even though the case did not reach the formal stage of being set down for trial.

79. As might be expected, the highest overall average costs were found among those cases that reached the door of the court or went to trial. In fact there was virtually no difference in average total costs between these two stages, with an average of £34,713 among those cases reaching the doors of the court, and £34,111 among those going to trial. Among those cases that did not go beyond the issue of proceedings, the average total costs were £11,238, and among those that were set down for trial, the average costs rose to £17,795. The relationship between costs and formal stage reached in proceedings is explored further in Section 6 of the report.

### **Costs and means of concluding cases**

80. There was considerable variation between case types in the means by which cases were concluded (Table 2.12). Medical negligence cases, personal injury cases, and professional negligence cases were predominantly concluded by means of a consent order; companies court cases, judicial review cases, Commercial cases and Chancery cases within the sample had higher judgment rates. Among personal injury cases, 87% were concluded on the basis of accepting money in court or a consent order. The lowest settlement rate was among Commercial cases in which just over one-quarter had been settled. The case types most likely to go to trial were bankruptcy/companies cases (65% of those without a claim value and 45% of those with a claim value), and judicial review cases (64%).

81. The substantial differences between case categories in the means by which cases were concluded should be borne in mind when reading data relating to average costs and case conclusion, since case type is likely to affect these figures. Cases concluded on the basis of a consent judgment had the highest average costs, followed by cases concluded on the basis of a judgment. The lowest average costs were among cases concluded after summary judgment, cases which were dismissed and cases which were struck out. The relationship between costs and means of concluding proceedings is explored more fully in Section 6 of the report.



	Duration of Case					Total
	< 1yr	1-2yrs	2-4yrs	4-6yrs	6yrs +	
<b>Medical Negligence</b>						
Mean			26078.02	30142.66	30756.71	29380.37
Median			14258.50	16162.00	15700.50	15531.00
Maximum			159470.00	156202.00	182183.00	182183.00
Minimum			4764.00	4735.00	3759.00	3759.00
Valid N			N=48	N=96	N=62	N=206
<b>Personal Injury</b>						
Mean	24720.00	20826.55	18195.45	18931.66	21246.96	19382.15
Median	11519.50	13694.00	11091.00	12336.00	15487.00	12134.00
Maximum	84769.00	56616.00	159377.00	96233.00	92762.00	159377.00
Minimum	6862.00	3298.00	3476.00	2673.00	3058.00	2673.00
Valid N	N=6	N=11	N=120	N=109	N=77	N=323
<b>Professional Negligence</b>						
Mean	5707.33	21240.98	41504.09	25126.44	41166.60	32866.31
Median	5592.00	11917.00	17970.50	12261.00	22050.00	14834.00
Maximum	7110.00	83333.00	725000.00	295000.00	167607.00	725000.00
Minimum	4420.00	4303.00	2878.00	4595.00	7622.00	2878.00
Valid N	N=3	N=47	N=92	N=43	N=20	N=205
<b>Official Referee</b>						
Mean	11569.26	26998.08	41258.40	42303.03	62691.58	35844.21
Median	8268.00	17132.00	20987.00	20891.00	34516.50	19320.00
Maximum	51400.00	133805.00	327519.00	240219.00	319447.00	327519.00
Minimum	3841.00	3245.00	4697.00	4824.00	7349.00	3245.00
Valid N	N=23	N=51	N=84	N=36	N=12	N=206
<b>Breach of Contract</b>						
Mean	11898.77	11845.50	32116.55	32875.34	14303.00	22575.46
Median	7786.00	8293.50	18758.00	17272.00	14486.00	11833.00
Maximum	89484.00	44332.00	358449.00	131967.00	33398.00	358449.00
Minimum	3001.00	2832.00	1798.00	5074.00	2515.00	1798.00
Valid N	N=41	N=54	N=79	N=32	N=8	N=214
<b>Judicial Review</b>						
Mean	15722.24	9302.40	15437.10			13232.58
Median	8008.00	7013.00	10360.50			7642.00
Maximum	437348.00	36088.00	46055.00			437348.00
Minimum	2338.00	3697.00	5128.00			2338.00
Valid N	N=107	N=79	N=20			N=206

TABLE 2.11 : COSTS AND DURATION OF CASE (PAGE 1)

	Duration of Case					Total
	< 1yr	1-2yrs	3-4yrs	5-6yrs	6yrs +	
<b>Chancery</b>						
Mean	16977.58	17962.11	17162.23	20257.85	24097.88	18261.50
Median	7267.50	10418.50	11635.00	19527.00	13830.00	10510.00
Maximum	238928.00	82705.00	80966.00	44907.00	167835.00	238928.00
Minimum	3696.00	4316.00	2678.00	5420.00	5118.00	2678.00
Valid N	N=50	N=40	N=70	N=27	N=17	N=204
<b>Queen's Bench Other</b>						
Mean	9489.61	11757.83	19686.37	30383.08	54333.76	18851.84
Median	6344.00	7280.50	9386.00	18653.00	24174.00	8503.00
Maximum	45636.00	104957.00	231395.00	242381.00	354713.00	354713.00
Minimum	3311.00	3605.00	3451.00	4884.00	7761.00	3311.00
Valid N	N=65	N=46	N=52	N=25	N=17	N=205
<b>Commercial</b>						
Mean	26531.59	102252.36	40254.48	100818.89	12350.25	56318.87
Median	14303.50	15276.50	23724.00	115600.00	11358.00	18897.00
Maximum	205140.00	2135412.00	198268.00	248521.00	20242.00	2135412.00
Minimum	4884.00	3703.00	5143.00	7365.00	6443.00	3703.00
Valid N	N=34	N=28	N=31	N=9	N=4	N=106
<b>Commercial (no value)</b>						
Mean	20452.51	22831.89	57899.18	22916.80	34192.20	25705.08
Median	11443.00	16807.50	38000.00	18618.00	9416.00	15796.50
Maximum	121865.00	73344.00	252000.00	48962.00	95911.00	252000.00
Minimum	3041.00	3463.00	25867.00	9609.00	4970.00	3041.00
Valid N	N=63	N=18	N=11	N=5	N=5	N=102
<b>Bankruptcy &amp; Companies</b>						
Mean	9941.65	15998.57	47324.86	13604.33	4889.00	14518.47
Median	7142.00	10218.00	21273.00	5633.00	4889.00	7723.00
Maximum	44795.00	59628.00	170129.00	29701.00	4889.00	170129.00
Minimum	3186.00	2643.00	10629.00	5479.00	4889.00	2643.00
Valid N	N=52	N=14	N=7	N=3	N=1	N=77
<b>Companies Court (no value)</b>						
Mean	11704.55	10150.88	17611.64	11354.00	12153.00	12380.75
Median	7656.00	7563.50	12893.00	13289.50	12153.00	8545.50
Maximum	62252.00	29980.00	37094.00	16275.00	12153.00	62252.00
Minimum	2846.00	4288.00	7209.00	3911.00	12153.00	2846.00
Valid N	N=75	N=26	N=22	N=6	N=1	N=130
<b>Total</b>						
Mean	14745.20	21739.50	28921.05	28260.95	30373.79	24221.82
Median	8008.00	9431.50	14758.00	15168.00	15685.00	11762.50
Maximum	437348.00	2135412.00	725000.00	295000.00	354713.00	2135412.00
Minimum	2338.00	2643.00	1798.00	2673.00	2515.00	1798.00
Valid N	N=519	N=414	N=636	N=391	N=224	N=2184

TABLE 2.11: COSTS AND DURATION OF CASE (CONTINUED)

TABLE 2.12 : MEANS OF CONCLUDING CASES BY CASE TYPE

Means of concluding case	Type of Case											
	Medical Negligence (N=206)	Personal Injury (N=323)	Prof Negligence (N=205)	Official Referee (N=206)	Breach of Contract (N=214)	Judicial Review (N=206)	Chancery (N=204)	QB 'other' (N=205)	Commercial (N=106)	Commercial (no value) (N=102)	Bankruptcy/Comp Ct (N=77)	Bank/Comp (no value) (N=130)
Acceptance of monies in court	12	18	15	16	8	-	3	7	6	-	6	-
Consent Judgment	11	2	3	11	2	1	2	3	1	-	-	-
Consent Order	69	69	71	51	36	31	44	27	29	30	15	
Dismissed	-	-	1	*	2	-	2	2	2	1	2	
Judgment	8	10	7	15	29	64	25	31	26	45	65	
Order	-	-	-	2	2	2	15	6	21	14	12	
Struck Out	-	-	1	1	2	1	2	4	19	1	5	
Summary judgment	-	-	1	4	16	-	6	19	2	1	1	
Withdrawn	-	-	-	*	2	-	-	3	2	-	-	
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

\*Less than 1 %

### **3. COMPONENTS OF COSTS**

82. In addition to collecting data about total costs of cases, information was also gathered about three major components of bills of costs: counsel fees, expert fees, and costs attributed to discovery/documents. Cases were analysed in order to demonstrate the ways in which the various components of costs vary between cases of different types, weight and value. Differences in the costs components are also analysed in relation to the formal stage reached in proceedings before settlement and the means by which cases were concluded.

#### **COMPONENTS OF COSTS AND CASE TYPE**

##### **Counsel Fees and case type**

83. Table 3.1 analyses components of costs in relation to case type. As far as counsel fees are concerned, Commercial cases had the highest average counsel fees (£8,447), followed by medical negligence cases (£7,028). Professional negligence cases, Official Referee cases and judicial review cases also had relatively high averages for total counsel fees (£5,757, £5,396 and £5,354 respectively). In all categories of case type, the largest single element in counsel fees was in respect of briefs and refreshers.

84. In addition to the differences in absolute levels of fees paid to counsel in different case categories, there were also differences in the proportion that counsel fees represented of costs as a whole between different case types. In personal injury cases, Official Referee cases and Commercial cases counsel fees represented about 15% of total costs, as compared with 20% in Chancery cases, 24% in bankruptcy and companies court cases, and over a third of total costs in judicial review cases.

##### **Expert fees and case type**

85. The average fees paid to experts differed substantially between case categories ranging from £193 in judicial review cases, to £6,445 in professional negligence cases, and £9,653 in Official Referee cases. There was also a considerable difference between case types in the percentage of total costs represented by expert fees. Among judicial review, Commercial, Chancery, QBO, and breach of contract cases, expert fees represented, on average, between 1% and 5% of total costs. Among Official Referee cases, professional negligence, medical negligence and personal injury cases, expert fees represented between 13% and 19% of total costs.

##### **Discovery/Documents and case type**

86. Among all case types the costs attributed to discovery/documents represented the largest of the four cost components, and there was considerable variation in the average values attributed to discovery/documents. The highest average amount was found in Commercial cases at £19,142, followed by professional negligence cases with an average of £11,320, and Official Referee cases with an average discovery/documents cost of £9,956. The lowest average cost for discovery/documents was found among judicial review cases, with an average of £3,504. A comparison of the percentage of total costs represented by discovery/documents shows figures ranging from 25% in judicial review cases to 45% of total costs in Commercial cases.

TABLE 3.1 COMPONENTS OF COSTS BY CASE TYPE

	Type of Case					
	Medical Negligence N=206	Personal Injury N=323	Profess Negligence N=205	Official Referee N=206	Breach of Contract N=214	Judicial Review N=206
<b>Counsel Fees</b>						
Average total fees £	7,028	3,744	5,757	5,396	4,710	5,354
Counsel fees as % of bill	18%	14%	16%	15%	18%	36%
<b>Expert fees</b>						
Average - total fees £	4,413	2,714	6,445	9,653	1,960	193
Expert fees as % of bill	14%	13%	15%	19%	5%	1%
<b>Discovery/ Documents</b>						
Average value £	7,590	5,016	11,320	9,956	7,114	3,580
Average % bill	28%	28%	33%	30%	33%	25%

	Type of Case					
	Chancery N=204	Q Bench 'other' N=205	Commercial N=106	Commercial (no value) N=102	Bank/ Comp Ct N=77	Bank/ Comp Ct (no val) N=130
<b>Counsel Fees</b>						
Average total fees £	4,239	4,581	8,447	5,649	2,946	3,170
Counsel fees as % of bill	20%	18%	15%	19%	21%	26%
<b>Expert fees</b>						
Average - total fees £	1,326	1,333	7,245	600	954	408
Expert fees as % of bill	3%	3%	3%	1%	3%	3%
<b>Discovery/ Documents</b>						
Average value £	5,798	6,192	19,142	10,016	4,676	4,030
Average % bill	31%	36%	45%	43%	32%	31%



## COMPONENTS OF COSTS AND CASE WEIGHT

### Counsel fees and case weight

87. Table 3.2 shows substantial differences between average counsel fees in cases of different weight. The average total amount paid in counsel fees among the heaviest cases was £36,274, as compared with an average of £1,297 among the lightest cases. The calculation of counsel fees as a proportion of total costs also followed the same pattern, ranging from 25% of total costs among category "A" cases, to 18% of total costs among category "E" cases, although the range was relatively narrow. Thus although there were substantial differences in the amounts paid to counsel in cases of different weight, the total costs attributed to counsel tended to represent a relatively stable percentage of bills, regardless of weight.

### Expert fees and case weight

88. A similar, straightforward association between case weight and average total expert fees is revealed by Table 3.2. Total expert fees ranged from an average of £30,537 among the heaviest cases down to £433 among the lightest cases. This range was reflected in the differences between cases of different weight in the proportion of total costs represented by expert fees. Among category A cases expert fees represented, on average, 18% of the value of total costs, compared with 12% among category B cases, 8% among category D cases, and 5% among category E cases.

### Discovery/Documents and case weight

89. The value of hours allowed for discovery/documents ranged from £49,240 among category A cases, down to £2,137 among category E cases. In all five categories the value of discovery/documents as a proportion of total costs was virtually identical, ranging from 30% to 32% of total costs. Thus although there were substantial differences in the absolute amount attributed to discovery/documents in cases of different weight, this item represented a stable percentage of total legal costs, irrespective of case weight.

TABLE 3.2: COMPONENTS OF COSTS IN RELATION TO CASE WEIGHT: WHOLE SAMPLE

	Assessment of Weight of Case				
	A (Heaviest) N=75	B N=165	C N=454	D N=736	E (Lightest) N=754
<b>Counsel Fees</b>					
Average total fees allowed £	36,274	15,005	6,389	2,580	1,297
Counsel fees as % of bill	25%	24%	21%	18%	18%
<b>Expert Fees</b>					
Total fees allowed £	30,537	11,088	3,574	1,303	443
Expert fees as % of bill	15%	12%	10%	8%	5%
<b>Discovery/Documents</b>					
Value of hours allowed £	49,240	21,129	9,346	4,307	2,137
Documents as % of bill	31%	32%	32%	32%	30%

## COMPONENTS OF COSTS AND VALUE OF CLAIM

### Counsel fees and value of claim

90. An analysis of the various components of costs in relation to claim value reveals that average counsel fees rise steadily as the value of claim increases (Table 3.3). There is also a rise in the percentage of total costs represented by counsel fees, although the difference between low and high value claims is not great. Among the lowest value claims, counsel fees represent about 15% of total costs as compared with about 23% in cases where more than £250,000 was recovered in the action.

### Expert fees and value of claim

91. Average total expert fees were also found to rise with the value of the claim, from a low of £1,275 among cases with a value of up to £12,500, to a high of £14,651 among cases with a value of £250,000 or higher. As with some other components of costs, Table 3.3 shows that although there is a small steady rise in expert fees between each claim value category up to £250,000, there appears to be a significant increase in fees once cases reach £250,000 or more.

92. As a percentage of total costs, however, expert fees *do not* show a pattern of general increase with increasing claim value, but instead remain stable at between 9% and 11%, irrespective of claim value.

### Discovery/Documents and value of claim

93. The analysis of costs attributed to discovery/documents in relation to claim value reveals a steady increase as claim value rises, ranging from £3,388 among the lowest value cases, to £22,217 among the highest value cases. There is also the characteristic jump between cases with a value of £100,000 to £250,000 (average discovery/documents costs

of £11,824), and those with a value of over £250,000 (average discovery/documents costs of £21,217). However, in common with other components of costs, the average percentage of total costs represented by discovery/documents did not vary much according to the value of the claim. The average percentage of total costs allowed for documents ranged from 30% among the lowest value cases, to 34% among the highest value cases.

## **COMPONENTS OF COSTS AND STAGE REACHED IN PROCEEDINGS**

### **Counsel fees and stage of proceedings**

94. The general pattern suggested by Table 3.4 is that total fees paid to counsel gradually increase as each stage in proceedings is reached. The average total counsel fee among cases that did not go beyond issue of proceedings was £1,746. This figure rose to £2,179 among those that were set down for trial, to £6,701 among those that settled at the doors of the court, and then to an average high of £9,200 among cases that proceeded to trial.

95. When counsel fees were analysed as a percentage of total costs, there was an overall increase with each stage reached in proceedings, from a low of 15%, among cases that settled after the issue of proceedings, to a high of 29% among cases that proceeded to trial.

### **Expert fees and stage of proceedings**

96. The average total costs allowed for experts was highest among those cases that ended at the doors of the court (£5,788), and lowest among those cases that ended after issue of proceedings (£627). There is no discernable pattern, however, in expert fees as a percentage of total costs in relation to the stage reached in proceedings.

### **Discovery/Documents**

97. Average costs allowed for discovery/documents appear to increase as cases reached different stages in proceedings. The average documents costs among cases not progressing beyond issue of proceedings was £4,216, as compared with £10,037 among those cases that reached the doors of the court.

98. Discovery/documents represented a higher proportion of total costs among those cases not progressing beyond issue of proceedings before settling (55% of total), than among those proceeding to trial, where documents represented only 26% of total costs.

TABLE 3.3 : COMPONENTS OF COSTS IN RELATION TO VALUE OF CLAIM: WHOLE SAMPLE

	Value of Claim £							No Value Given N=438
	<=12,500 N=361	>12,500- <=25,000 N=287	>25,000- <=50,000 N=355	>50,000- <=100,000 N=303	>100,000- <=250,000 N=248	>250,000 N=192		
Average total costs allowed £	11,908	13,472	17,733	25,205	36,674	76,825	15,884	
<b>Counsel Fees</b>								
Average total fee allowed £	2,224	2,301	2,944	4,625	7,216	16,581	4,774	
Counsel fees as % of bill	15%	15%	16%	17%	18%	23%	29%	
<b>Expert fees</b>								
Average - total fees £	1,275	1,539	2,209	3,527	5,285	14,651	352	
Expert fees as % of bill	9%	9%	10%	10%	11%	9%	2%	
<b>Discovery/Documents</b>								
Average value £	3,388	4,019	5,512	7,884	11,824	22,217	5,212	
Average % bill	30%	30%	31%	31%	35%	34%	30%	

TABLE 3.4: COMPONENTS OF COSTS IN RELATION TO STAGE REACHED IN PROCEEDINGS: WHOLE SAMPLE

	Stage reached in proceedings			
	Issue of proceedings N=512	Set down for trial N=620	Doors of court N=380	Trial N=672
<b>Counsel Fees</b>				
Average total fees allowed £	1,746	2,179	6,701	9,200
Counsel fees as % of bill	15%	12%	20%	29%
<b>Expert Fees</b>				
Total fees allowed £	627	2,775	5,788	4,160
Expert fees as % of bill	4%	12%	12%	6%
<b>Discovery/Documents</b>				
Value of hours allowed £	4,264	6,176	10,518	9,216
Documents as % of bill	36%	33%	30%	27%

## COMPONENTS OF COSTS AND MEANS OF CONCLUDING PROCEEDINGS

### Counsel fees and means of concluding proceedings

99. Counsel fees were highest in absolute terms, and as a percentage of total costs, among cases that had been concluded on the basis of judgment (Table 3.5), with average total fees of £8,523, representing 29% of total costs. Among consent judgments, counsel fees averaged £8,254, representing almost one-quarter (23%) of total costs. Among consent orders counsel fees averaged £4,066, representing 15% of total costs. Where payments-in were accepted, counsel fees were relatively low, averaging £2,685 and representing the smallest percentage of average costs of all methods of case conclusion at 12%. Among dismissed cases, average counsel fees came to £8,523 representing 21% of total costs in those cases.

### Expert fees and means of concluding proceedings

100. The average total amount paid to experts was highest among cases concluded on the basis of consent judgments (representing 16% of total costs), when a payment-in had been accepted (representing 14% of total costs) and when there had been a consent order (representing 10% of total costs). Among cases that had been concluded after judgment, the average cost for experts was £3,227 representing an average of only 5% of total costs.

### Discovery/Documents and means of concluding proceedings

101. The highest average value allowed for discovery/documents was among cases concluded on the basis of a consent judgment at £10,088, followed by judgments at £8,632, and consent orders at £7,417. The percentage of total costs attributed to discovery/documents varied little between different means of concluding cases, ranging from a low of 24% among consent judgments, to a high of 41% among cases that were struck out.



TABLE 3.5 : COMPONENTS OF COSTS IN RELATION TO MEANS OF CONCLUDING PROCEEDINGS++

	Accept Payment-In N=196	Consent Judgment N=78	Consent Order N=1002	Judgment N=555	Summary Judgment N=157	Order N=105	Dismissed N=26	Struck out N=55
<b>Counsel Fees</b>								
Average - settling pleadings £	450	584	489	498	361	363	690	440
Average - conferences £	779	1,479	919	996	301	581	584	782
Average - briefs/refreshers £	1,070	5,735	2,266	6,744	1,341	2,349	1,777	2,276
Average - written advice £	385	455	399	299	108	121	214	269
Total counsel fees allowed £	2,685	8,254	4,066	8,523	2,112	3,366	3,266	3,767
Counsel fees as % of bill	12%	23%	15%	29%	18%	22%	21%	22%
<b>Expert Fees</b>								
Total fees allowed £	3,817	6,230	3,805	3,227	894	458	166	213
Expert fees as % of bill	14%	16%	10%	5%	1%	2%	2%	2%
<b>Documents</b>								
Value of hours allowed £	6,685	10,088	7,417	8,632	4,431	5,385	5,203	6,767
Documents as % of bill	32%	24%	32%	28%	37%	32%	36%	41%

++ Excludes 10 cases that were withdrawn/discontinued

## 4. INTERLOCUTORY ACTIVITY AND CASE FEATURES

102. In this section interlocutory activity is analysed in relation to case type, case weight, and value of claim using information collected from all sampled cases about the number of pages in the statement of claim, the number of requests for further and better particulars and the number of interlocutory applications.

### **Interlocutory activity and case type**

103. Table 4.1 shows that there was considerable variation between case types in the level of interlocutory activity. For example, Official Referee, breach of contract cases and Chancery cases involved large numbers of interlocutory applications. Almost one-half (49%) of Official Referee cases involved four or more interlocutory applications. Over one-third (39%) of breach of contract cases and Chancery cases (37%) involved four or more interlocutory applications, with a similar percentage in each case type (13%-15%) involving seven or more interlocutory applications.

104. Those case types that seemed to generate the lowest levels of interlocutory activity were judicial review cases (2% with four or more interlocutory applications) and Commercial cases without value (13% with four or more applications).

### **Interlocutory activity and case weight**

105. Table 4.2 shows a relatively straightforward association between case weight and the level of interlocutory activity. The number of pages in the statement of claim increased with case weight. Among the lightest cases, over three quarters (78%) had up to four pages of statement of claim and none had more than 19 pages. Among the heavier cases, three-quarters of weight B and 95% of weight A cases had five or more pages.

106. Multiple requests for further and better particulars were also more common among the heavier cases, with about one-quarter of weight A and B cases making three or more requests for further and better particulars, compared with 3% among weight E cases.

107. The proportion of cases involving several interlocutory applications was highest among categories A and B. Almost one-quarter (23%) of weight B cases involved seven or more interlocutory applications as compared with 2% of weight E cases. However, it should be noted that even among the lightest cases (weight E) some 15% of cases involved more than four interlocutory applications.

TABLE 4.1 : FEATURES OF CASES IN RELATION TO CASE TYPE (PAGE 1)

	Type of Case					
	Medical Neg	Personal Injury	Profess Neg	Official Referee	Breach of Contract	Judicial Review
<u>Statement of claim pages</u>	%	%	%	%	%	%
1-4	28	81	31	43	59	-
5-9	58	17	58	48	37	-
10-19	13	2	9	9	4	-
20+	1	-	2	-	-	-
<u>Requests for further and better particulars</u>	%	%	%	%	%	%
None	30	39	25	34	50	98
1	36	36	34	27	27	2
2	18	16	25	24	12	-
3 or more	16	8	16	14	11	-
<u>Number of interlocutory applications</u>	%	%	%	%	%	%
None	11	25	14	7	12	26
1-3	59	54	53	44	50	72
4-6	25	15	24	34	26	2
7 or more	5	6	9	15	13	-

TABLE 4.1 : FEATURES OF CASES IN RELATION TO CASE TYPE (CONT)

	Type of Case					
	Chancery	QB 'other'	Commercial	Commercial (no value)	Bank/ Comp	Bank/Comp (no val)
<u>Statement of claim pages</u>	%	%	%	%	%	%
1-4	54	67	45	49	25	67
5-9	42	29	51	49	50	33
10-19	4	4	5	2	-	-
20+	-	1	-	-	25	-
<u>Requests for further and better particulars</u>	%	%	%	%	%	%
None	65	65	59	77	94	95
1	22	15	23	14	4	2
2	7	11	14	8	3	2
3 or more	6	9	4	1	-	1
<u>Number of interlocutory applications</u>	%	%	%	%	%	%
None	11	13	26	34	12	11
1-3	51	53	51	53	62	67
4-6	23	24	17	11	19	15
7 or more	14	9	6	2	6	8

TABLE 4.2 : FEATURES OF CASES IN RELATION TO CASE WEIGHT

	Weight of Case				
	A (Heaviest)	B	C	D	E (Lightest)
	N=75	N=165	N=454	N=736	N=754
<u>Statement of claim pages</u>	%	%	%	%	%
1-4	5	27	36	54	78
5-9	60	56	57	42	21
10-19	29	16	6	5	1
20+	6	1	1	-	-
<u>Requests for further and better particulars</u>	%	%	%	%	%
None	32	35	46	54	71
1	22	27	25	25	18
2	16	15	18	14	8
3 or more	30	23	11	7	3
<u>Number of interlocutory applications</u>	%	%	%	%	%
None	1	4	10	17	24
1-3	42	46	52	56	60
4-6	31	27	23	20	13
7 or more	26	23	11	7	2



## Value of Claim

108. Table 4.3 displays interlocutory activity in relation to claim value. What emerges from the Table is how *little* difference there appears to be between low and higher value cases in the level of interlocutory activity. Although there was a tendency for the statement of claim to be longer among cases with a value of over £250,000 there was little variation between other case value categories in this respect. Among cases with a value of more than £250,000, some 16% submitted three or more requests for further and better particulars, as compared with 11% of cases with a claim value of less than £12,500.

109. The Table shows a considerable amount of interlocutory activity among low value claims. Just under one-third (30%) of the lowest value cases made four or more interlocutory applications and one-quarter made two or more requests for further and better particulars. This activity presumably contributes to the high costs-to-value ratio of many of the lower value claims.

TABLE 4.3 : FEATURES OF CASES IN RELATION TO VALUE OF CLAIM

	Value of Claim £					
	<=12,500	>12,500 & <=25,000	>25,000 & <=50,000	>50,000 & <=100,000	>100,000 & <=250,000	>250,000
<u>Statement of claim pages</u>	%	%	%	%	%	%
1-4	64	54	54	57	45	37
5-9	33	39	42	36	45	51
10-19	3	6	5	6	10	9
20+	-	-	-	1	1	3
<u>Requests for further and better particulars</u>	%	%	%	%	%	%
None	45	49	44	46	49	52
1	30	29	31	25	27	20
2	14	16	16	19	16	12
3 or more	11	6	10	12	9	16
<u>Number of interlocutory applications</u>	%	%	%	%	%	%
None	14	21	16	12	14	13
1-3	56	51	54	52	50	51
4-6	22	22	21	26	26	24
7 or more	8	6	10	10	11	13

## 5. CASE DURATION DATA

110. From information collected about date of first instruction, date of issue of proceedings and date of conclusion of claim it has been possible to investigate a number of issues relating to case duration. First, it is possible to provide descriptive data about average case length and to show how this varies in cases of different type. Second, it is possible to examine the relationship between case duration and costs in order to explore the extent to which costs vary with case length. In this section, descriptive information is provided about duration in relation to case type, value of claim, legal aid, costs, stage of proceedings reached, and means of concluding claims. Section 6 reports the results of statistical modelling of duration and costs which was carried out in order to assess the impact, if any, of case length on legal costs.

### A. DURATION FROM INSTRUCTION TO CONCLUSION OF CASE

#### Duration and Case Type

111. In Section 1 it was reported that there were substantial differences between case type in the average length of case. Medical negligence cases had the longest average length (mean 65 months), followed by personal injury cases (56 months) and professional negligence cases (41 months). The most rapidly concluded cases were judicial review cases (12 months), bankruptcy/companies court cases (about 13 months) and Commercial cases without a claim value (16 months) (Figure 5.1).

#### Duration and Value of Claim

112. Within the sample as a whole, the average length of cases appears to **decrease** as the value of the claim increases (Table 5.1). However, Figure 5.2 shows that there are some substantial differences between case types. For example, in medical negligence cases the highest value cases take, on average, the longest to conclude, while among breach of contract cases and Chancery cases there is no clear relationship between value of claim and duration of case. Among professional negligence cases, breach of contract cases and companies court cases without value, those with the lowest claim values appear to take longest to conclude in terms of mean duration. The relationship between duration and claim value is explored more fully in Section 6 of the report.

TABLE 5.1 CASE DURATION AND VALUE OF CLAIM

Duration (months)	Value of Claim £						
	<=12,500 N=361	>12,500- <=25,000 N=287	>25,000- <=50,000 N=355	>50,000- <=100,000 N=303	>100,000- <=250,000 N=248	>250,000 N=192	No value given N=438
Mean	42	41	40	38	39	34	14
Median	38	35	37	34	35	27	10
Maximum	127	152	120	140	120	214	118
Minimum	0	1	0	1	0	0	0

## Duration and Costs Allowed

113. In the sample as a whole, cases with the lowest average costs (£10,000 or less) had the shortest median duration (18 months); as costs rise there is a relatively small increase in average duration (Table 5.2).

TABLE 5.2: CASE DURATION AND COSTS ALLOWED

Duration (months)	Costs Allowed £					
	<=10,000	>10,000 & <=20,000	>20,000 & <=30,000	>30,000 & <=40,000	>40,000 & <=50,000	>50,000
Mean	26	39	40	39	43	45
Median	18	35	36	34	36	40
Maximum	131	152	115	140	214	152
Minimum	0	0	0	0	3	1

<= Less than or equal to    >= Greater than or equal to

114. Figure 5.3 displays costs in relation to case duration within different case types. Although the figure suggests an association between costs and duration the pattern is not entirely consistent.

115. Figures 5.4 and 5.5 display mean and median costs within case type in relation to duration of case. The figures again suggest an absence of any consistent pattern that holds between different case types. For example, in medical negligence cases there is little difference in mean costs allowed between cases with duration of 2-4 years and those with a duration of six or more years. The same is true of personal injury cases (where in fact mean costs were slightly higher among cases with the shortest duration). Professional negligence cases, Official Referee cases Chancery cases, QB other cases, however, do suggest that as case length increases so do costs, if only slightly. The relationship between case duration and costs is explored more fully in Section 6 of the report.

## Duration and Legal Aid

116. There were 765 cases in the sample in which the successful party had been granted legal aid. A broad comparison of legal aid and non-legal aid cases overall revealed that average case duration was longer among those cases where the winning party had legal aid. With the exception of judicial review cases, this difference held true within case type. The mean duration of cases from first instruction to conclusion for the whole sample was 26 months among cases without legal aid (median 22 months) as compared with 49 months among cases with legal aid (median 48 months).

117. Table 5.3 and Figure 5.6 show the difference in duration between legal aid and non-legal aid cases within case type. The difference was greatest among Queen's Bench 'other' cases, where the average duration of legal aid cases was double that of non legal aid cases (50 months as compared with 24 months), among Chancery cases (46 months as compared with 26 months) and among professional negligence cases (52 months as compared with 33

months)<sup>7</sup>. The relationship between case duration and legal aid is explored more fully in Section 6 of the report.

TABLE 5.3: CASE DURATION (MONTHS) FROM INSTRUCTION TO CONCLUSION AND LEGAL AID

Case Type	No Legal Aid		Legal Aid	
	Mean duration	Median duration	Mean duration	Median duration
All cases	26	22	49	48
Medical Negligence	52	48	66	61
Personal Injury+	50	44	60	57
Professional Negligence	33	31	52	50
Official Referee	31	27	49	42
Breach of Contract	28	24	36	30
Judicial Review	12	11	12	11
Chancery	26	22	46	41
Queen's Bench 'other'	24	17	50	50
Commercial	25	19	47	47
Commercial (no value)	16	7	-	-
Bankruptcy & Companies Court	12	6	21	17
Bankruptcy & Comp Ct (no value)	15	8	15	

+ In 10 personal injury cases the information about legal aid was missing.

### Duration and Stage of Proceedings Reached

118. An analysis of case length in relation to the stage formal stage reached in litigation before conclusion revealed that, in the sample as a whole, cases with the longest average duration were those that had been set down for trial (mean duration of 47 months), and those that reached the doors of the court (mean duration of 44 months) before being settled (Table 5.4).

119. Figure 5.7 shows that there were some differences between case types in the

<sup>7</sup> Bankruptcy and Companies Court cases also show a large difference, but the number of legal aid cases (8) is too small to draw any inference from the difference shown.

relationship between duration and stage reached in proceedings. Among medical negligence cases, those that proceeded all the way to trial clearly had a longer average duration than those that did not. However, within other case type categories, cases settling at the door of the court had average case lengths that were as long, or longer, than the group of cases that proceeded to trial.<sup>8</sup> Among breach of contract cases and companies court cases, the cases with the longest case average case length were those that were set down for trial, but did not go beyond that stage before being settled.

TABLE 5.4: CASE DURATION AND STAGE REACHED IN PROCEEDINGS

Duration (months)	Stage reached in proceedings			
	Issue of proceedings N=512	Set down for trial N=620	Doors of court N=380	Trial N=2672
Mean	22	47	44	27
Median	15	44	42	20
Maximum	111	143	140	214
Minimum	0	0	0	0

### Duration and means of concluding proceedings

120. An analysis of case length in relation to way in which cases were concluded indicates that cases with the longest duration in the sample as a whole were those ended by a consent judgment (48 months on average), acceptance of money in court (44 months on average), or a consent order (42 months on average) (Table 5.5). Judgment after trial took, on average, 25 months from instruction to conclusion, while cases concluded on the basis of a summary judgment had an average duration of 19 months.

121. There was substantial variation between case types in the average length of settled and tried cases (Figure 5.8). Among Commercial and companies court cases, those concluded on the basis of accepting a payment into court had a substantially longer average duration than those concluded by other means. Among medical negligence, personal injury, Chancery and Queen's Bench 'other' cases, actions ending in judgment or a consent judgment had relatively long average case lengths.

<sup>8</sup> These figures may be affected by the fact that some of cases that go to trial are disposed of summarily (see next section).



TABLE 5.5 : CASE DURATION AND MEANS OF CONCLUDING PROCEEDINGS++

Duration (months)	Means of Concluding Case								
	Accept Payment-In N=196	Consent Judgment N=78	Consent Order N=1002	Judgment N=555	Summary Judgment N=157	Order N=105	Dismissed N=26	Struck out N=55	
Mean	44	48	42	25	19	15	21	25	
Median	40	48	38	19	13	9	18	13	
Maximum	118	107	214	152	95	130	84	111	
Minimum	5	3	0	0	2	0	1	0	

++ Excludes 10 cases that were withdrawn/discontinued

## Duration and Weight of Case

122. Table 5.6 shows that in the sample as a whole, heavier cases appear to take longer to conclude, on average, than lighter cases. The average case length of the heaviest cases in the sample (Weight A) was 48 months as compared with an average of 29 months among the lightest cases (Weight E).

123. This pattern is not, however, consistent within case types. From Figure 5.9 it appears that in medical negligence, breach of contract, Chancery, and Commercial cases there is a perceptible pattern in which duration on the whole increases with the weight of the case. In personal injury cases, professional negligence cases, and judicial review cases, however, case weight seems to make virtually no difference to the duration of the case. The relationship between duration and case weight is analysed more fully in Section 6 of the report.

TABLE 5.6 : CASE DURATION AND WEIGHT OF CASE

Duration (months)	Assessment of Weight of Case				
	A (Heaviest) N=75	B N=165	C N=454	D N=736	E (Lightest) N=754
Mean	48	43	36	36	29
Median	46	38	32	32	21
Highest	152	214	140	152	131
Lowest	1	1	0	0	0

## Duration and Successful Party

124. In the sample as a whole, cases in which the plaintiff was successful took longer to conclude, on average at 37 months, than those where the defendant was successful (average of 20 months). This pattern generally holds true within case type (Figure 5.10), although in Chancery cases there was no difference in duration whichever party won the case, and in several other case types the difference in case length between successful plaintiffs and successful defendants was small.

## Duration and Interlocutory Activity

125. Table 5.7 shows clearly that in the sample as a whole there was an association between the average length of case and the number of interlocutory applications made. Among cases where there were no interlocutory applications, the average length of case was 28 months. This figure rose to 50 months in cases where there were 7 or more interlocutory applications. Figure 5.11 reveals that this pattern holds true within every case type included in the sample.

TABLE 5.7 : CASE DURATION AND NUMBER OF INTERLOCUTORY APPLICATIONS

Duration (months)	Number of interlocutory applications			
	None N=360	1 - 3 N=1205	4 - 6 N=440	7 or more N=175
Mean	28	31	43	50
Median	19	24	38	45
Maximum	117	152	214	129
Minimum	0	0	1	0

## B. DELAY BETWEEN FIRST INSTRUCTION AND ISSUE OF PROCEEDINGS

126. In order to gather some information about average delays between first instruction and issue of proceedings in different categories of case, an analysis was carried out on those cases in which the date of first instruction occurred *earlier* than the date of issue of proceedings. These are cases in which the winning party was generally the plaintiff and excludes 93 cases in which the date of first instruction occurred after the date of issue of proceedings.

### Delay between instruction and issue by case type

127. Medical negligence and personal injury cases had the longest average delays between instruction and issue of proceedings (Table 5.8 and Figure 5.12). The average delay in medical negligence cases was 21 months and in personal injury cases it was 17 months. Professional negligence cases involved an average delay of 12 months between date of first instruction and issue of proceedings. The shortest average delays were in Commercial cases with no claim value (2 months), bankruptcy/companies court cases with no value (2 months), and judicial review cases (3 months).

TABLE 5.8: DELAY BETWEEN INSTRUCTION AND ISSUE BY CASE TYPE\*

Case Type	Delay (months)		
	Mean delay	Median delay	Maximum delay
Medical Negligence	21	20	106
Personal Injury+	17	14	61
Professional Negligence	12	9	53
Official Referee	8	5	55
Breach of Contract	6	3	48
Judicial Review	3	2	18
Chancery	6	2	87
Queen's Bench 'other'	7	4	62
Commercial	5	2	26
Commercial (no value)	2	0	29
Bankruptcy & Companies Court	4	1	41
Bankruptcy & Comp Ct (no value)	2	0	18

\*Excluding cases where date of instruction was after issue of proceedings

### Delay between instruction and case weight

128. The distribution of mean and median delays in cases of different weight shows that the mean period of delay increases as case weight increases. Weight E cases have a median period of delay between instruction and issue of proceedings of 4 months; among weight D and C cases the median delay is 6 months; among weight B cases the median delay is 8 months; and among the heaviest cases the median period of delay is 11 months. The relationship between delay and case weight is explored more fully in Section 6 of the report.

Delay (months)	Case Weight*				
	A N=62	B N=131	C N=376	D N=608	E N=668
Mean	12	14	10	10	8
Median	11	8	6	6	4
Maximum	37	92	106	62	87
Minimum	0	0	0	0	0

\*Excluding cases where date of instruction was after issue of proceedings

### Delay between instruction and issue by legal aid

129. Within the sample as a whole, cases with legal aid generally appeared to have a longer period of delay between instruction and issue of proceedings than those without legal aid. The average period of delay among cases with legal aid was 15 months (median 12 months) as compared with an average of 7 months (median 3 months) among cases without legal aid.

130. Within case type (with the exception of judicial review) legal aid cases had a longer delay between instruction and issue of proceedings than non-legal aid cases (Table 5.9). The increase in delay was most marked among professional negligence cases (average of 9 months delay without legal aid as compared with 16 months with legal aid), and Queen's Bench 'other' cases (an average delay of 5 months without legal aid compared with 15 months with legal aid) (Figure 5.13). The relationship between delay and legal aid is explored more fully in Section 6 of the report.



TABLE 5.9: DELAY (MONTHS) BETWEEN INSTRUCTION AND ISSUE OF PROCEEDINGS BY LEGAL AID\*

Case Type	No Legal Aid		Legal Aid	
	Mean duration	Median duration	Mean duration	Median duration
Medical Negligence	18	21	21	20
Personal Injury+	13	11	19	18
Professional Negligence	9	7	16	13
Official Referee	7	4	11	7
Breach of Contract	5	3	9	6
Judicial Review	2	1	3	2
Chancery	5	2	9	6
Queen's Bench 'other'	5	3	15	13
Commercial	5	2	15	15
Commercial (no value)	2	0	-	-
Bankruptcy/Companies Court	3	1	7	5
Bankruptcy/Comp Court (no value)	2	0	0	0

+ In 10 personal injury cases the information about legal aid was missing.

\* Excludes cases where date of instruction was after issue of proceedings

### **Delay between instruction and issue by value of claim**

131. A simple comparison of delay between cases of different value revealed no apparent association. Cases with a recovery of £12,500 or less had a mean delay of 12 months while claims with a recovery of more than £250,000 had a mean delay of 9 months.

### **Delay between instruction and issue by costs allowed**

132. An analysis of delay between first instruction and issue of proceedings showed an upward trend in mean periods of delay as costs increased. The differences, however, were relatively small and the pattern was not consistent. Among cases with costs of £10,000 or less, the average delay between instruction and issue of proceedings was 7 months (median 3 months). Among cases with costs of £50,000 or more the average delay was higher at 11 months (median 7 months). Cases with costs between £40,000 and £50,000 had a mean delay of 12 months, but a median delay of 4 months.

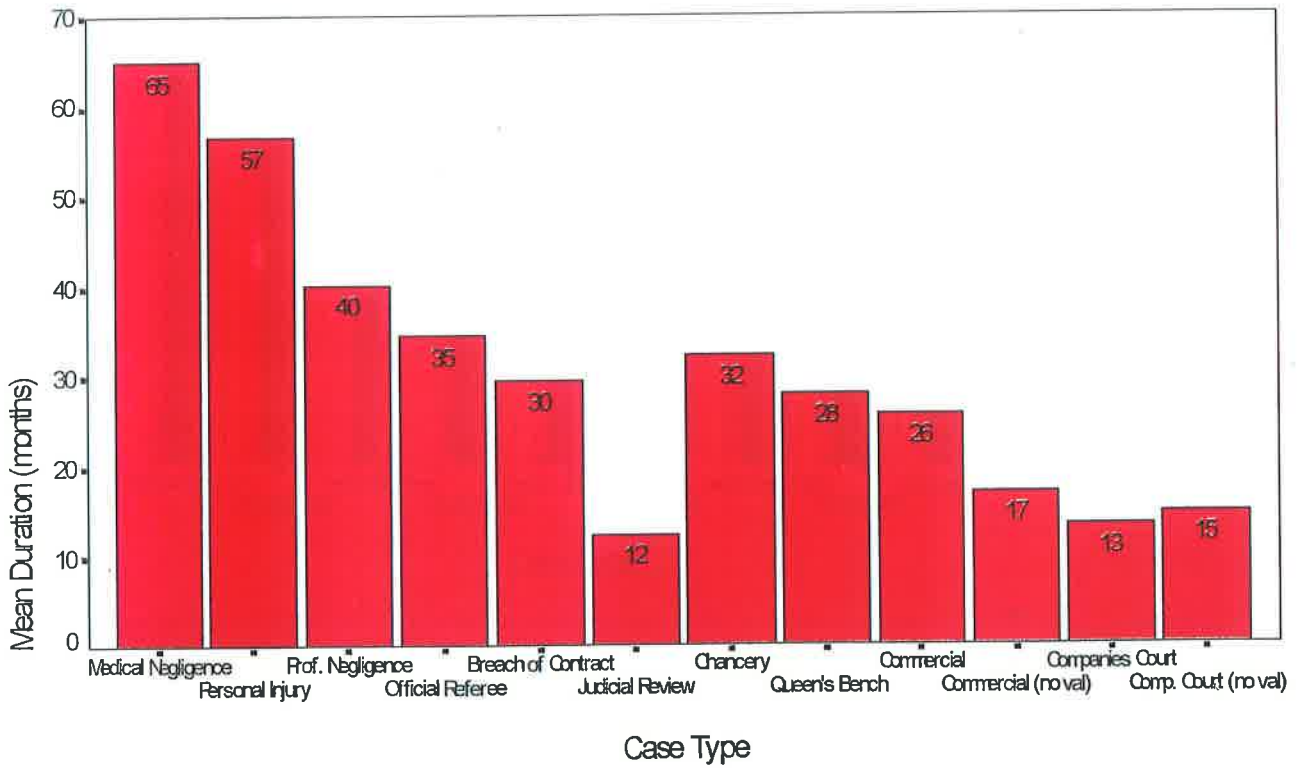


Figure 5.1 Case duration by case type

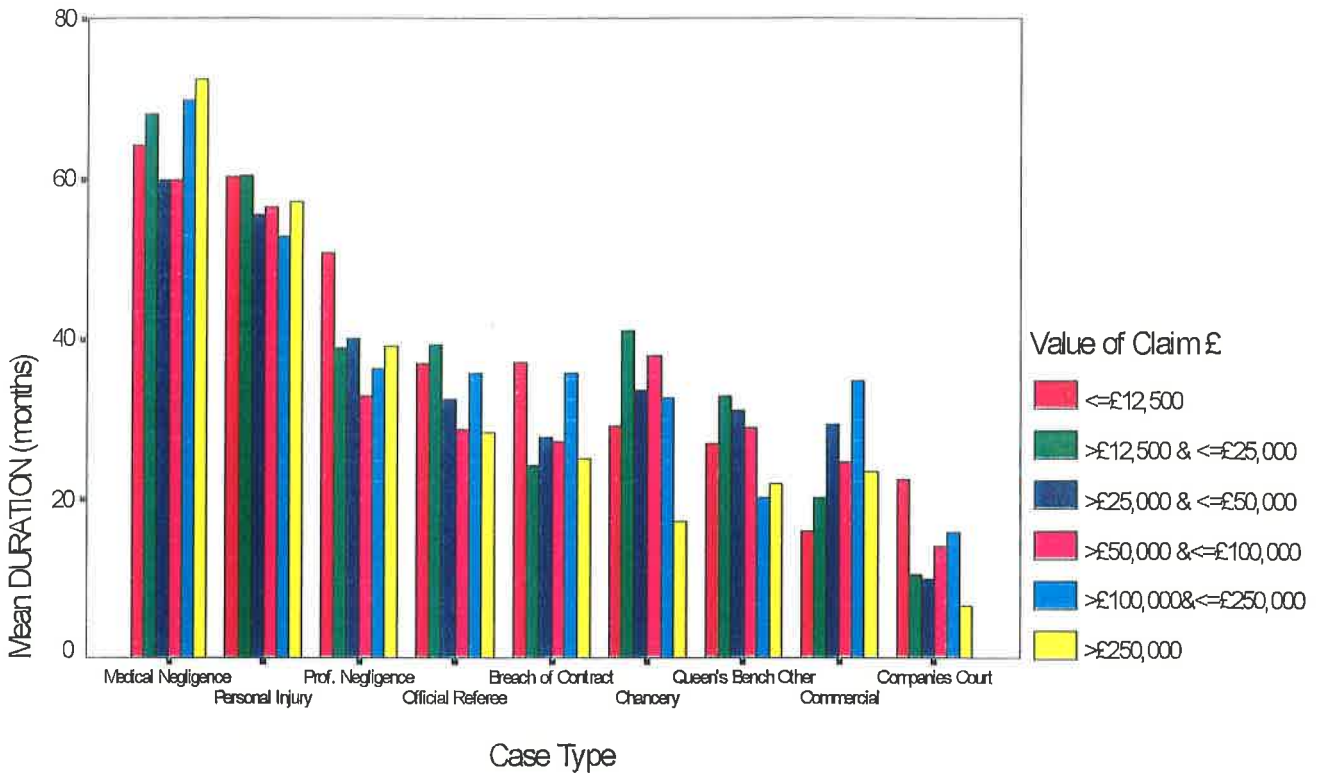


Figure 5.2 Case duration by value of claim

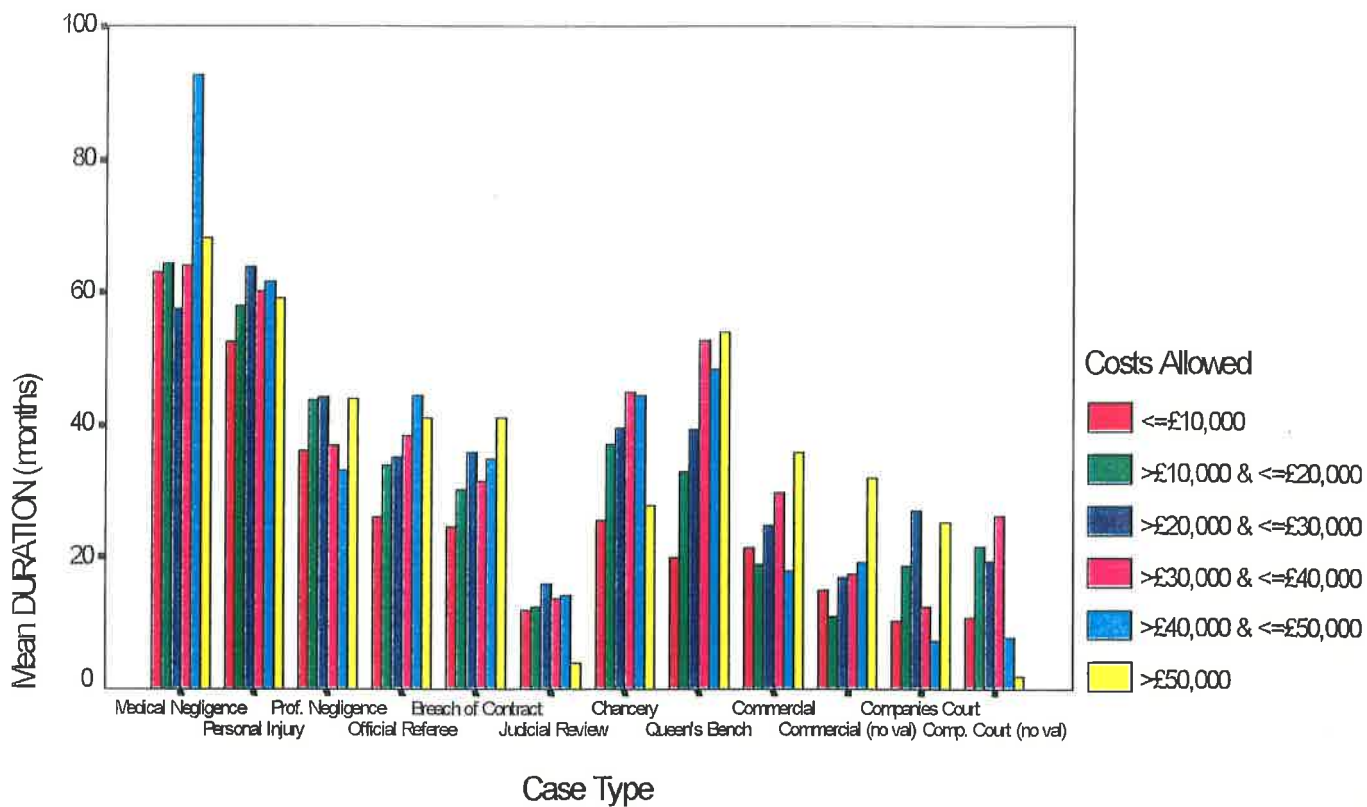
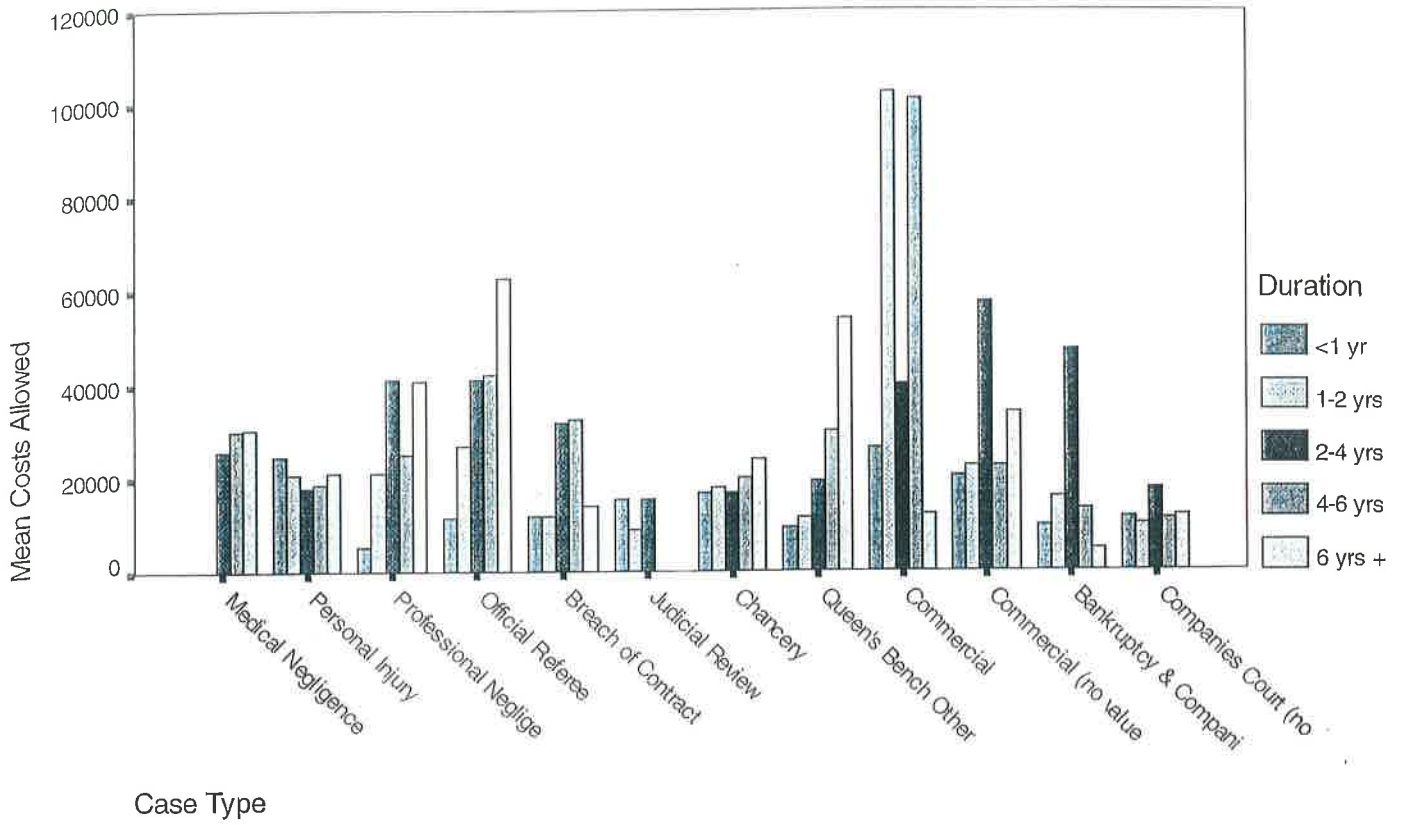


Figure 5.3 Case duration and costs

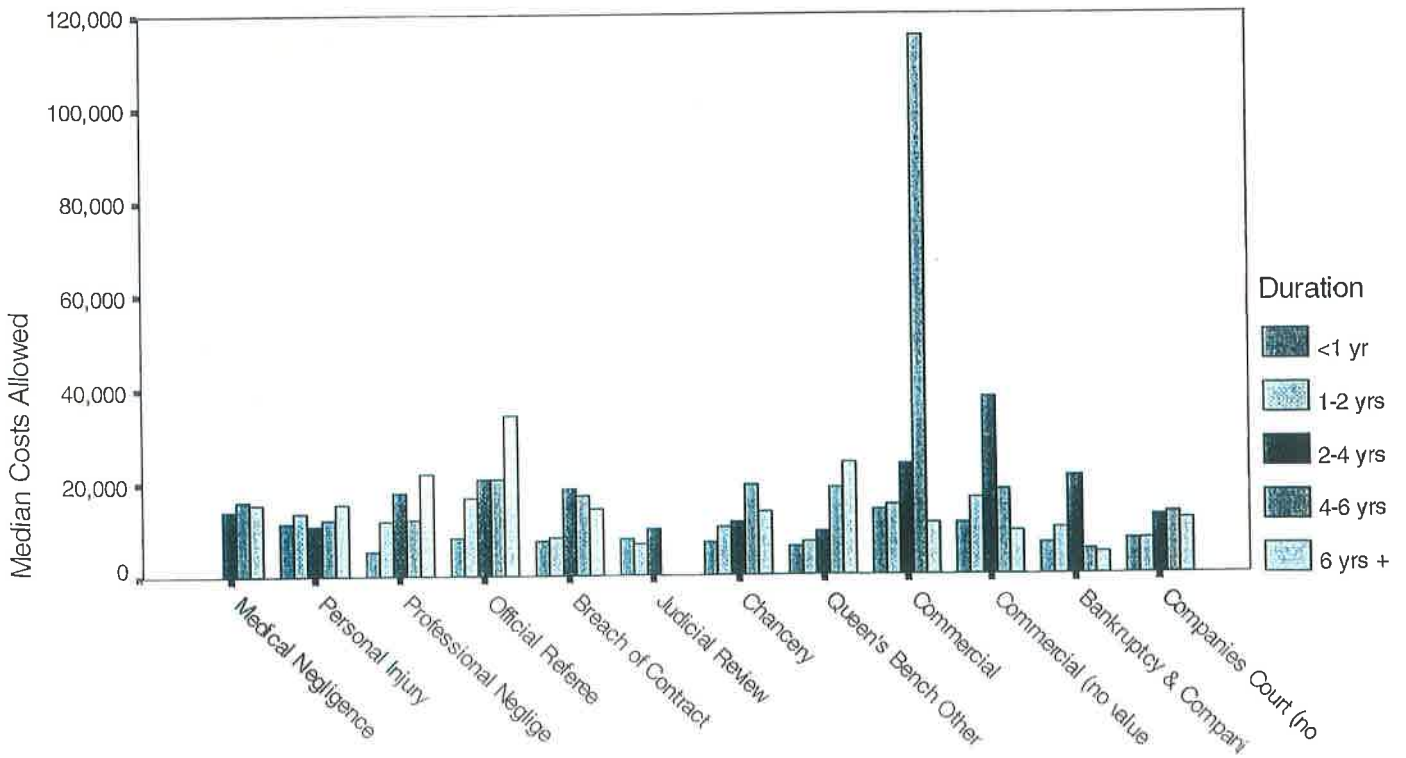


Mean Costs Allowed £



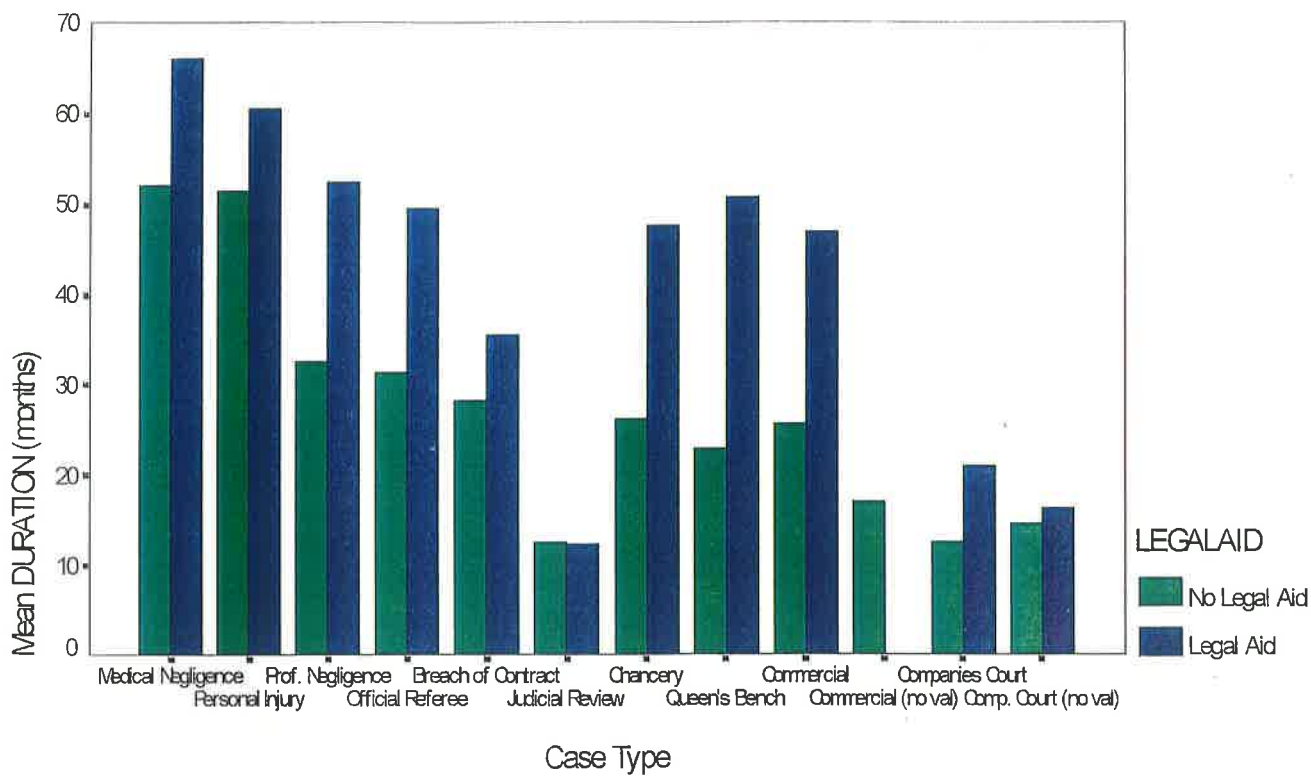
Case Type

Median Costs Allowed £



Case Type

Figures 5.4 and 5.5 Case duration, mean and median costs within case type



**Figure 5.6 Case duration and legal aid**

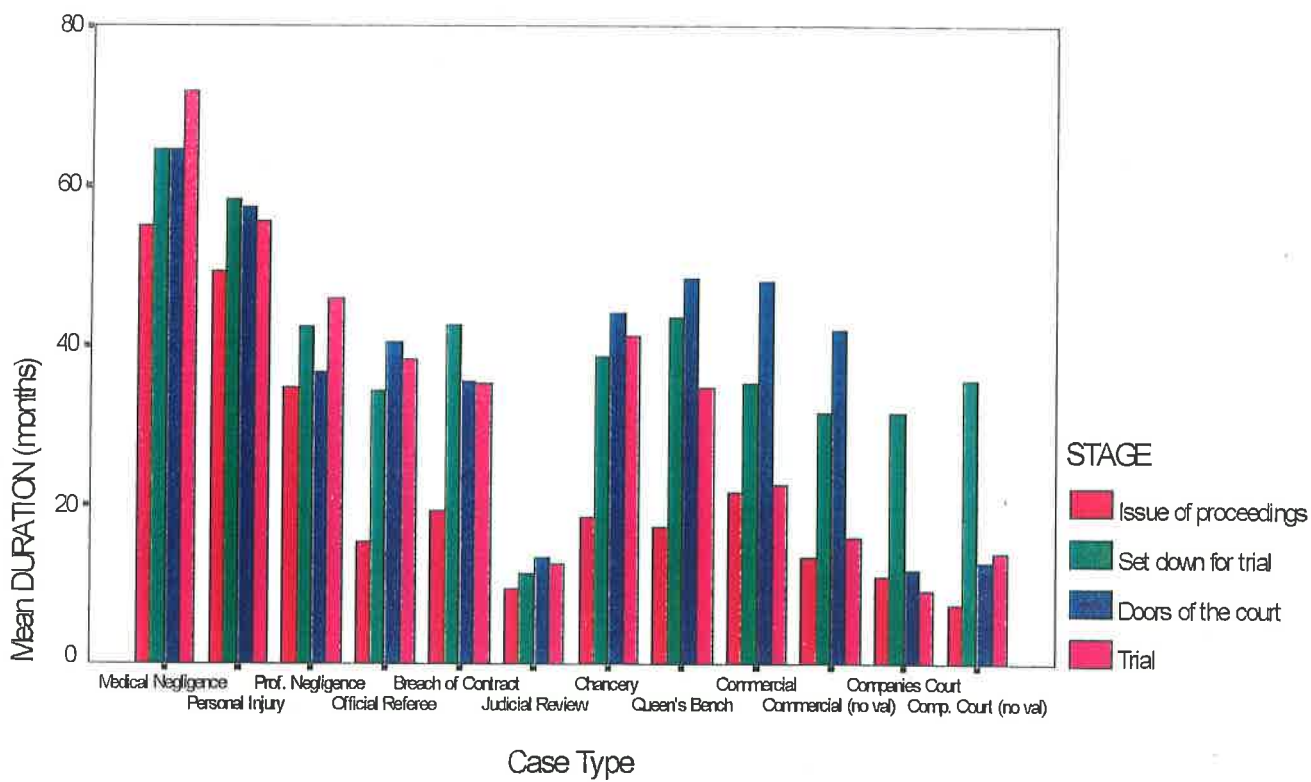


Figure 5.7 Case duration and stage reached in proceedings

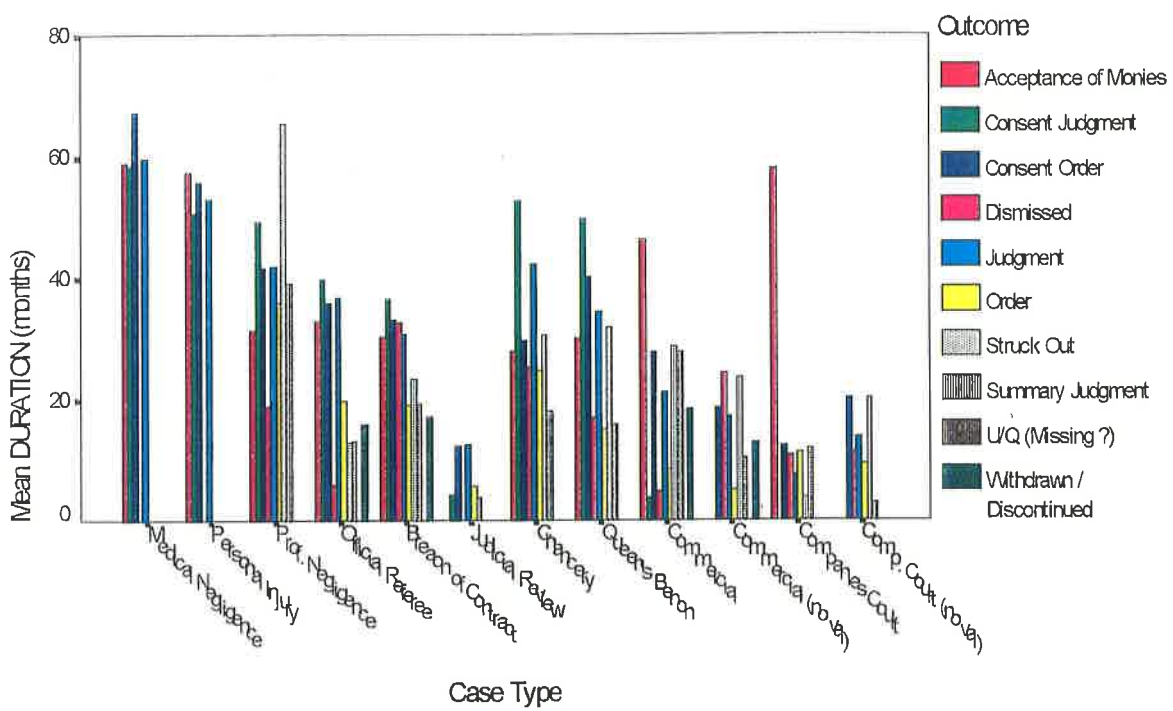


Figure 5.8 Case duration and means of concluding proceedings

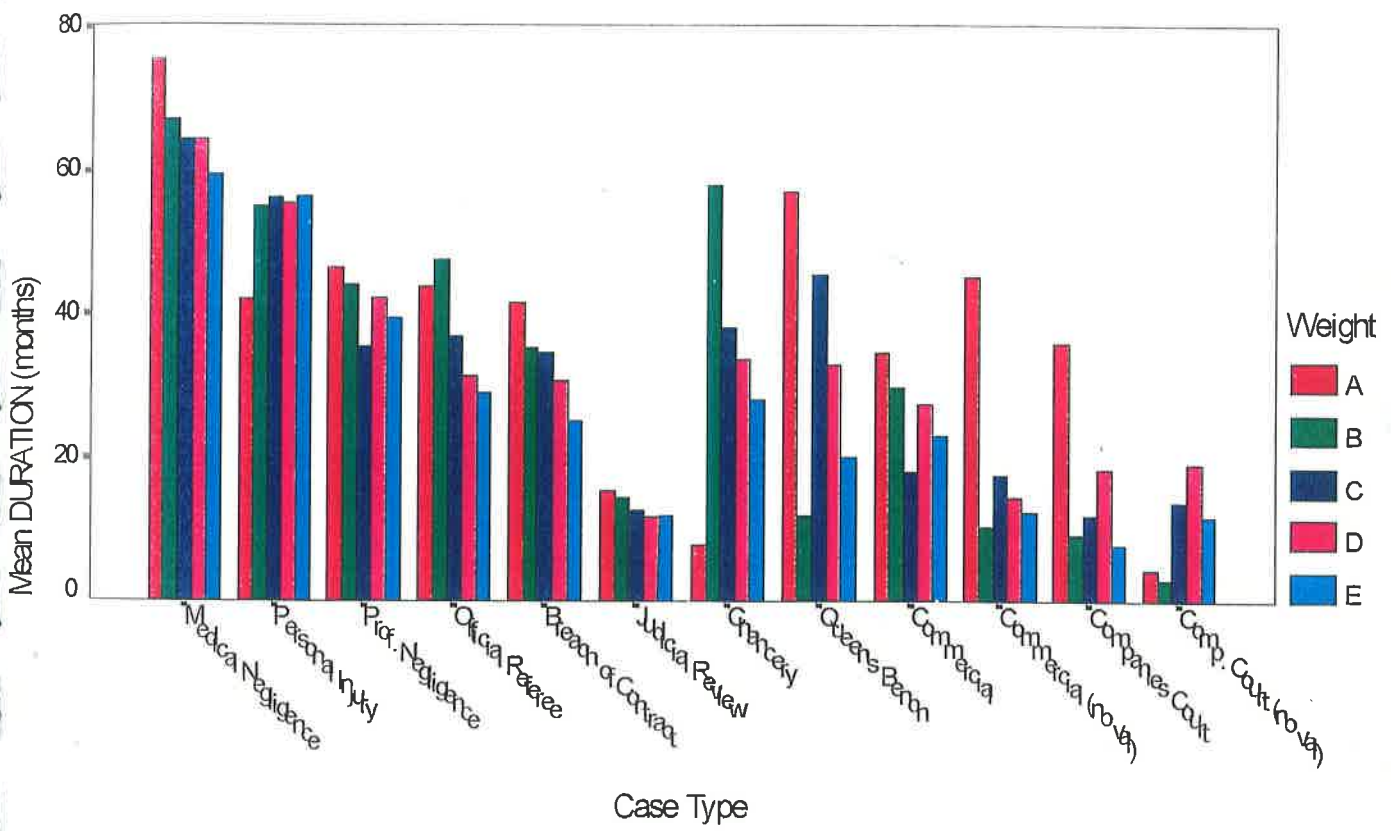


Figure 5.9 Case duration and case weight



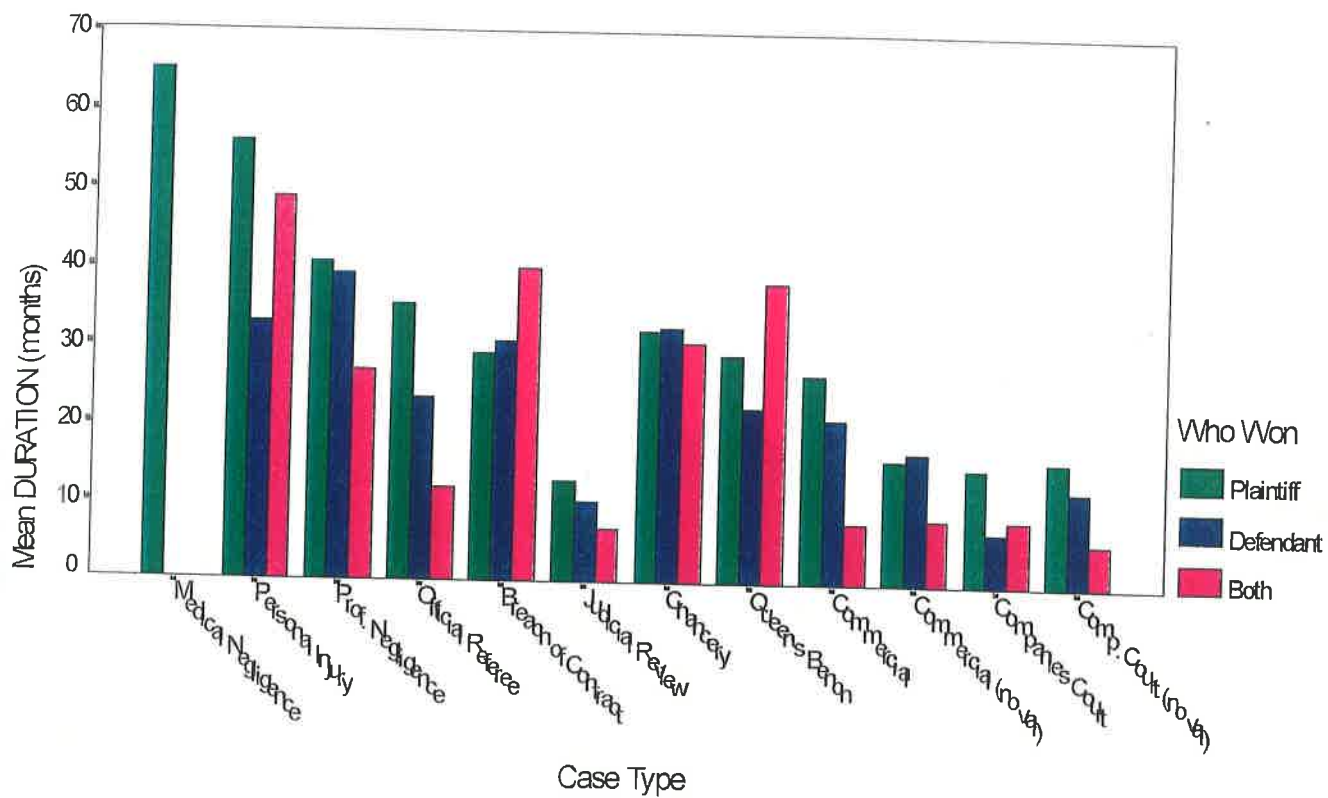


Figure 5.10 Case duration and successful party

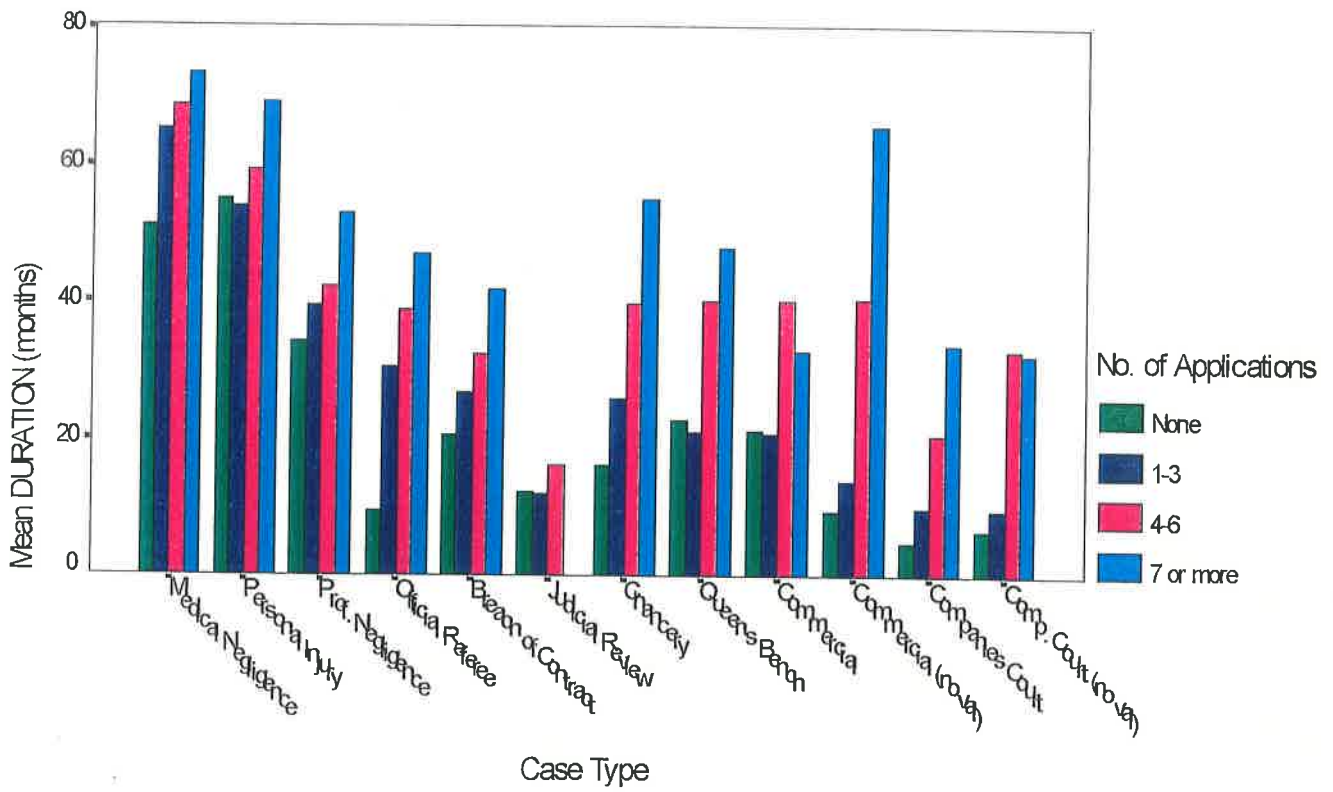
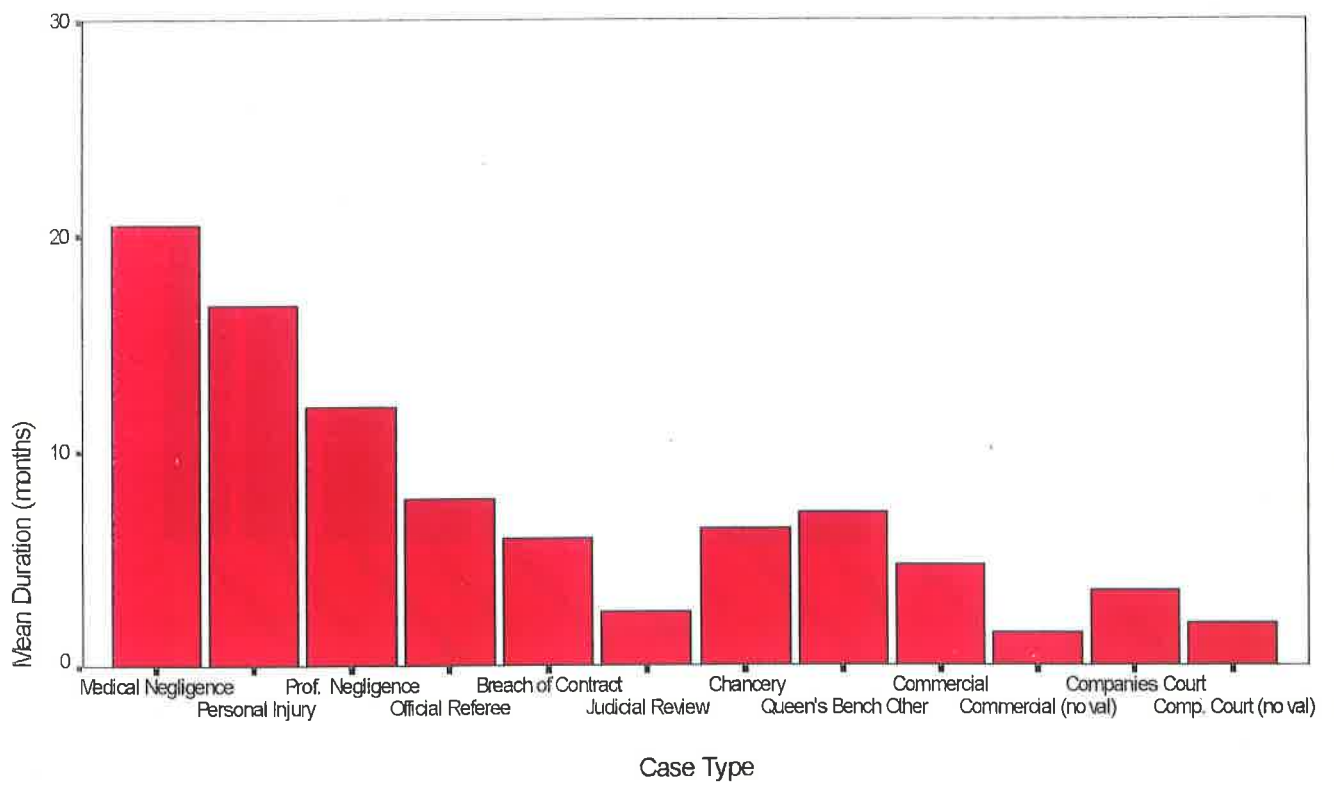


Figure 5.11 Case duration and interlocutory applications



**Figure 5.12** Delay between instruction and issue by case type

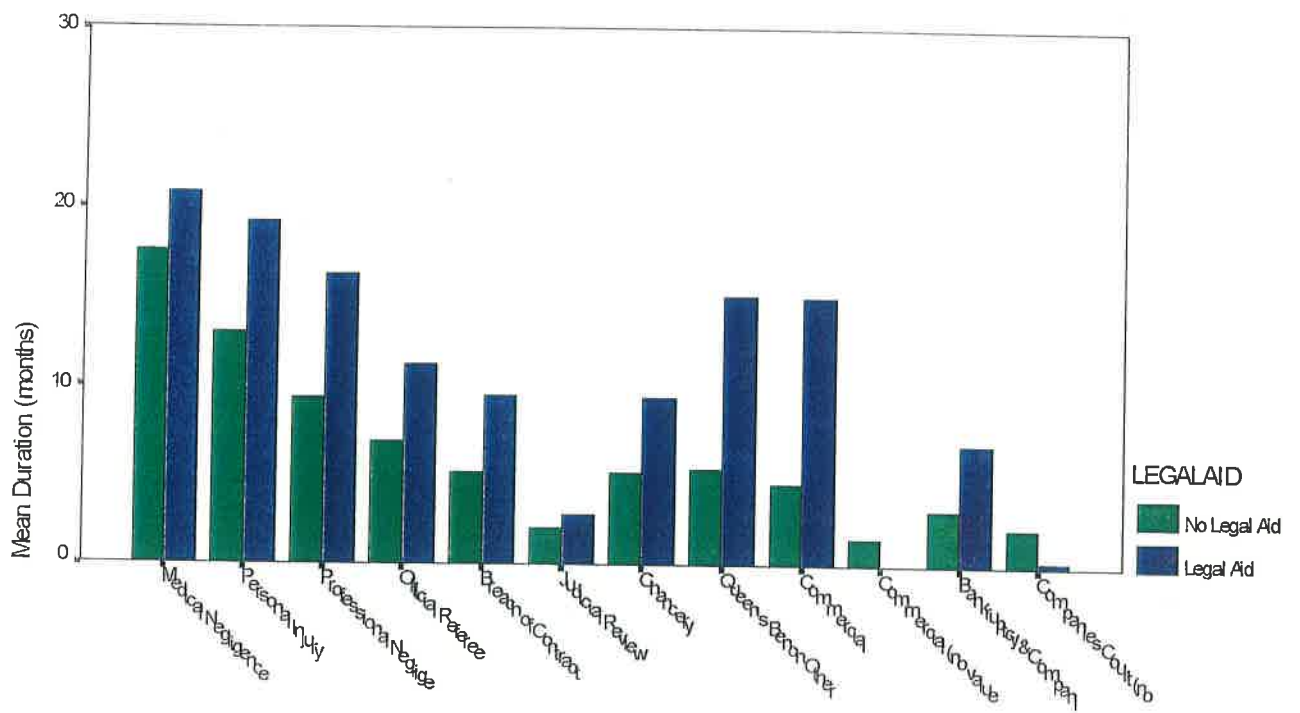


Figure 5.13 Delay between instruction and issue by legal aid

## 6. STATISTICAL MODELLING

133. Statistical modelling consists of a sequence of procedures designed to enable researchers to make informed judgments about systematic relationships between variables in the processes they are analysing. In attempting to understand, rather than merely describe, data relating to costs in litigation, it is important to be able to isolate from the wealth of detail collected, *systematic relationships* between costs and other variables, and also to disentangle systematic relationships from each other. This approach to analysis is important since it is possible that apparent associations between variables which emerge from cross-classifications of data, may be misleading. For example, an apparent association between costs and claim value might be explained by the fact that cases with higher claim values tend to be more complicated, and therefore when cases of similar levels of complexity are compared, differences in claim value actually make little or no difference to costs levels. It is therefore helpful to analyse the *independent* effect of factors such as value and weight on costs levels, in order to assess which factors are the most important in explaining costs. Using modelling procedures, it is possible, simultaneously, to compare cases of similar type (in terms, for example, of weight, value, case length) and to assess the effect of different factors on costs levels.

134. In this study, three separate modelling exercises were undertaken to explore the effects of explanatory variables on: litigation costs; duration of cases from date of instruction to conclusion of case; and delay between date of instruction and issue of proceedings. (Only limited analysis was possible for Commercial and bankruptcy/companies cases because of missing data.) The results of each modelling exercise are presented separately and within case type categories. Section A presents the analysis of delay between first instruction and issue of proceedings. In Section B the results of the modelling of overall case duration are given. In Section C the results of the costs modelling are presented. At the end of each section there is a summary and discussion of the effects of the explanatory variables on delay, duration and costs. Further information about the variables used in the models, and the results of the models are given in Appendix B.

135. The objective of the modelling exercises conducted for this study was to indicate general trends in case duration and costs. There is considerable scope for further work to be done on analysing both case duration and costs levels in civil litigation. This can be achieved by further analysis of the data that have already been collected for this study, and by using the results of this analysis to guide the direction of future research.

### A. ANALYSIS OF DELAY BETWEEN INSTRUCTION AND ISSUE OF PROCEEDINGS

136. In Section 5 above (Table 5.8) it was reported that the longest period of delay between first instruction and issue of proceedings was found among medical negligence cases where delay was, on average, 21 months (median 20 months) with a maximum delay of 106 months. Personal injury and professional negligence cases also had long periods of delay between instruction and issue, with averages of 17 months and 12 months respectively, and maximum delays in each case type of 61 months and 53 months respectively. The shortest average delays occurred in judicial review, Commercial cases and bankruptcy/companies court cases with an average of 3 months delay in each.

137. In the modelling of delay between date of first instruction and issue of proceedings the explanatory variables used in the analysis were: the complexity/weight of the case, whether the winning party had legal aid, and the year in which the case was commenced.



The analysis was carried out on 1,845 cases in which the plaintiff was the successful party and for which the date of instruction *preceded* the date of issue of proceedings. The results of the analysis indicate the extent to which these variables appear independently to affect the period of delay between first instruction and issue of proceedings. The results of the modelling exercise are presented within case type in the following paragraphs, and details of the full and preferred statistical models are given in Appendix B.

### Medical negligence

138. The analysis of delay between date of instruction and issue of proceedings in medical negligence cases indicated that neither measures of the weight of the case, nor whether the winning party was legally-aided, had any significant effect on the period of delay (92% of winning parties had legal aid).

139. The model does, however, reveal unequivocally that the period of delay between first instruction and issue of proceedings in medical negligence cases has been *declining* in recent years. Thus, cases that commenced in 1975 had a median delay between instruction and issue of proceedings of about 28 months, as compared with a median delay of about 22 months among cases started in 1980, and a median delay of about 13 months among cases started in 1990.

### Personal injury

140. The analysis of delay between first instruction and issue of proceedings in personal injury cases suggests that the period of delay is significantly affected by the weight of the case, the fact that the winning party had legal aid, and the year that the case commenced.

141. Figure 6.1 shows median expected delay among personal injury cases with and without legal aid, and among cases of different weights. The Figure reveals that in personal injury cases the delay between first instruction and issue of proceedings appears to have *decreased* in recent years. The model estimates suggest that the delay between instruction and issue in personal injury cases has been *decreasing* by about 15% per year.

142. Perhaps surprisingly, the delay between instruction and issue of proceedings is *longer* among light cases than among heavier cases. Thus the period of delay among weight D cases is about 10% *shorter* than among weight E (lightest) cases; the delay among weight C cases is about 25% shorter than among weight E cases; the delay among weight B cases is about 40% *shorter* than among weight E cases; and the delay among weight A cases is about 50% shorter than among weight E cases. The conclusion is, therefore, that the *heavier* the case, the *shorter* the delay between the date of first instruction and the date of issue of proceedings.

143. The presence of legal aid also has a significant, independent effect on the period of delay between instruction and issue of proceedings (58% of winning parties had legal aid). When the winning party has legal aid in personal injury cases, the period of delay between instruction and issue of proceedings is about 50% *longer* than when the winning party does not have legal aid. Thus a weight A case commenced in 1990 with a period of delay of about 12 months *without* legal aid, would have a delay of about 18 months between instruction and issue of proceedings *with* legal aid. A weight E case commenced in 1990 would have a period of delay of 18 months *without* legal aid, and a delay of 27 months *with* legal aid.

### Professional negligence

144. The analysis of delay between first instruction and issue of proceedings in professional negligence cases suggests that the year of instruction, the weight of the case and the presence of legal aid all have a significant effect on the length of delay.

145. There is unequivocal evidence that the length of the delay between instruction and issue of proceedings in professional negligence cases has been declining in recent years. The estimates suggest that the reduction in the period of delay is about 10% per year.

146. The model also suggests, however, that in professional negligence cases, when the winning party has legal aid, the period of delay between instruction and issue will be about 50% longer than when the winning party does not have legal aid (38% of winning parties had legal aid).

147. In addition, among professional negligence cases, the heaviest cases (weight A) have a period of delay between instruction and issue of proceedings which is about two-and-a-half times that of other cases (B/C/D/E).

### Official Referee

148. The analysis of delay between instruction and issue of proceedings among Official Referee cases, suggests that the only explanatory variables that significantly affect the period of delay are the year of first instruction and the weight of the case. Delay does *not* appear to be affected by whether or not the winning party had legal aid (18% of winning parties had legal aid).

149. The results of the model suggest that the period of delay between instruction and issue of proceedings in Official Referee cases has been declining by almost 20% per year.

150. Heavier cases (categories A/B/C) have a period of delay between instruction and issue of proceedings which is about 50% longer than that of lighter cases (categories D/E).

### Breach of contract

151. Among breach of contract cases, it appears that the period of delay between instruction and issue of proceedings is significantly affected by the year of instruction, the complexity of the case and the presence of legal aid.

152. The model indicates that average delays between instruction and issue of proceedings have decreased in recent years in breach of contract cases at the rate of about 20% per year.

153. The model also suggests that when the successful party has legal aid, the period of delay is considerably *longer* than when they do not have legal aid (17% of winning parties in breach of contract cases had legal aid). Breach of contract cases with legal aid had a period of delay between instruction and issue of proceedings that was almost 70% *longer* than cases without legal aid.

154. It also appears from the model that one of the measures of complexity affected the period of delay between instruction and issue of proceedings, with delay increasing as complexity increases (Figure 6.2).

## Judicial review

155. Among judicial review cases, *none* of the explanatory variables had any significant effect on the period of delay between date of instruction and issue of proceedings. There is *no evidence* that delay between date of instruction and issue of proceedings has decreased over time. Nor is there any evidence to suggest that delay between instruction and issue is affected by the weight of the case, or whether the winning party *had* legal aid (58% of winning parties had legal aid). The explanation for variation in delay in judicial review cases must lie elsewhere.

## Chancery

156. The analysis of Chancery cases indicates that the year of first instruction and the presence of legal aid significantly affect the period of delay between instruction and issue of proceedings.

157. In common with most other case types, the period of delay has been decreasing in recent years. In Chancery cases the annual reduction is estimated to be a little over 15%.

158. Legal aid also significantly affects the period of delay in Chancery cases. Among cases in which the successful party had legal aid, the period of delay was about 60% longer than when the winning party did not have legal aid (29% of winning parties had legal aid).

159. Among Chancery cases there was *no* evidence that the complexity or weight of cases affected the period of delay between instruction and issue of proceedings (Figure 6.3).

## Queen's Bench 'other'

160. The analysis of Queen's Bench other cases shows that the year of first instruction, weight of case, and the presence of legal aid, all have a significant effect on the period of delay between instruction and issue of proceedings.

161. Again, there is clear evidence that the period of delay between instruction and issue of proceedings among Queens Bench 'other' cases has been declining in recent years. In this category of case the annual reduction in the period of delay is estimated to be about 25%.

162. In addition, legal aid has a significant effect on the period of delay between instruction and issue (18% of winning parties had legal aid). In Queens Bench 'other' cases when the winning party has legal aid, the delay between instruction and issue of proceedings is estimated to be about 75% longer than in Queen's Bench 'other' cases without legal aid.

163. The weight of cases also significantly affects delay in Queen's Bench 'other' cases, but in the opposite direction to most other case types. In common with personal injury cases, the model suggests that in Queen's Bench 'other' cases, the *heavier* the case, the *shorter* the period of delay between instruction and issue of proceedings (Figure 6.4). Thus Queen's Bench 'other' cases of weight C had a delay which was 40% *shorter* than weight D/E cases. Cases of weight A/B had a delay which was 60% *shorter* than weight D/E cases.

## SUMMARY OF RESULTS OF 'DELAY' MODELS:

### Effect of case weight/complexity on delay between instruction and issue

164. The weight/complexity of cases significantly affects delay between instruction and issue of proceedings in five case types, but the impact of case weight is inconsistent. In professional negligence cases, Official Referee cases and breach of contract cases, increasing weight of cases significantly increases the period of delay between instruction and issue of proceedings. Thus, the heavier the case, the longer the delay.

165. In personal injury cases and Queen's Bench 'other' cases, increasing weight *lessens* the period of delay between instruction and issue: the more straightforward the case, the *longer* the period of delay. It is possible that in the more straightforward claims in these case types, there is a tendency to seek to settle cases without the issue of proceedings. Alternatively, more straightforward cases may be given a lower priority and thus take longer before proceedings are ready to be issued.

166. In medical negligence, judicial review and Chancery cases, weight has *no* significant effect on the period of delay between instruction and issue of proceedings. Thus in these two case types, the period of delay between instruction and issue would not, systematically, be longer among heavier cases or shorter among lighter cases, holding other factors constant.

### Effect of legal aid on delay between instruction and issue

167. When the winning party has legal aid, the period of delay between instruction and issue of proceedings is affected in most case types, with the exception of medical negligence, Official Referee and judicial review cases. Whenever legal aid has an impact on delay, the effect is always that the period of delay between instruction and issue of proceedings is independently *lengthened*, as compared with cases in which the winning party does not have legal aid. Among personal injury and professional negligence cases, the period of delay between instruction and issue in legal aid cases is 50% longer than in non-legal aid cases; among Chancery cases the delay is 60% longer; among breach of contract cases the delay is 70% longer; and among Queen's Bench 'other' cases, when the winning party has legal aid, the period of delay between instruction and issue is 75% longer than when the winning party does not have legal aid, holding weight constant.

168. However, among professional negligence, breach of contract and Queen's Bench 'other' cases, the increase may amount to little more than the time taken to apply for legal aid since those case types have relatively low median periods of delay (9 months, 3 months, and 4 months respectively). Among personal injury cases, on the other hand, an estimated 50% increase in delay in legal aid cases is likely to be in excess of the time taken to apply for legal aid, since the median period of delay in personal injury cases is 15 months.

### Effect of date of first instruction on delay: Is delay increasing or decreasing?

169. In all case types, with the exception of judicial review, there is clear evidence that the period of delay between date of first instruction and issue of proceedings has been *declining* in recent years. The extent of the decline is as much as 20% or 25% per year in some case types. This effect may be a reflection of a change in litigation strategy, or the result of falling workloads among litigation lawyers.

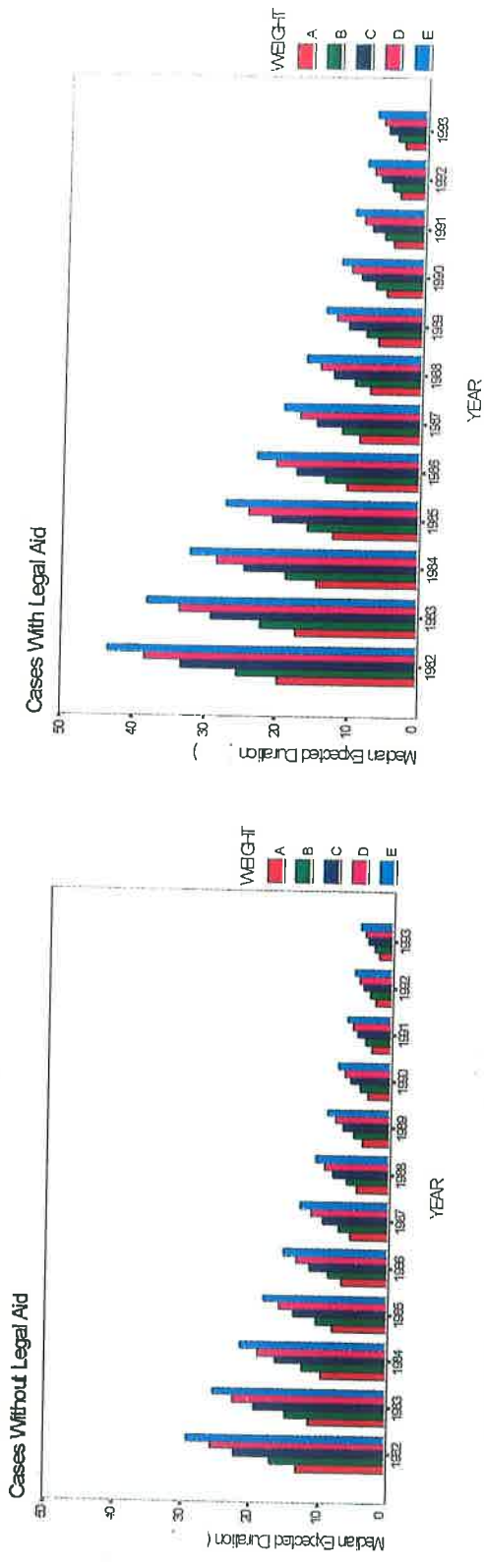


Figure 6.1 Model of delay in personal injury cases



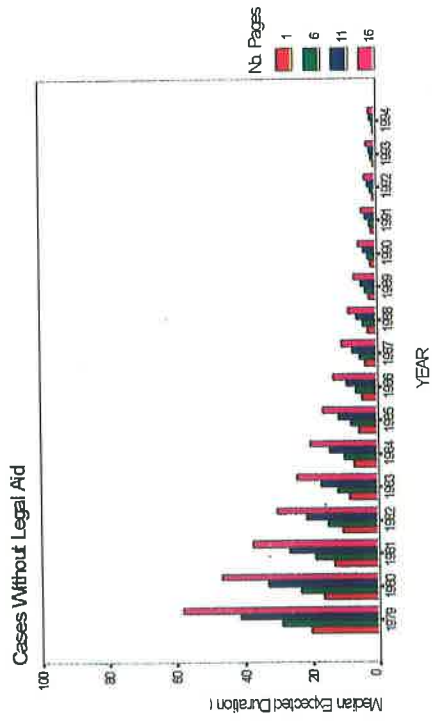
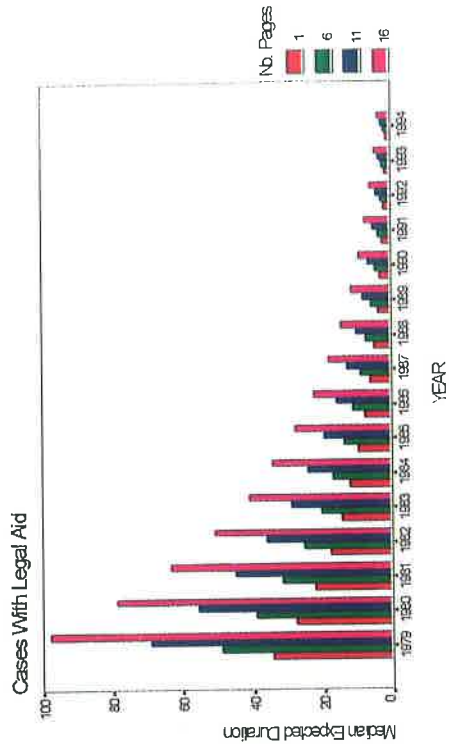
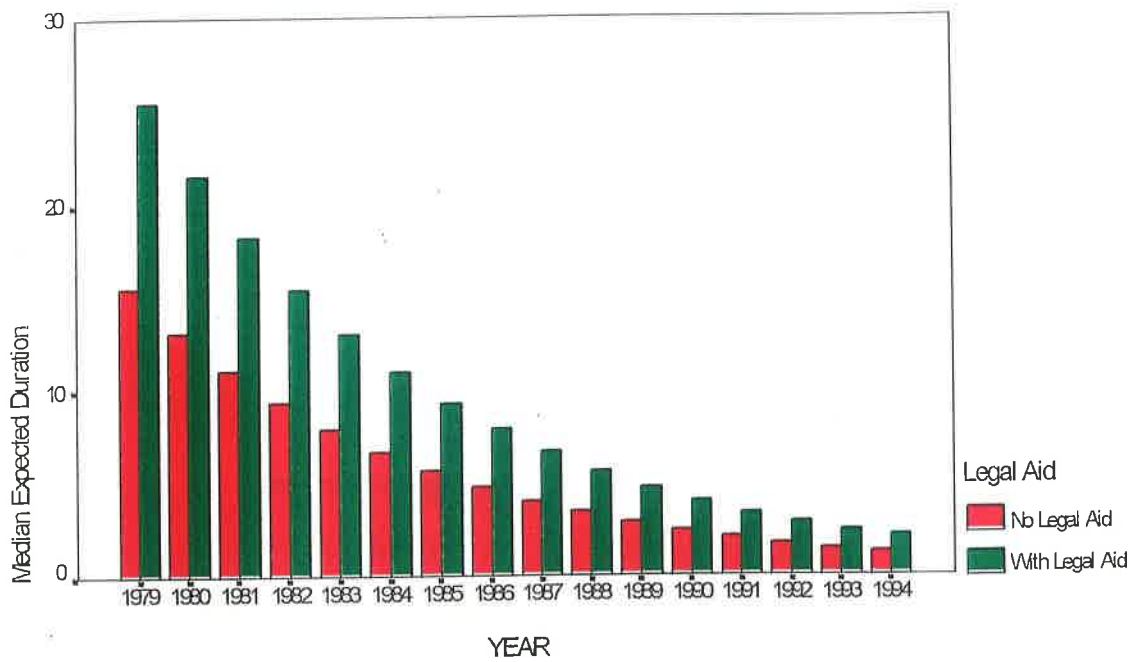


Figure 6.2 Model of delay in breach of contract cases



**Figure 6.3 Model of delay in Chancery cases**

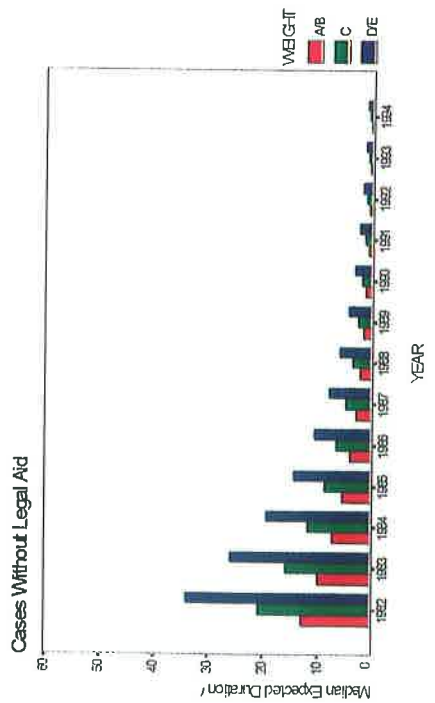
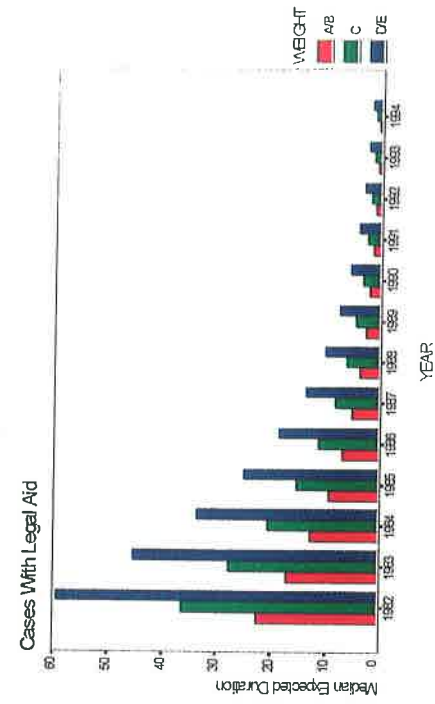


Figure 6.4 Model of delay in Queen's Bench 'other' cases

## B. ANALYSIS OF CASE DURATION FROM INSTRUCTION TO CONCLUSION OF CASE

170. In Section 1 above (Table 1.5) it was reported that medical negligence cases had the longest average length (mean 65 months), followed by personal injury cases (56 months) and professional negligence cases (41 months). The most rapidly concluded cases were judicial review cases (12 months), companies court cases (about 13 months) and Commercial cases without a claim value (16 months) (see Figure 5.1).

171. In order to gain an insight into the factors influencing overall case duration, cases were modelled within case type. The explanatory variables used in the modelling exercise were: the complexity/weight of the case, whether the winning party had legal aid, and the date on which the case was concluded. The results of the analysis for each case type are presented in the following paragraphs and details of the full and preferred statistical models are given in Appendix B.

### Medical negligence

172. The analysis of medical negligence cases was based on 206 cases. The results indicate that there is a high degree of variation within this case type in relation to overall case length. However, legal aid was the only variable included in the model which had any significant effect on total case duration. The model suggests that among medical negligence cases, when successful parties have legal aid, total case length is about 25% longer than when winning parties do not have legal aid.

173. The weight of cases has *no* significant effect on overall case duration among medical negligence cases. Indeed, the estimate for weight did not even approach statistical significance. This suggests that less complex cases are *not* likely to be concluded more quickly than more complex cases.

174. Similarly, the year in which the case was concluded had *no* significant effect on the duration of cases, suggesting that in recent years the duration of medical negligence cases has neither increased nor decreased. Thus, despite the fact that the period of delay between instruction and issue of proceedings has been reducing in recent years (see above Section 6A), the *overall* duration of medical negligence cases has not been decreasing (but nor has it been increasing).

175. The lack of any significant impact on case duration of two of the three explanatory variables in the model suggests that the causes of the observed long case lengths in medical negligence cases must lie elsewhere. Other possible explanations for the relatively long case durations observed might be the need to obtain medical records, the need for medical and other experts' reports, and time spent waiting for medical conditions to stabilise. Defence strategy and solicitors' workloads are other potential causes of delay.

### Personal injury

176. The analysis of duration in personal injury cases is based on 323 cases. The results of the model suggest that the only explanatory variable having a significant effect on the total duration of cases is whether or not the winning party has legal aid. Indeed, the effect of legal aid on total duration is highly significant for personal injury cases. The model indicates that case duration among personal injury cases is about 20% longer when the winning party has legal aid.

177. Among personal injury cases, therefore, it appears that legal aid affects both delay between instruction and issue of proceedings *and* overall case length. In addition, and in common with medical negligence cases, it seems that although the period of delay between instruction and issue of proceedings has been *decreasing* in recent years, there has been no decrease in overall case length in recent years (but nor has there been any increase).

178. The weight or complexity of cases has *no significant* effect on total case length, nor does the date on which cases were concluded. This suggests that, holding other factors constant, lighter cases are not systematically shorter than longer cases, and that case length in personal injury cases has neither increased nor decreased in recent years.

179. In common with medical negligence cases, the lack of significance of two of the three explanatory variables in the duration model suggests that the explanation for variation in case length lies elsewhere.

### **Professional negligence**

180. The analysis of case length among professional negligence cases (based on 205 cases) found that the only explanatory variable having a significant effect on case length was the presence of legal aid. In cases when the successful party had legal aid, the total duration of cases was almost 60% longer than when the successful party did not have legal aid, holding case weight constant.

181. None of the other explanatory variables appeared to have any significant effect on case duration. The effect of case weight showed no consistent pattern, and the estimates for weight did not approach statistical significance. The date of conclusion of the case also failed to reach statistical significance. The absence of any convincing evidence that weight or year of conclusion affects duration in professional negligence cases, suggests that there has been no systematic increase or decrease in length of professional negligence cases in recent years, and that, holding other factors constant, lighter cases are not systematically shorter than heavier cases.

### **Official Referee cases**

182. The analysis of case duration in Official Referee cases was based on 206 cases. The results indicate that the total duration of cases, from date of instruction to conclusion, is affected by the weight of cases, the presence of legal aid, and the date on which the case was concluded (18% of Official Referee winning parties had legal aid) (Figure 6.5).

183. Among Official Referee cases, increasing weight has quite a substantial effect on case duration. The heaviest cases with weight A/B take *twice as long* from beginning to end as weight E cases; weight C cases take about one-and-a-half times as long as weight E cases; and weight D cases take about 20% longer, from beginning to end, than weight E cases.

184. Legal aid also has an effect on the duration of Official Referee cases. The results of the model suggest that cases in which the successful party had legal aid lasted about 90% longer than cases when the successful party did not have legal aid (Figure 6.5).

185. The analysis of case duration in Official Referee cases also suggests that the length of Official Referee cases has been *decreasing* in recent years. The estimated annual reduction in total case length is about 8%.



## Breach of contract

186. The analysis of duration in breach of contract cases was based on 214 cases. Total case duration among breach of contract cases is clearly affected by the weight of cases, by the presence of legal aid and by the date of conclusion, although the last two variables appear to constitute the main effects on duration.

187. As weight increases among breach of contract cases, so does the total duration of the case. For example, the estimates suggest that weight D cases last about 35% longer than weight E cases, and weight B cases last about 60% longer than weight E cases.

188. Legal aid also has a significant effect on the length of breach of contract cases. When the successful party has legal aid, case duration is about 45% longer than when the successful party does not have legal aid.

189. There is also evidence that the length of breach of contract cases has been *declining* in recent years. The results of the analysis suggest that the decline in length is about 10% per year.

## Judicial review

190. The analysis of case duration among judicial review cases was based on 206 cases. Once again, the model produced *no* convincing evidence that any of the explanatory variables included in the model had a significant effect on the length of cases. The explanation for variation in judicial review cases evidently lies elsewhere, although the average duration of judicial review cases is, in any case, generally quite low, at about 12 months.

## Chancery cases

191. Among Chancery cases the analysis (based on 204 cases) revealed that case duration is affected by case weight, legal aid and the date of case conclusion (Figure 6.6).

192. The effect of weight on duration in Chancery cases is that as weight increases, so does the total duration of the case. The estimates suggest that weight D cases last about 10% longer than weight E cases; and weight C cases last about 30% longer than weight E cases (there were insufficient cases in categories A or B to produce reliable estimates).

193. Among Chancery cases, the model of duration suggests that legal aid has a considerable impact on case length. Those Chancery cases in which the successful party has legal aid are estimated to last *twice* as long as cases in which the winning party does not have legal aid.

194. The analysis also suggests that among Chancery cases, total case length, from instruction to conclusion, has *declined* in recent years. The annual reduction in case length in Chancery cases is estimated to be about 13%.

## Queen's Bench 'other' cases

195. The analysis of Queen's Bench 'other' cases (based on 205 cases) revealed that the weight of cases, the date of conclusion, and the presence of legal aid all significantly affect the total length of cases (Figure 6.7).

196. The effect of weight on case duration in Queen's Bench 'other' cases is that as weight increases, so does case length. The model estimates suggest that weight C/D cases take about 30% longer than weight E cases; weight B cases take about 80% longer than weight E cases; and weight A cases take two-and-a-half times as long as weight E cases.

197. Legal aid also has a significant and independent effect on the length of Queen's Bench 'other' cases. When the successful party has legal aid, the estimates suggest that cases last *twice as long* as those when the successful party does not have legal aid.

198. The results of the duration model in Queen's Bench 'other' cases also provides evidence that the length of Queen's Bench 'other' cases has been *reducing* in recent years. The estimate suggests that the annual reduction in the length of cases is about 10%.

## SUMMARY OF RESULTS OF CASE DURATION MODELS:

### Effect of case weight/complexity on case duration

199. The various models suggest that the weight of cases significantly affects the total length of cases in only four of the case types (Official Referee cases, breach of contract cases, Chancery cases and Queen's Bench 'other' cases). Whenever case weight does affect duration, the effect is always to *increase* the total length of the case. Thus when case weight affects length, the heavier the case, the longer the length. However, in medical negligence cases, personal injury cases, professional negligence cases and judicial review cases there was *no* evidence that heavier cases systematically take longer than lighter cases, holding other factors constant.

### Effect of legal aid on case duration

200. In all case types, with the exception of judicial review, the fact that the winning party has legal aid significantly affects case length, and the effect is always that cases are *longer* when the successful party has legal aid. The effect of legal aid on case length ranged from a 20% increase in the length of personal injury cases; an increase of 25% in overall length in medical negligence cases; an increase in 45% in breach of contract cases; an increase of 90% in Official Referee cases; and an increase of 100% in Chancery and Queen's Bench 'other' cases. These increases are substantial, and given the median case lengths found among these case types, the period of increase appears to be well beyond the time taken to apply for legal aid.

201. There are a number of possible explanations for the increased length observed in legally-aided cases. First, the administrative time taken in applying and dealing with the Legal Aid Board; second the possibility that legal aid work is given a low priority, resulting in cases not being rapidly progressed and hearing dates adjourned; third, the possibility that *more* work is being done on legal aid cases, or that legal aid cases are being run harder and further than might otherwise be the case, because there is no risk of costs for the legally-

aided party. However, one could look at the issue from another perspective. Assuming that the average length of legal aid cases is taken to be an appropriate norm, then the *shorter* case lengths observed among non-legal aid cases could be seen as a reflection, for example, of costs risks. It is arguable that in the absence of legal aid, the risk of costs causes pressure on plaintiffs to accept early offers of settlement, thus keeping case lengths lower in those cases and, possibly, depressing rates of recovery. It is therefore important that the length of legal aid cases should *not* automatically be viewed as an increase over a presumed norm. It is equally valid to focus on the fact that non-legal aid cases are shorter than legal aid cases, and this is particularly so, for example, among case types where there are high levels of legal aid.

#### **Effect of date of conclusion on case duration: Is case length increasing or decreasing?**

202. The date of case conclusion appeared to affect case length among Official Referee cases, breach of contract cases, Chancery cases and Queen's Bench 'other' cases. In each of these four case types, there was clear evidence that the length of cases has been *decreasing* in recent years. The rate of decrease in overall case duration is about 8% among Official Referee cases, about 10% among breach of contract and Queen's Bench 'other' cases, and about 13% among Chancery cases. Thus, whenever a change in case duration over time was identified in the models, the change was always in a downward direction. In *none* of the case types modelled was there any evidence that the overall length of cases has been increasing in recent years. Among case types in which case length is *not* decreasing (medical negligence cases, personal injury cases, professional negligence cases and judicial review cases), the evidence suggests that the total duration of cases has remained fairly stable in recent years.

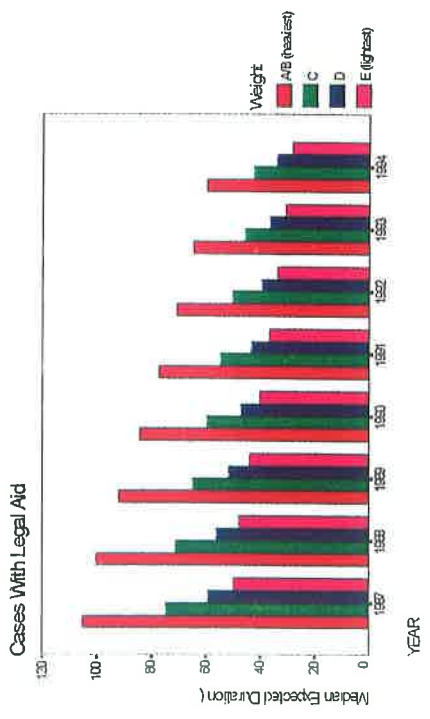
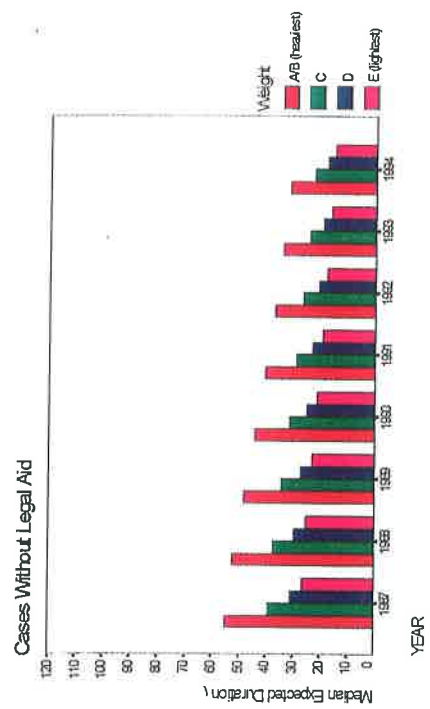


Figure 6.5 Model of case duration in Official Referee cases

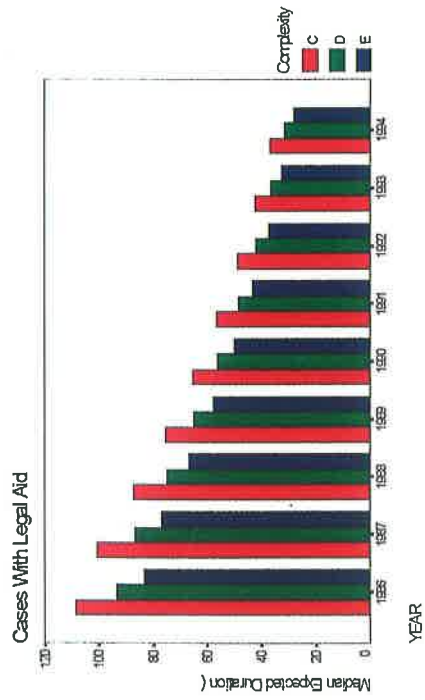
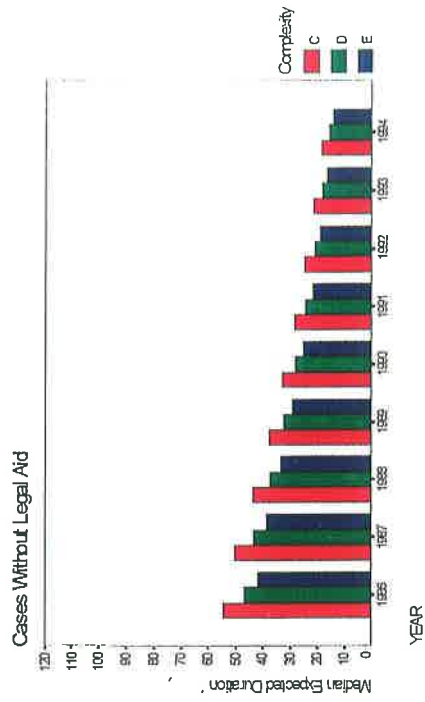
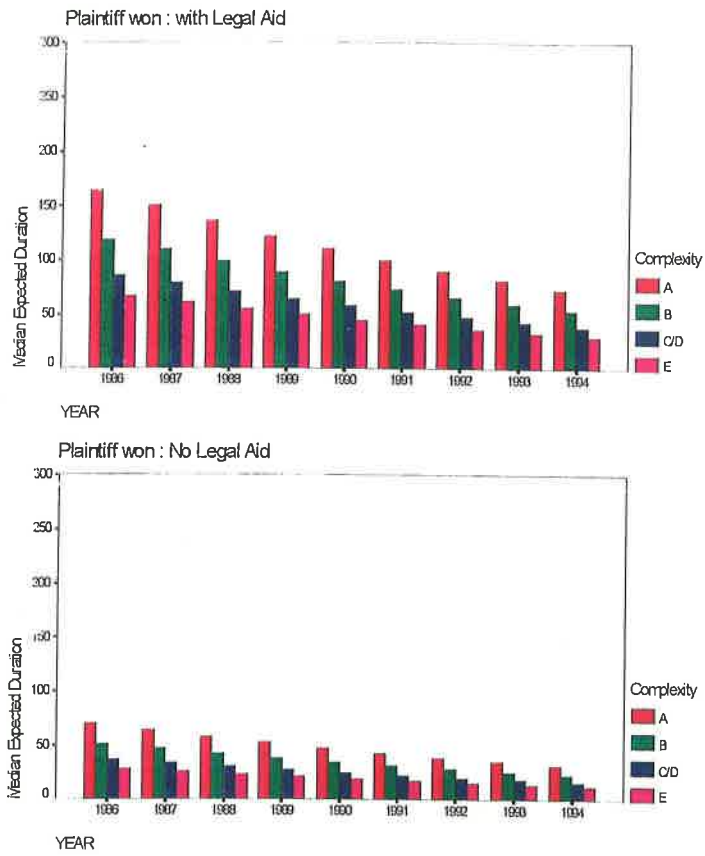


Figure 6.6 Model of case duration in Chancery cases



**Figure 6.7 Model of case duration in Queen's Bench 'other' cases**



## C. ANALYSIS OF COSTS

203. In order to provide an explanation of costs levels in different categories of cases, allowed costs were modelled using the following explanatory variables: weight/complexity of case, value of claim, duration of case from instruction to conclusion, formal stage of proceedings reached before conclusion, method by which cases concluded, legal aid, and date of conclusion. The results of the analysis for each case type are explained in the following paragraphs and details of the full and preferred statistical models are presented in Appendix B.

### Medical negligence

204. The costs model in medical negligence was carried out on 206 cases. The results of the analysis suggest that the level of costs in medical negligence cases is affected by the weight of the case and the date of conclusion, and that these two factors account for much of the variation in costs in medical negligence cases.

205. The effect of increasing weight among medical negligence cases is to increase costs. The estimates suggest that weight D cases cost nearly twice as much as weight E cases (lightest); weight C cases cost about three times as much as weight E cases; weight B cases cost about 8 times as much as weight E cases; and weight A cases (heaviest) cost about 12 times more than cases assessed as weight E (Figure 6.8).

206. The model also provides convincing evidence that the level of costs in medical negligence cases is *increasing* by about 7% per year, holding other factors constant. The estimates suggest that a weight E case concluded in June 1988 would have a median cost of about £5,000 while a weight E case concluded in June 1995 would have a median cost of about £8,000. A weight A case concluded in June 1988 would have a median cost of about £60,000, while a weight A case concluded in June 1995 would have a median cost of about £100,000.

207. Among medical negligence cases, the duration of the case (from instruction to conclusion) has *no* significant effect on costs. The estimate for case duration was not even close to statistical significance. This is unusual since for most other case types overall case duration does appear to affect costs. Thus in medical negligence cases, an assumption that the longer a case takes the more it costs, is *not* borne out by the analysis. This suggests that measures aimed simply to reduce the duration of medical negligence cases would not necessarily have much impact on total costs.

208. Somewhat surprisingly, the stage reached in proceedings before the conclusion of the case was *not* found to have any significant effect on costs in medical negligence cases. Indeed, the estimate for stage reached in proceedings was no where near reaching statistical significance.

209. Similarly, there was *no* evidence in the medical negligence costs model to suggest that the means of concluding proceedings had any effect costs. Thus cases settled before trial did not systematically have lower costs than those proceeding to trial, when case weight, claim value and case length were held constant.

210. The value of the claim in medical negligence cases also appeared to have *no* significant effect on total costs in medical negligence cases. Thus there is no evidence that

low value medical negligence claims systematically have lower costs than high value claims, holding other factors constant.

211. Although the presence of legal aid in medical negligence cases was found to increase the delay between the date of first instruction and issue of proceedings, legal aid was not found to have a significant effect on the level of costs in medical negligence cases. Thus although legal aid adds to delay in the early stages of medical negligence claims, it does not appear independently to increase costs (although it should be noted that 92% of winning parties in medical negligence claims were funded by legal aid).

### Personal Injury

212. The analysis of personal injury cases was based on 325 cases. The results of the modelling exercise for personal injury cases are more complex than for medical negligence cases, with several of the explanatory variables having an effect on costs. Of the explanatory variables analysed, the weight of the case, the duration of the case, the value of the case and the presence of legal aid, all had a significant effect on costs. The results of the analysis suggest that these four factors account for most of the variation in costs in personal injury cases.

213. Among personal injury cases, the model suggests that as the weight of the case increases, so does the cost. Thus, weight D cases cost 40% more than weight E cases; weight C cases cost twice as much as weight E cases; weight B cases cost 5 times as much as weight E cases; and weight A cases cost almost 8 times as much as weight E cases.

214. The graphic representation of the costs model for personal injury cases in Figure 6.9 shows that among cases with both high and low values, the total duration of the case independently affects the level of costs. As the length of cases increases, so do the costs. The results of the model suggest that doubling the duration of a personal injury case will increase costs by about 25%.

215. The value of the claim also has a significant effect on costs in personal injury cases. As the value of claims rise, so do costs. The model suggests that doubling the value of claims increases costs by about 15%.

216. Legal aid also seems to be very important in personal injury cases. The results of the costs model suggest that if the successful party in a personal injury case has legal aid, costs will be about 10% higher than if the party does not have legal aid, irrespective of weight, length, value etc.; and this is *in addition* to the contribution of legal aid to costs in personal injury cases through increased case duration.

217. In common with medical negligence cases, the results of the costs model suggest that in personal injury cases, the stage of proceedings reached (issue of proceedings, setting down, doors of the court, etc), and the outcome of the case (settlement, trial, etc) had *no significant effect* on costs in personal injury cases. Thus, for example, there is no evidence to suggest that in personal injury cases costs are systematically lower when cases settle than when they go to trial, when other factors are held constant.

218. Unlike medical negligence cases, however, the date on which the case was concluded had *no significant effect* on costs in personal injury cases. The analysis therefore indicates that costs in personal injury cases have been neither increasing nor decreasing in recent years. However, since costs have not been adjusted for inflation, this suggests that there may have been some real *reduction* in costs in personal injury cases in recent years.

## Professional Negligence

219. The analysis of professional negligence cases is based on 206 cases. Within this case category the model suggests that the main effects on costs are the weight of the case, the duration of the case and the value of the claim, and that these three factors account for most of the variation in costs in professional negligence cases.

220. The results relating to weight suggest that there is a systematic increase in costs with increasing weight. Using the estimates in the model, weight D cases cost 70% more than weight E cases; weight C cases cost three-and-a-half times more than weight E cases; weight B cases cost nearly six times as much as weight E cases; and weight A cases cost nearly 14 times as much as weight E cases. Thus the effect of weight on costs in professional negligence cases is quite clear (Figure 6.10).

221. The model also indicates that total duration of professional negligence cases has an unequivocal effect on costs. As the duration of cases increases, costs rise. Using the estimate in the model, it appears that if the total length of a professional negligence case doubles, costs will increase by about 20%.

222. Among professional negligence cases the value of claims also has an independent effect on costs. As claim value rises, so do costs. The model estimate suggests that if the value of a claim doubles, costs will increase by about 15%.

223. Although legal aid does not clearly have any independent effect on the level of costs in professional negligence cases, it is likely that it does have some impact for two reasons: first, because legal aid affects the duration of professional negligence cases and duration clearly affects costs in professional negligence cases. Further, the estimate for legal aid in the full costs model is not far from being statistically significant in its own right. This suggests that it could be having an *independent* effect on costs in addition to impact on case duration.

224. The stage reached in proceedings in professional negligence cases did not appear to have a significant effect on costs.

225. Similarly, there is no clear evidence that the means by which professional negligence cases are concluded has any significant impact on costs. The estimates in the model suggest that when cases are concluded by acceptance of money in court or by a consent order, costs are lower than when cases are concluded on the basis of a judgment, but it should be stressed that these differences are *not* statistically significant.

226. The year in which the case was concluded had no significant effect on costs. Thus there is no evidence in professional negligence cases that costs have been increasing in recent years, and given that costs have not been adjusted for inflation, it is possible that the apparent stability of costs levels represents a *decline* in real terms.

## Official Referee Cases

227. The analysis of costs in Official Referee cases (based on 207 cases) shows that costs are affected by the weight of the case, the value of the case and the duration of the case, and that these factors account for much of the variation in costs in Official Referee cases. There is also an interaction effect, in that the effect of weight on costs varies according to the value of the claim.

228. The results of the model relating to duration indicate that as duration increases, costs rise. The estimate suggests that if the length of cases doubles, costs will increase by about 20%.

229. The effect of claim value on costs is more complicated. The results of the model suggest that among cases of weight D and E the value of the claim has no impact on costs. In other words, if a case is relatively straightforward, increasing the claim value from £10,000 to £50,000 is unlikely to have much impact on costs. Among more weighty cases, however, costs appear to increase as claim value rises. Thus doubling the value of a weight B case will increase costs by about 30%, irrespective of the length of the case. Weight also has an effect on costs, but the effect varies according to value and is more marked among the higher value claims. For example, among cases with a claim value of £22,000, weight D cases cost about twice as much as weight E cases; weight C cases cost about four times as much as weight E cases; and weight B cases cost about five times as much as weight E cases<sup>9</sup>. However, among cases with a claim value of £200,000, weight D cases cost about twice as much as weight E cases; weight C cases cost about five times as much as weight E cases; and weight B cases cost about 10 times as much as weight E cases.

230. The results of the analysis of costs among Official Referee cases suggest that neither the stage reached in proceedings nor the means by which the case was concluded had any significant effect on the level of costs.

231. There was also no evidence that legal aid had any independent impact on costs levels in Official Referee case, although legal aid has an influence on costs through its impact on lengthening case duration, which in turn increases costs in Official Referee cases.

232. The year in which the case was concluded had no significant effect on costs in Official Referee cases. There is, therefore, *no evidence* to suggest that costs in Official Referee cases have been increasing in recent years. Further, given that costs have not been adjusted for inflation, it is possible that the apparent stability of costs levels represents a *decline* in real terms.

## Breach of contract

233. The analysis of costs in breach of contract cases (based on 220 cases) indicates clearly that costs are affected by the weight of cases, the duration of cases and by the presence of legal aid. These three factors account for most of the variation in costs in breach of contract cases.

234. The results of the model show that costs increase substantially as weight of cases increases. The estimates suggest that weight D breach of contract cases cost twice as much

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<sup>9</sup> There were too few official referee cases assessed as weight A for the results to be reliable.

as weight E cases; weight C cases cost almost five times as much as weight E cases; weight B cases cost nearly 11 times as much as weight E cases; and weight A cases cost almost 30 times as much as weight E cases (Figure 6.11).

235. Duration also has an impact on costs, with costs increasing as the length of cases increases. According to the model estimates, doubling the duration of breach of contract cases increases costs by about 15%. However, as discussed in the previous section, the duration of breach of contract cases has been declining recently. The effect of this would be to stabilise or reduce costs because of the effect of a reduction in case length.

236. There was no evidence that legal aid had any independent effect on costs in breach of contract cases, although it may have an effect through its impact on case length, which clearly does affect costs.

237. Among breach of contract cases there was no evidence that the value of the claim, the stage reached in proceedings or the means by which cases were concluded had any significant effect on costs levels. Thus, low value breach of contract claims do not systematically have lower costs. Breach of contract claims that settle are not systematically cheaper than those that go to trial, when other factors are held constant.

238. The year in which the case was concluded had no significant effect on costs. Thus there is no evidence in breach of contract cases that costs have been increasing in recent years, and given that costs have not been adjusted for inflation, it is possible that the apparent stability of costs levels represents a *decline* in real terms.

### Judicial Review

239. The analysis of costs in judicial review cases was based on 220 cases. Although there is a fair degree of variation in costs in judicial review cases, of the explanatory variables included in the model, only the weight of cases and the presence of legal aid appeared to have any significant effect on costs. These two factors alone account for about half of the variation in costs.

240. Among judicial review cases, the analysis of costs reveals a linear trend in relation to case weight: as weight increases so does the level of costs. Thus weight D cases cost, on average, about two-thirds more than weight E cases; weight C cases cost about three times as much as weight E cases; weight B cases cost about five times as much as weight E cases; and weight A cases cost about 14 times as much as weight E cases (Figure 6.12).

241. The effect of legal aid on costs in judicial review cases is not entirely consistent. The general pattern appears to suggest that when the winning party has legal aid costs are generally *higher* than when the successful party does not have legal aid, but the pattern appears to vary according to the weight of the case. The estimates suggest that the lightest weight cases (E) cost about 60% *more* if the successful party has legal aid. Among weight D cases there is no significant difference in costs between cases with and without legal aid. Among weight C cases those with legal aid appear to cost about one third *less* than similar cases without legal aid. Among weight B cases costs appear to be higher if the successful party has legal aid, but the effect is not statistically significant. It is therefore difficult to reach a confident conclusion about the effect of legal aid on costs in judicial review cases, although the tendency appears to be for costs to be higher in legal aid cases, except among weight

C cases which behave differently from other case weights.

242. The model for costs in judicial review revealed that costs were *not* significantly affected by the duration of the case, the stage reached in proceedings, the means by which the case was concluded, or the date of conclusion (claim value was not present for judicial review cases). There is therefore no evidence to suggest, for example, that costs are higher in lengthier cases, or that the cost of cases has been increasing in recent years. Indeed, in common with most other case types, the apparent stability of costs in judicial review cases probably represents a decrease in costs in real terms.

### Chancery

243. The analysis of costs in Chancery cases was based on 211 cases. The model suggests that costs in Chancery cases are significantly affected by the weight of the case, the duration of the case and the value of the claim, although the influence of claim value occurs primarily among the lightest cases (weight E) (Figure 6.13).

244. The analysis of the effect of case duration on costs in Chancery cases reveals that as duration increases, costs increase. The estimate suggests that doubling the duration of cases increases costs by about 20%.

245. Among the lightest weight cases (E) there appears to be a significant increase in costs as the value of claims rise. Thus doubling the value of a weight E case would increase costs by about 12%. This effect does not occur, however, among weight D cases or weight C cases, and there were too few weight A or B cases to produce reliable results.

246. The combined effect of case weight and claim value on costs in Chancery cases would give the following results: weight D cases with a claim value of £22,000 would have costs which were twice as high as weight E cases with the same claim value; weight D cases with a claim value of £100,000 would have costs that were only 60% higher than weight E cases with the same claim value. Weight C cases with a claim value of £22,000 would have costs which were five times as high as weight E cases with the same claim value; weight C cases with a claim value of £100,000 would have costs that were four times higher than weight E cases with the same claim value.

247. The analysis of costs in Chancery cases produced no evidence that stage of proceedings reached before conclusion, method of case conclusion or legal aid had any significant effect on costs when other factors were held constant.

248. The year in which the case was concluded had no significant effect on costs in Chancery cases. There is, therefore, no evidence to suggest that costs have been increasing in recent years. Further, given that costs have not been adjusted for inflation, it is possible that the apparent stability of costs levels represents a *decline* in real terms in costs in Chancery cases.

### Queen's Bench 'other'

249. The analysis of costs in Queen's Bench 'other' cases was based on 218 cases. The results of the analysis indicate that case weight, case duration, and claim value all significantly affect costs in Queen's Bench 'other' cases.



250. The effect of case weight in Queen's Bench 'other' cases is to increase costs quite substantially. The estimates suggest that weight D cases cost nearly twice as much as weight E cases; weight C cases cost about three times as much as weight E cases; weight B cases cost nearly 7 times as much as weight E cases; and weight A cases cost 24 times as much as weight E cases.

251. Claim value also affects costs to the extent that the higher the value of the claim, the higher the costs. However, claim value appears to have a larger effect on costs among those cases with a *shorter* duration. In addition, costs in Queen's Bench 'other' cases are affected by duration. The general pattern is that the longer the case lasts, the higher the costs, although this effect is less marked among high value cases.

252. The combined effect of value and duration on costs can be illustrated as follows: in a Queen's Bench 'other' case with a claim value of £22,000, doubling the length of the case would increase costs by about 30%, whereas with a claim value of £100,000, doubling the length of the case would increase costs by about 25%. Alternatively, in a Queen's Bench 'other' case with a duration of 2 years, the costs would be increased by about 20% if the claim value of the case was doubled, while in a case with a duration of 5 years, the costs would be increased by about 15% if the claim value was doubled.

253. The costs model for Queen's Bench 'other' cases produced *no* evidence of any significant impact on costs resulting from the stage reached in proceedings, or the fact that the winning party had legal aid.

254. The results relating to method of case conclusion showed that cases concluded by means of accepting monies in court, consent orders, judgment and summary judgment all had more or less the same level of costs, while those concluded on the basis of an Order, cost about 60% more.

255. The year in which the case was concluded had no significant effect on costs in Queen's Bench 'other' cases. There is, therefore, no evidence that costs have been increasing in recent years, and given that costs have not been adjusted for inflation, it is possible that the apparent stability of costs levels in Queen's Bench 'other' cases represents a *decline* in real terms.

### **Commercial Cases**

256. The analysis of costs in Commercial cases was based on 208 cases. Since claim value was not available for 102 Commercial cases, claim value was not included as an explanatory variable in the costs model for Commercial cases. The explanatory variables included in the analysis of costs in Commercial cases were: case weight, case duration, stage reached in proceedings, method of case conclusion, legal aid, and the date of conclusion. Of the explanatory variables included in the model for Commercial cases, only case weight and case duration had a significant effect on costs.

257. Among Commercial cases, the effect of an increase in weight is an increase in costs, and the impact is quite marked. The estimates suggest that weight D cases cost about 80% more than weight E cases; weight C cases cost about 4 times as much as weight E cases; weight B cases cost about six times as much as weight E cases; and weight A cases cost about 18 times as much as weight E cases.

258. Case duration also independently affects costs in Commercial cases. The results of the model suggest that doubling the duration of Commercial cases will increase costs, by about 10%, holding other factors constant.

259. There was no evidence that stage of proceedings significantly affects costs in Commercial cases, when other factors are held constant. Nor was there any evidence that method of case conclusion affected costs in Commercial cases. The lack of significance of these variables suggests that, holding weight, and case duration constant, cases concluded on the basis of a settlement are not systematically less expensive than cases concluded on the basis, for example, of judgment.

260. In common with most other case types, the year in which the case was concluded had *no* significant effect on costs in Commercial cases. Thus there is no evidence that costs in Commercial cases have either increased or decreased in recent years. Once again, the apparent relative stability of costs in Commercial cases in the sample in recent years suggests that there may have been a *decline* in costs in real terms.

## **SUMMARY OF RESULTS OF COSTS MODELS:**

### **Effect of case weight/complexity on costs**

261. The weight/complexity of cases significantly affects costs in *every case type analysed*. The effect of weight on costs is always to *increase* the level of costs, although the impact of increasing weight on costs varies in different case types. For example, in personal injury cases the heaviest cases cost about 8 times as much as the lightest cases; in medical negligence cases the heaviest cases are estimated to cost about 12 times as much as the lightest cases; in professional negligence and judicial review cases the heaviest cases cost about 14 times as much as the lightest cases; among Commercial cases the heaviest cases cost about 18 times more than the lightest cases; and among Queen's Bench 'other' cases, the heaviest cases cost more than 20 times as much as the lightest cases; among breach of contract cases, the heaviest cases cost almost 30 times as much as the lightest cases. Among Official Referee cases the effect of weight on costs is influenced by the value of the claim, with the effect of weight being more marked among higher value claims.

262. The pronounced effect of case weight on litigation costs presumably reflects the amount of activity required to progress complex cases, and the system of charging for legal services on the basis of time spent working on cases.

### **Effect of case duration on costs**

263. The total duration of cases, from date of first instruction to conclusion of cases, was found significantly to affect costs in all case types, except medical negligence and judicial review. In case types where duration has an independent impact on costs, the effect of increased case length is always increased costs. The impact of long case duration, however, varies between case types. Among personal injury cases, doubling the duration of cases increases costs by about 25%; among professional negligence cases, Official Referee cases, and Chancery cases, doubling the duration of cases increases costs by about 20%; among breach of contract cases, doubling the length of cases increases costs by about 15%; among Commercial cases, doubling the length of cases increases costs by about 10%; and among Queen's Bench 'other' cases (where the effect of duration on costs is more marked among

lower value claims), doubling the length of cases increases costs by around 20%, depending on the value of the claim.

264. The significance of this finding is considerable. The model suggests that in personal injury cases, professional negligence cases, Official Referee cases, Chancery cases, Commercial cases and breach of contract cases, the length of cases independently affects costs to the extent estimated, holding constant factors such as case weight, claim value, legal aid, stage of proceedings reached, and method of case conclusion.

#### **Effect of claim value on costs**

265. The results of the analysis of costs indicates that the value of claims (in terms of the amount recovered) affects costs in personal injury, professional negligence, Official Referee, Chancery and Queen's Bench 'other' cases. In general, the effect is that increasing claim value increases costs, although the pattern is not always consistent. For example, among personal injury and professional negligence cases, doubling claim value independently increases costs by about 15%. Among Official Referee cases, claim value is only important among the heaviest cases, where doubling the claim value appears to increase costs by about 30%, irrespective of the length of the case. Among Queen's Bench 'other' cases, claim value appears to have a greater impact on costs among shorter cases. Among Chancery cases, claim value only appears to affect costs among the lightest weight cases (E) where doubling the claim value increases costs by about 12%.

266. There is, however, no evidence that claim value has any significant effect on costs among medical negligence cases and breach of contract cases. This suggests, for example, that, holding other factors constant, low value claims in those case categories will not systematically have lower costs than high value claims, and vice versa.

267. The independent effect of claim value on costs in five of the case categories analysed suggests that in those case types, cases of similar weight and length incur higher costs, simply by virtue of the amount of money at stake in the claim.

#### **Effect of legal aid on costs**

268. The costs model suggests that legal aid has a significant and independent effect on costs in personal injury cases and in judicial review cases. When the winning party has legal aid in personal injury cases, the costs of cases of the same weight, value and length, will be about 10% higher than if the winning party does not have legal aid. The impact of legal aid on costs in personal injury cases is substantial, since it affects costs both directly, and also indirectly through increasing case length in personal injury cases.

269. In judicial review cases the effect of legal aid varies according to the weight of the case. Although the general trend appears to be that costs are higher when the winning party in judicial review cases has legal aid, among weight C cases, costs appear to be *lower* when the winning party has legal aid.

270. It should also be noted, however, that legal aid influences costs through its impact on case duration. In all case types except judicial review, case duration is longer where the winning party has legal aid; and in all case types, except judicial review and medical negligence, case duration independently increases costs.

### **Effect of stage reached in proceedings on costs**

271. The results of the cost model indicate that the stage reached in proceedings, prior to case conclusion, has *no* significant effect on costs in any of the case types analysed. This means that within all case types analysed, there is *no* evidence that proceeding beyond issue, to setting down, to the doors of the court or to trial, systematically increases costs, holding other factors constant.

### **Effect of method of case conclusion on costs**

272. Somewhat surprisingly, the results of the cost model indicate that the method of case conclusion has *no* significant, independent impact on costs in any of the case types. This means that there is no evidence that, holding other factors constant, those cases that settle out of court are systematically less costly than those proceeding to trial.

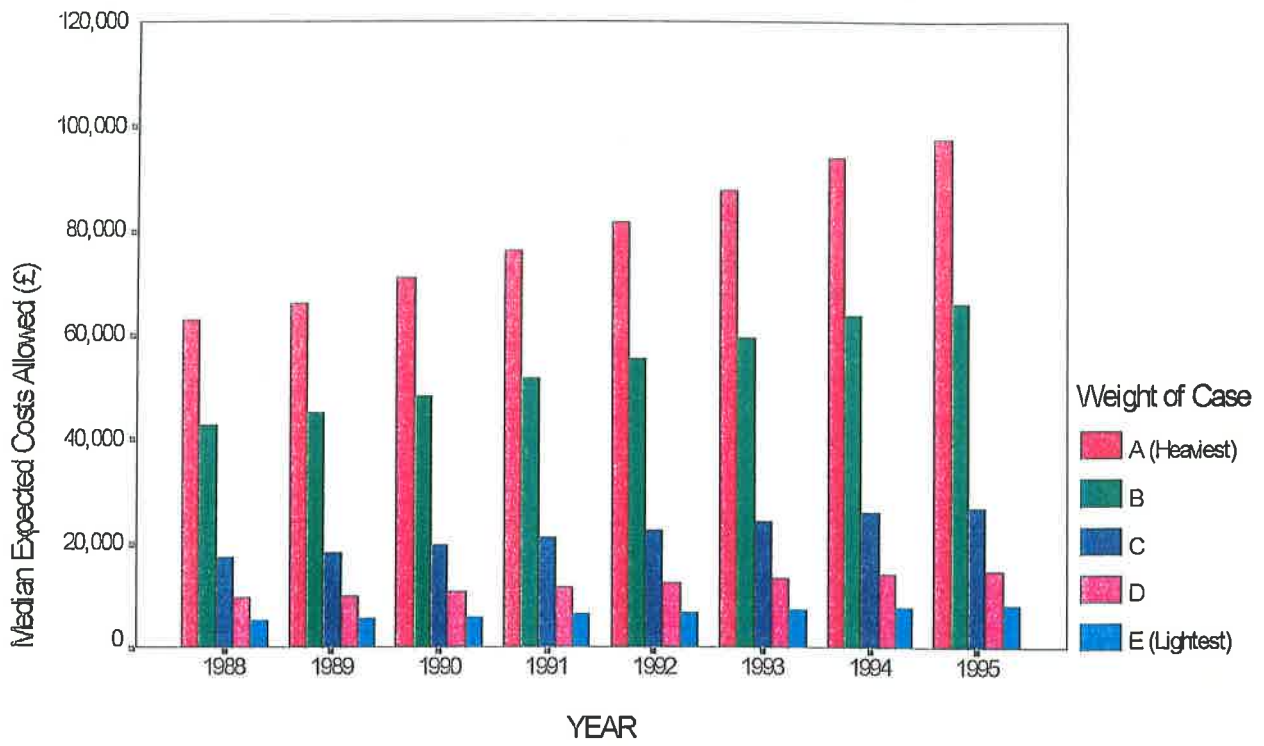
### **Effect of date of conclusion: Have costs been increasing or decreasing?**

273. In only one of the case types analysed does the date of case conclusion affect costs. In medical negligence cases there is clear evidence that costs are *increasing* at the rate of about 7% per year, and this is independent of case weight, case length, claim value, stage of proceedings or means of concluding cases.

274. In *all other case types* analysed, the date of conclusion *has no significant impact* on costs. This means that costs in all case types, other than medical negligence have remained relatively stable in recent years, neither increasing nor decreasing. Since costs have not been adjusted to take account of inflation this means that there has probably been a *decline* in costs in real terms in recent years, in all case types other than medical negligence.

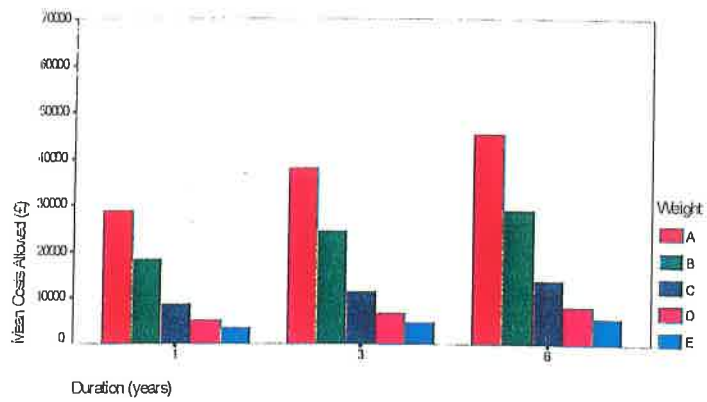
275. The consistency of this finding, in all but medical negligence cases, is notable. There are, no doubt, a number of plausible explanations for evidence of a brake on rising litigation costs. Factors which may go some way toward explaining the finding, are, for example, increased competition in the litigation market and falling rates of eligibility for legal aid. The collapse of the conveyancing market since the late 1980's and other effects of recession may have led to a greater number of solicitors competing for a stable or falling volume of litigation work. A slowing of any increases in litigation costs, or indeed a reduction in litigation costs, would be an expected result of such increased competition.

276. In addition, the gradual decline in the proportion of the population eligible for legal aid that has occurred in recent years is also likely to have an impact on costs. If potential private litigants of limited means are unable to obtain legal aid, they may refrain from pursuing civil claims, thereby reducing the volume of litigation being chased by providers of legal services and intensifying competition. Alternatively, they may pursue civil claims with solicitors acting on an informal speculative basis, which might again have a depressing effect on costs as solicitors seek to minimise their own exposure to risk.



**Figure 6.8 Model of costs in medical negligence cases**

Value of Case = £2,000



Value of Case = £100,000

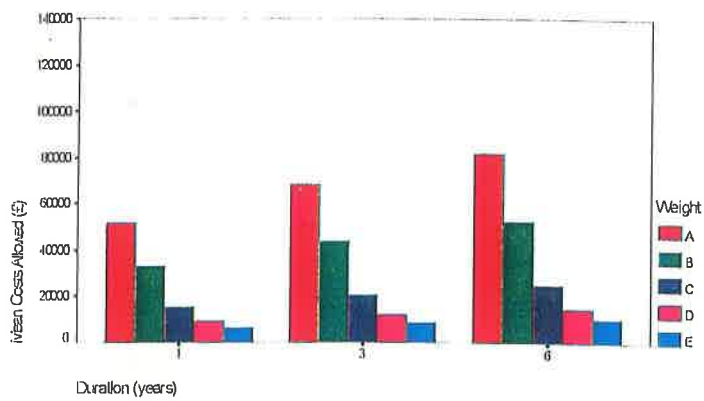


Figure 6.9 Model of costs in personal injury cases



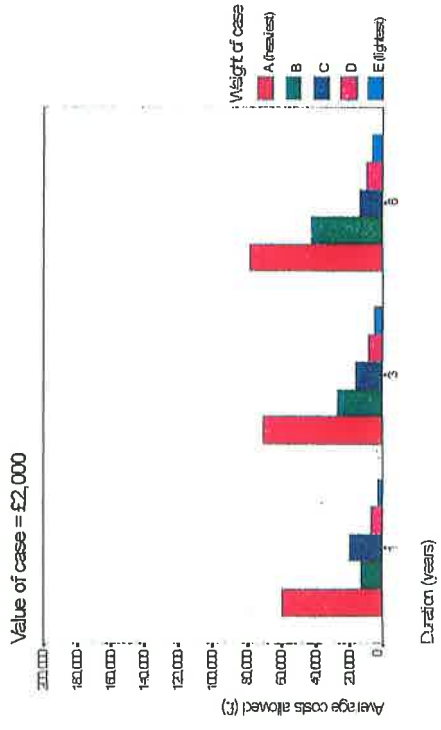
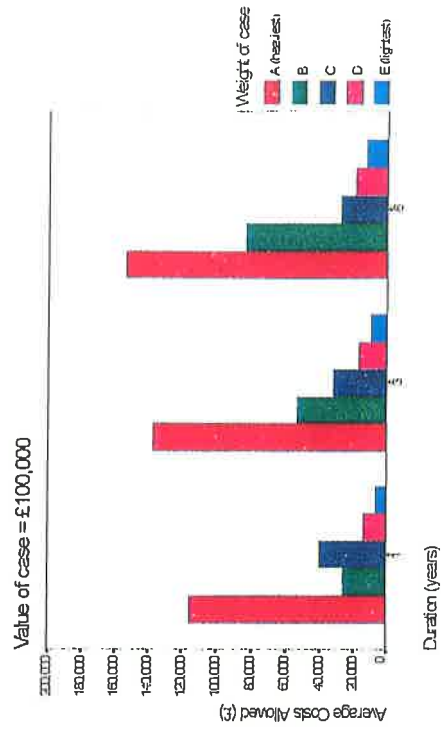


Figure 6.10 Model of costs in professional negligence cases

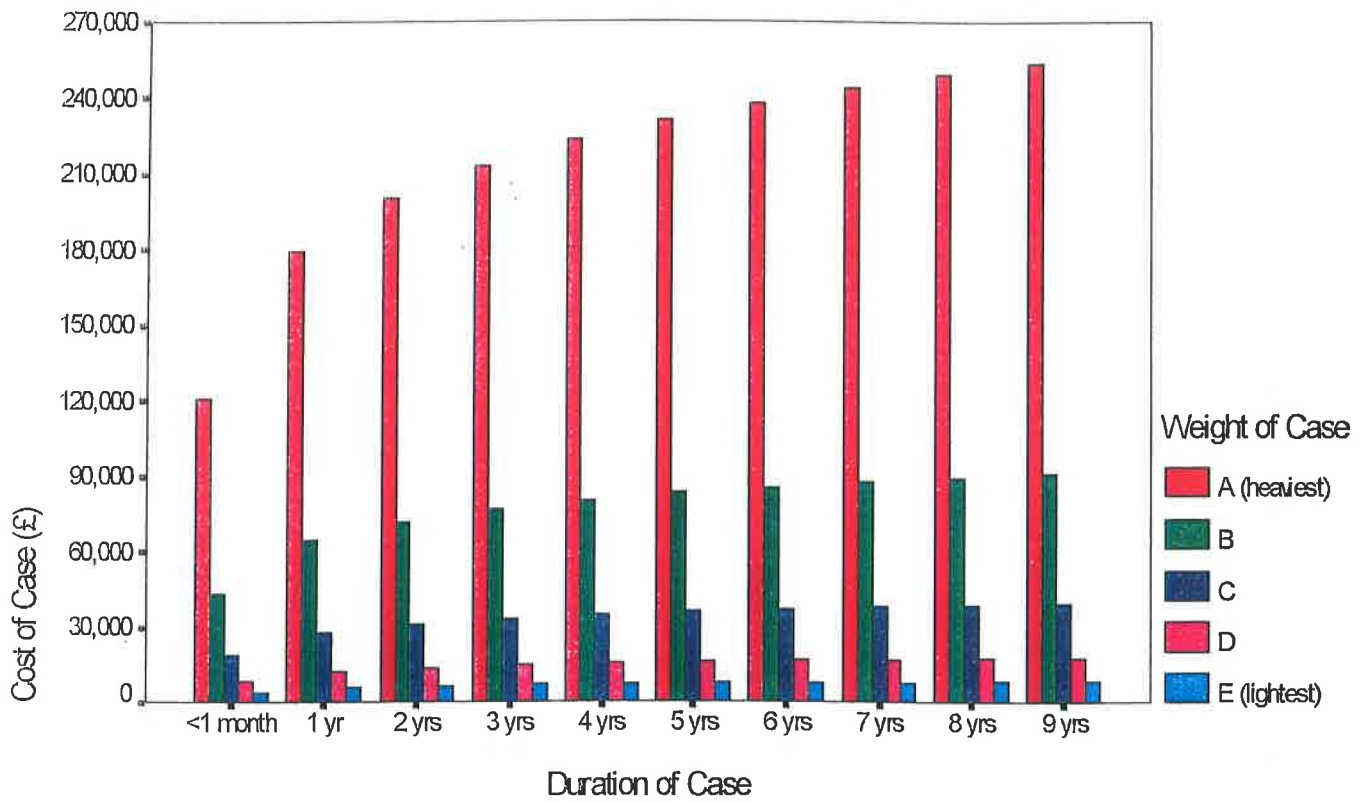


Figure 6.11 Model of costs in breach of contract cases

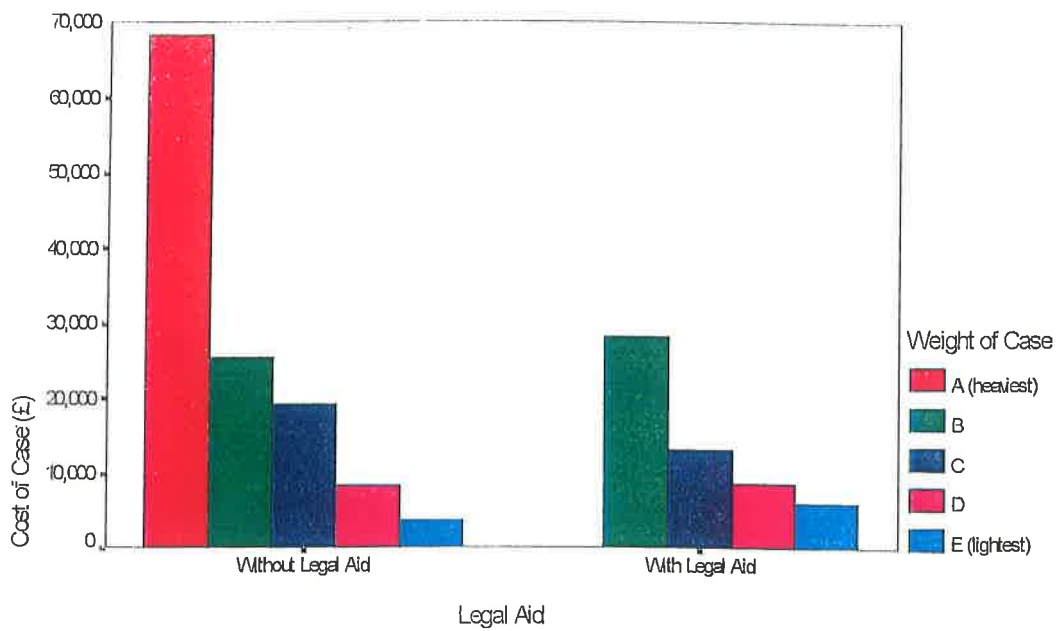


Figure 6.12 Model of costs in judicial review cases

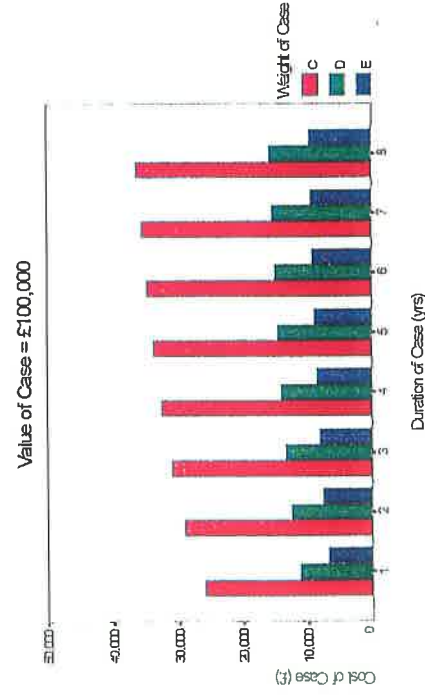
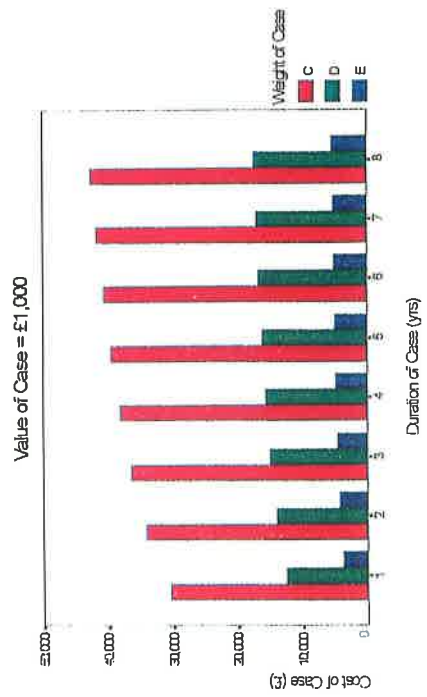
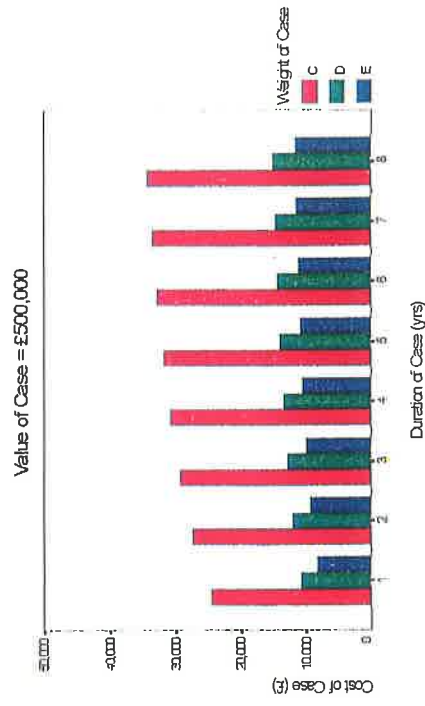
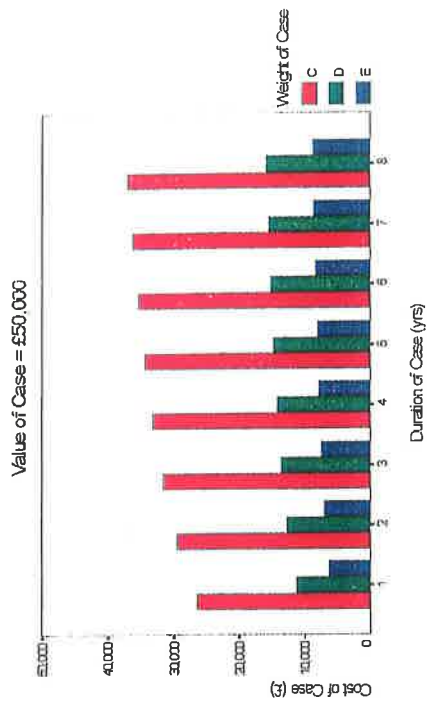


Figure 6.13 Model of costs in Chancery cases

## 7. SUMMARY OF MAIN FINDINGS

### SECTION 1. CHARACTERISTICS OF SAMPLE

277. The study was based on information extracted from a sample of bills submitted to the Supreme Court Taxing Office between 1990 and 1995.

278. **Case type:** The study sample comprised 2,184 cases, divided roughly equally between the following case types: medical negligence, personal injury, professional negligence, Official Referee, breach of contract, judicial review, Chancery, Queen's Bench 'other', Commercial, and bankruptcy/companies court cases.

279. **Claim value:** Claim value was based on the amount of money recovered in the action. The highest claim value in the sample was £660 million in a Commercial case, and the lowest amount recovered was £5, in a breach of contract case. There was a wide range of claim values in the sample both within and between case types. The highest median amount recovered was among Commercial cases (£118,454). Other case types with high median claim values were bankruptcy/companies court (£50,269), personal injury (£50,000), and breach of contract (£37,875). The lowest median claim value was among Queen's Bench 'other' cases (£29,000) (Table 1.1). About a fifth of cases had claim values of £12,500 or less and one-quarter of the sample had claim values of £100,000 or more (Table 1.2).

280. **Case weight:** Cases were categorised into five weights A (heaviest) to E (lightest). About 90% of cases fell into the C-E range with the remainder assessed as A or B. There was considerable variation between case types in the proportions of cases assessed as being "heavy" or "light". For example, about one-quarter of medical negligence cases and one-fifth of Commercial cases were assessed as being very heavy (A/B). At the other end of the weight spectrum, only 4% of bankruptcy/companies court cases were assessed as being very heavy (A/B), and 80% were assessed as being light (D/E) (Table 1.3).

281. **Legal aid:** 35% of winning parties in the sample had legal aid funding, but this varied substantially between case type. Case types in which legal aid was most prevalent were medical negligence, personal injury, judicial review cases, and professional negligence. Only a minority of winning parties had legal aid among other case types (Table 1.4).

282. **Duration of cases:** Average case length from date of instruction to conclusion of case varied substantially between case types. Medical negligence cases had the longest average length (65 months) and judicial review the shortest (12 months) (Table 1.5).

283. **Stage of proceedings:** About one quarter of cases had been concluded after the issue of proceedings, and a little more than one-quarter had been set down for trial. The parties reached the doors of the court in 17% of cases, and about one-third of cases had proceeded to trial.

284. **How proceedings were concluded:** Nearly half the cases had been concluded on the basis of a consent order, and one-quarter on the basis of a judgment. In a further 9% of cases, a payment into court had been accepted; 4% of cases were concluded on the basis of a consent judgment; 2% of cases had been struck out; 1% of cases had been dismissed; 7% had been concluded following summary judgment; and a further 1% had been withdrawn or discontinued.

285. **Successful Party:** In 86% of the cases in the sample the successful party was the plaintiff, reflecting the kinds of cases that are submitted for taxation. Among medical negligence cases there were no cases in the sample in which the defendant had been the successful party.

## SECTION 2. ANALYSIS OF AVERAGE COSTS

286. **Costs and case type:** Within the sample as a whole, a little under one-half of bills were allowed at £10,000 or less; just over one-quarter of bills were allowed at between £10,000 and £20,000; 10% of all bills were allowed at between £20,000 and £30,000; and just over one-fifth of all bills in the sample were allowed at more than £30,000 (Table 2.2). Average costs varied between different case types. Commercial cases had the highest average costs (median £18,897) and judicial review cases had the lowest average costs (median £7,642). The highest minimum costs were found among medical negligence cases (minimum £3,759). The lowest bill in the sample was for a breach of contract case, with costs of £1,798, and the highest bill was in a Commercial case at £2,135,412 (Table 2.1). The majority of judicial review bills (68%) were for less than £10,000; only one-quarter of medical negligence and Official Referee bills were for less than £10,000. The case types with the highest percentage of costs over £50,000 were Commercial cases, Official Referee cases, professional negligence cases and medical negligence cases (Table 2.2).

287. **Costs and case weight:** Average costs were higher among the heavier case weights. There were substantial differences in the weight profile of case types and differences in median costs between case types appear somewhat smaller when comparing cases of similar weight (Table 2.4). Among most case types, the average costs double, simply by moving up from weight E to weight D.

288. **Costs and claim value:** There was a huge amount of variation in the level of costs charged for cases of similar value. Among the lowest value claims (up to £12,500) median were £8,318, but costs ranged from £1,798 to £200,515. The highest value claims (more than £250,000) had median costs of £36,951, with costs ranging from £3,001 to £2,135,412 (Table 2.6). There is a lack of proportionality between costs and claim value at the lower end of the claim value scale. Among cases with a value of less than £12,500 about one-third (31%) had costs between £10,000 and £20,000, with a further 9% of cases having costs in excess of £20,000. Thus in 40% of the lowest value claims, the costs *on one side alone* were close to, or exceeded the total value of the claim.

289. **Costs and case duration:** Among cases with a total case duration of less than one year in the sample as a whole, median costs £8,008; cases lasting 2-4 years had median costs of £9,431; and cases lasting for more than six years had median costs of £15,685 (Table 2.11).

## SECTION 3. COMPONENTS OF COSTS

290. **Counsel fees** were highest among Commercial cases (average £8,447) and medical negligence cases (average £7,028). Among personal injury cases, the average total fees amounted to £3,744, representing about 14% of total costs on average. This can be compared with average total fees of £4,239 among Chancery cases, which represented about 20% of total costs. Among bankruptcy/company cases (without value) the average total was £3,170, representing about 26% of total costs, and among judicial review cases the average total paid to counsel was £5,354, representing about 36% of total costs. Average expert



fees were highest among Official Referee cases (£9,653, representing about 19% of total costs) and professional negligence cases (£6,445, representing about 15% of total costs), and lowest among judicial review cases (£193, representing about 1% of total costs). **Discovery/documents** costs were highest among Commercial cases (average of £19,142 representing 43% of total average costs) and lowest among judicial review cases (average £3,504 representing 25% of average total costs).

291. Although there were substantial differences in the amounts paid to counsel in cases of different weight, the fees attributed to counsel represented a relatively stable percentage of bills, regardless of weight. This was also true of the amounts attributed to documents and discovery. Average expert fees varied according to the weight of the case, ranging from an average of £30,537 among the heaviest cases (representing about 25% of total costs on average), to an average of £433 among the lightest cases (representing about 5% of total costs).

#### SECTION 4: INTERLOCUTORY ACTIVITY AND CASE FEATURES

292. **Case type:** There was considerable variation between case types in the level of interlocutory activity. Official Referee, breach of contract cases and Chancery cases involved large numbers of interlocutory applications. About half of Official Referee cases, a third of breach of contract cases, and over a third of Chancery cases involved four or more interlocutory applications, with a similar percentage in each case type (13%-15%) involving seven or more interlocutory applications. The lowest levels of interlocutory activity were found among judicial review cases (2% with four or more interlocutory applications) and Commercial cases without value (13% with four or more applications) (Table 4.1).

293. **Case weight:** A fairly straightforward association between interlocutory activity and case weight was found (Table 4.2). Multiple requests for further and better particulars were more common among heavier cases, and the proportion of cases involving several interlocutory applications was highest among weights A and B. About a quarter of weight B cases involved seven or more interlocutory applications, as compared with 3% of weight E cases. However, even among the lightest cases (E) some 13% of cases involved between four and six interlocutory applications.

294. **Value of Claim:** A notable finding is how *little* difference there was between low and higher value claims in the level of interlocutory activity. Among cases with a value of more than £250,000, 16% submitted three or more requests for further and better particulars as compared with 11% of cases with a claim value of less than £12,500 (Table 4.3). There was a considerable amount of interlocutory activity among low value claims, with just under a third of the lowest value cases making four or more interlocutory applications.

#### SECTION 5. CASE DURATION DATA

##### Duration from instruction to conclusion of case

295. **Case type:** Medical negligence cases had the longest average length (mean 65 months), followed by personal injury cases (56 months) and professional negligence cases (41 months); the most rapidly concluded cases were judicial review (12 months), companies court cases (about 13 months) and Commercial cases without a claim value (16 months) (Figure 5.1).

296. **Legal Aid:** Legal aid cases as a group had a longer average case duration than cases without legal aid, and except for judicial review cases, this difference held true within case type. The mean duration of cases from first instruction to conclusion for the whole sample was 26 months among cases without legal aid (median 22 months) as compared with 49 months among cases with legal aid (median 48 months) (Table 5.3 and Figure 5.6).

297. **Stage of Proceedings Reached:** The longest average duration in the sample was among cases that had reached setting down for trial (mean duration of 47 months), and those that reached the doors of the court (mean duration of 44 months) (Table 5.4 and Figure 5.7).

298. **Means of concluding proceedings:** Cases with the longest duration in the sample as a whole (Table 5.5) were those that were concluded on the basis of a consent judgment (48 months on average), acceptance of money in court (44 months on average), or a consent order (42 months on average). Judgment after trial took, on average, 25 months from instruction to conclusion, while cases concluded on the basis of a summary judgment had an average duration of 19 months. The association between duration and means of concluding proceedings varies between cases of different type (Figure 5.8).

299. **Weight of Case:** In the sample as a whole, heavier cases appeared to take longer to conclude. The heaviest (Weight A) took, on average, 48 months as compared with 29 months among the lightest cases (Weight E). The pattern was not consistent within case types (Figure 5.9).

300. **Winner of Case:** In the sample as a whole, cases in which the plaintiff was successful took longer to conclude (average of 37 months), than those in which the defendant was successful (average of 20 months). This pattern generally holds true within case type (Figure 5.10).

301. **Interlocutory Activity:** There is an association between the average length of case and the number of interlocutory applications made. In cases where there were no interlocutory applications, the average length of case was 28 months. This figure rises to 50 months in cases where there were 7 or more interlocutory applications and the pattern holds true within every case type included in the sample (Figure 5.11).

### **Delay between first instruction and issue of proceedings**

302. **Case type:** Medical negligence and personal injury cases had the longest average delays between instruction and issue of proceedings (Table 5.8 and Figure 5.12). The average delay in medical negligence cases was 21 months and in personal injury cases it was 17 months. The shortest average delays were in Commercial cases with no claim value (2 months), companies court cases with no value (2 months), and judicial review cases (3 months).

303. **Case weight:** The mean period of delay appears to increase in the sample as a whole as case weight increases. Weight E cases had a median period of delay between instruction and issue of proceedings of 4 months; among weight D and C cases the median delay was 6 months; among weight B cases the median delay was 8 months; and among the heaviest cases, the median period of delay was 11 months. The relationship between delay and weight is explored fully in Section 6.

304. **Legal aid:** Within the sample as a whole, cases with legal aid generally appeared to have a longer period of delay between instruction and issue of proceedings than those without legal aid (Table 5.9 and Figure 5.13). The average period of delay among cases with legal aid was 15 months (median 12 months) as compared with an average of 7 months (median 3 months) among cases without legal aid. The relationship between delay and legal aid is explored fully in Section 6.

305. **Value of claim:** Analysis of delay between instruction and issue of proceedings in relation to value of claim shows no clear pattern. Claims with the lowest value had a mean delay of 12 months, while claims with the highest value had a mean delay of only 9 months.

## SECTION 6. STATISTICAL MODELLING

306. Three separate modelling exercises were undertaken to explore the effects of explanatory variables on: litigation costs; duration of cases from date of instruction to conclusion of case; and delay between date of instruction and issue of proceedings. In the delay and duration models the explanatory variables included were: weight/complexity, legal aid, and date of first instruction. In the costs models the explanatory variables included were: weight/complexity, value of claim, duration of case from instruction to conclusion, stage of proceedings reached, method by which cases concluded, legal aid, and date of conclusion.

307. The objective of the modelling exercises conducted for this report was to indicate general trends in case duration and costs.

### SUMMARY OF RESULTS OF 'DELAY' MODELS:

#### Effect of case weight/complexity on delay between instruction and issue

308. The weight/complexity of cases significantly affects delay between instruction and issue of proceedings in five case types, but the impact of case weight is inconsistent. In professional negligence cases, Official Referee cases and breach of contract cases, increasing weight of cases significantly increases the period of delay between instruction and issue of proceedings. Thus, the heavier the case, the longer the delay.

309. In personal injury cases and Queen's Bench 'other' cases, increasing weight *lessens* the period of delay between instruction and issue: the more straightforward the case, the *longer* the period of delay.

310. In medical negligence, judicial review and Chancery cases, weight has *no* significant effect on the period of delay between instruction and issue of proceedings. Thus there was no evidence that the period of delay in lighter cases was systematically shorter than in heavier cases, holding other factors constant.

#### Effect of Legal Aid on delay between instruction and issue

311. When the winning party has legal aid, the period of delay between instruction and issue is affected in most case types, with the exception of medical negligence, Official Referee and judicial review cases. Whenever legal aid has an impact on delay, the effect is always that the period of delay between instruction and issue is independently lengthened.

### **Effect of date of first instruction on delay: Is delay increasing or decreasing?**

312. Among all case types, with the exception of judicial review, there is clear evidence that the period of delay between date of first instruction and issue of proceedings has been *declining* in recent years. The extent of the decline is as much as 20% or 25% per year among some case types.

### **SUMMARY OF RESULTS OF CASE DURATION MODELS:**

#### **Effect of case weight/complexity on case duration**

313. The various models suggest that the weight of cases significantly affects the total length of cases among only four of the case types (Official Referee cases, breach of contract cases, Chancery cases and Queen's Bench 'other' cases). Whenever case weight does affect duration, the effect is always to *increase* the total length of the case.

#### **Effect of legal aid on case duration**

314. Among all case types, with the exception of judicial review, the fact that the winning party has legal aid significantly affects case length, and the effect is always that cases are *longer* when the successful party has legal aid. The effect of legal aid on case length ranges from a 20% increase in the length of personal injury cases; an increase of 25% in overall length among medical negligence cases; an increase of 45% among breach of contract cases; an increase of 90% among Official Referee cases; and an increase of 100% among Chancery and Queen's Bench 'other' cases.

### **Effect of date of conclusion on case duration: Is case length increasing or decreasing?**

315. The date of case conclusion appeared to affect case length among Official Referee cases, breach of contract cases, Chancery cases and Queen's Bench 'other' cases. Among each of these four case types, there was clear evidence that the length of cases has been *decreasing* in recent years. Thus, whenever a change in case duration over time was identified in the models, the change was always in a downward direction. In *none* of the case types modelled was there any evidence that the overall length of cases has been increasing in recent years.

### **SUMMARY OF RESULTS OF COSTS MODELS:**

#### **Effect of case weight/complexity on costs**

316. The weight/complexity of cases significantly affects costs in *every case type analysed*. The effect of weight on costs is always to *increase* the level of costs, although the impact of increasing weight on costs varies in different case types. For example, in personal injury cases the heaviest cases cost about 8 times as much as the lightest cases; in medical negligence cases the heaviest cases are estimated to cost about 12 times as much as the lightest cases; in professional negligence and judicial review cases the heaviest cases cost about 14 times as much as the lightest cases; among Commercial cases the heaviest cases cost about 18 times as much as the lightest cases; and among Queen's Bench 'other' cases, the heaviest cases cost more than 20 times as much as the lightest cases; among breach of contract cases, the heaviest cases cost almost 30 times as much as the lightest cases. Among Official Referee cases the effect of weight on costs is influenced by the value of the



claim, with the effect of weight being more marked among higher value claims.

#### **Effect of case duration on costs**

317. The total duration of cases, from date of first instruction to conclusion of cases, was found significantly to affect costs in all case types, except medical negligence and judicial review. In case types where duration has an independent impact on costs, the effect of increased case length is always increased costs. The impact of long case duration, however, varies between case types. Among personal injury cases, doubling the duration of cases increases costs by about 25%; among professional negligence cases, Official Referee cases, and Chancery cases, doubling the duration of cases increases costs by about 20%; among breach of contract cases, doubling the length of cases increases costs by about 15%; among Commercial cases, doubling the length of cases increases costs by about 10%; and among Queen's Bench 'other' cases (where the effect of duration on costs is more marked among lower value claims), doubling the length of cases increases costs by around 20%, depending on the value of the claim.

318. Among medical negligence cases and judicial review cases, there was no evidence that case duration had a significant effect on costs.

#### **Effect of claim value on costs**

319. The results of the analysis of costs indicates that the value of claims (in terms of the amount recovered) affects costs in personal injury, professional negligence, Official Referee, Chancery and Queen's Bench 'other' cases. In general, the effect is that increasing claim value increases costs, although the pattern is not always consistent. For example, among personal injury and professional negligence cases, doubling claim value independently increases costs by about 15%. Among Official Referee cases, claim value is only important among the heaviest cases, when doubling the claim value appears to increase costs by about 30%, irrespective of the length of the case. Among Queen's Bench 'other' cases, claim value appears to have a greater impact on costs among shorter cases. Among Chancery cases, claim value only appears to affect costs among the lightest weight cases (E) when doubling the claim value increases costs by about 12%.

#### **Effect of legal aid on costs**

320. Legal aid has a significant and independent effect on costs in personal injury cases and in judicial review cases. When the winning party has legal aid in personal injury cases, the costs of cases of the same weight, value and length, will be about 10% higher than if the winning party does not have legal aid, and this is *in addition* to the contribution of legal aid to costs in personal injury cases through increased case duration. In judicial review cases the effect of legal aid varies according to the weight of the case. Although the general trend appears to be that costs are higher when the winning party in judicial review cases has legal aid, among weight C cases, costs appear to be *lower* when the winning party has legal aid.

#### **Effect of date of conclusion on costs: Have costs been increasing or decreasing?**

321. In only one of the case types analysed does the date of case conclusion affect costs. In medical negligence cases there is clear evidence that costs are *increasing* at the rate of about 7% per year, independent of case weight, case length, claim value, stage of proceedings or means of concluding cases.

322. In *all other case types* analysed, the date of conclusion has *no significant impact* on costs. This means that costs in all case types, other than medical negligence, have remained relatively stable in recent years, neither increasing nor decreasing. Since costs have not been adjusted to take account of inflation this means that there has probably been a *decline* in costs in real terms in recent years, in all case types other than medical negligence.

#### **Effect of stage reached in proceedings on costs**

323. The results of the cost model indicate that the stage reached in proceedings, prior to case conclusion, has *no significant effect* on costs in any of the case types analysed.

#### **Effect of method of case conclusion on costs**

324. The results of the cost model indicate that the method of case conclusion has *no significant, independent impact* on costs in any of the case types. This means that there is no evidence that, holding other factors constant, settling out of court is systematically less costly than proceeding to trial. Nor does it appear that cases ending by summary judgment have systematically lower costs than a full trial, when other factors such as case weight, case length, and claim value are held constant.



## SUMMARY PROFILES OF CASE TYPES

### MEDICAL NEGLIGENCE

#### (a) Case type characteristics

Medical Negligence Cases	Mean	Median
Costs allowed	£ 29,380	£ 15,531
Claim Value	£134,748	£ 33,381
Delay between instruction and issue	21 months	20 months
Duration	65 months	61 months
Average total counsel fees	£7,028	
Average total expert fees	£4,413	
Average costs discovery + documents	£7,590	
% of successful parties with legal aid	92%	

#### (b) Results of statistical modelling

**Delay between instruction and issue of proceedings:** Case weight and legal aid were not found to have a significant effect on the period of delay between instruction and issue of proceedings in medical negligence cases. The period of delay has declined in recent years. Median period of delay has fallen from about 28 months among cases commenced in 1975, to 22 months among cases commenced in 1980, to 13 months among cases commenced in 1990.

**Case duration:** The only explanatory variable found to have a significant effect on total case duration among medical negligence claims was whether or not the winning party had legal aid. The effect is that cases in which the winning party had legal aid were about 25% longer than those in which the winning party did not have legal aid. Lighter cases were not found to be systematically shorter than heavier cases, holding other factors constant. The length of medical negligence cases has remained stable in recent years, neither increasing nor decreasing.

**Costs:** Case weight and year of conclusion were the only variables included in the costs model found to have a significant effect on costs in medical negligence cases. The heaviest medical negligence cases are estimated to cost about 12 times more than the lightest cases, holding other factors constant. The level of costs in medical negligence cases has been increasing by about 7% per year in recent years, holding other factors constant. There was no evidence that the value of the claim, duration of case, stage reached in proceedings, or method of case conclusion had any significant effect on costs in medical negligence cases.

## PERSONAL INJURY

### (a) Case type characteristics

Personal Injury Cases	Mean	Median
Costs allowed	£ 19,382	£ 12,134
Claim Value	£ 98,434	£ 50,000
Delay between instruction and issue	17 months	15 months
Duration	56 months	54 months
Average total counsel fees	£ 3,744	
Average total expert fees	£ 2,413	
Average costs discovery + documents	£ 5,016	
% of successful parties with legal aid	58%	

### (b) Results of statistical modelling

**Delay between instruction and issue of proceedings:** Case weight, legal aid and the year of instruction were found to have a significant effect on the period of delay between instruction and issue of proceedings in personal injury cases. The period of delay has been decreasing in recent years, by about 15% per year. The period of delay is *shorter* among heavy cases than among lighter cases. Delay among weight A cases (heaviest) is about 50% shorter than among weight E cases (lightest). If the winning party has legal aid, the period of delay between instruction and issue of proceedings among personal injury cases will be about 50% longer than when the winning party does not have legal aid.

**Case duration:** The only explanatory variable found to have a significant effect on total case duration among personal injury cases was whether or not the winning party had legal aid. The effect is that cases in which the winning party had legal aid were about 20% longer than those in which the winning party did not have legal aid. Lighter cases were not found to be systematically shorter than heavier cases, holding other factors constant. The length of personal injury cases has neither increased nor decreased in recent years.

**Costs:** Several of the explanatory variables were found to have a significant effect on costs in personal injury cases. Case weight affects costs, with costs increasing as case weight increases. Weight A cases (heaviest) cost about 8 times as much as weight E cases (lightest). The value of claims also independently affects costs in personal injury cases. Doubling the value of a personal injury case will increase costs by about 15%, holding other factors constant. The duration of personal injury cases also independently affects costs. Doubling the length of a personal injury case will increase costs by about 25%, holding other factors constant. Legal aid also has an impact on costs in personal injury cases. In addition to the effect on costs through increased duration, when the winning party has legal aid, costs will be about 10% higher, holding other factors constant. Stage of proceedings reached and whether cases were settled or went to trial had no significant effect on costs, holding other factors constant. Finally, costs in personal injury cases have been neither increasing nor decreasing in recent years. If inflation is taken into account, this implies that there has been a decrease in costs in real terms.

## PROFESSIONAL NEGLIGENCE

### (a) Case type characteristics

Professional Negligence	Mean	Median
Costs allowed	£ 32,866	£ 14,834
Claim Value	£107,849	£ 34,000
Delay between instruction and issue	12 months	9 months
Duration	41 months	35 months
Average total counsel fees	£ 5,757	
Average total expert fees	£ 6,445	
Average costs discovery + documents	£ 11,320	
% of successful parties with legal aid	38%	

### (b) Results of statistical modelling

**Delay between instruction and issue of proceedings:** The year of instruction, the weight of the case and the presence of legal aid all have a significant effect on the length of delay in professional negligence cases. There is unequivocal evidence that the length of the delay between instruction and issue, in professional negligence cases, has been declining in recent years, by about 10% per year. However, when the winning party has legal aid, the period of delay between instruction and issue will be about 50% longer than when the winning party does not have legal aid. The heaviest cases (weight A) have a period of delay between instruction and issue of proceedings which is about two-and-a-half times that of other cases (B/C/D/E).

**Case duration:** The only explanatory variable having a significant effect on case length was the presence of legal aid. When the successful party had legal aid, total duration was almost 60% longer than when the successful party did not have legal aid, holding case weight constant. None of the other explanatory variables appeared to have any significant effect on case duration. There was no convincing evidence that weight or year of conclusion affects duration in professional negligence cases, suggesting that there has been no systematic increase or decrease in case duration in recent years, and that, holding other factors constant, lighter cases are not systematically shorter than heavier cases.

**Costs:** The main effects on costs are the weight of the case, the duration of the case and the value of the claim. There is a systematic increase in costs with increasing weight: weight A cases cost nearly 14 times as much as weight E cases, holding other factors constant. Duration also independently affects costs. If the total length of a professional negligence case doubles, costs will increase by about 20%. The value of claims also affects costs; doubling claim value, increases costs by about 15%, irrespective of other factors. There is no evidence that the stage reached in proceedings, or the method of case conclusion significantly affects costs, holding other factors constant. The year in which the case was concluded had no significant effect on costs. Thus there is no evidence that costs have been increasing in recent years, and given that costs have not been adjusted for inflation, it is possible that the apparent stability of costs levels represents a *decline* in real terms.

## OFFICIAL REFEREE

### (a) Case type characteristics

Official Referee	Mean	Median
Costs allowed	£ 35,844	£ 19,320
Claim Value	£112,633	£ 34,764
Delay between instruction and issue	8 months	5 months
Duration	34 months	30 months
Average total counsel fees	£ 5,396	
Average total expert fees	£ 9,653	
Average costs discovery + documents	£ 9,956	
% of successful parties with legal aid		18%

### (b) Results of statistical modelling

**Delay between instruction and issue of proceedings:** The only explanatory variables that have a significant effect on the period of delay are the year of first instruction and the weight of the case. Delay does *not* appear to be affected by whether or not the winning party had legal aid (18% of winning parties had legal aid). The period of delay in Official Referee cases has been declining by almost 20% per year. Heavier cases (categories A/B/C) have a period of delay between instruction and issue of proceedings which is about 50% longer than that of lighter cases (categories D/E).

**Case duration:** The total duration of cases is affected by the weight of cases, the presence of legal aid, and the date on which the case was concluded. Increasing weight has quite a substantial effect: the heaviest cases with weight A/B take *twice as long* as weight E cases; weight C cases take about one-and-a-half times as long as weight E cases; and weight D cases take about 20% longer than weight E cases. Legal aid also affects duration. Cases in which the successful party had legal aid lasted about 90% longer than non legal aid cases. The length of cases has been *decreasing* by about 8% per year.

**Costs:** Costs are affected by the weight of the case, the value of the case and the duration of the case. There is also an interaction effect, in that the effect of weight on costs varies according to the value of the claim. Increasing duration leads to increased costs. Doubling the length of cases increases costs by about 20%. Among cases of weight D and E the value of the claim has no impact on costs. Among more weighty cases, however, costs do appear to increase as claim value rises. Doubling the value of a weight B case will increase costs by about 30%, irrespective of the length of the case. Case weight also has an effect on costs, but the effect is more marked among high value cases. Neither the stage reached in proceedings nor the means by which the case was concluded had any significant effect on the level of costs. There was no evidence that legal aid had any independent impact on costs, although it has an influence through its effect on case duration, which affects costs. There is *no evidence* to suggest that costs in Official Referee cases have been increasing in recent years. Given that costs have not been adjusted for inflation, it is possible that the apparent stability of costs levels represents a *decline* in real terms.

## BREACH OF CONTRACT

### (a) Case type characteristics

Breach of Contract	Mean	Median
Costs allowed	£ 22,575	£ 11,833
Claim Value	£124,010	£ 37,875
Delay between instruction and issue	6 months	3 months
Duration	29 months	25 months
Average total counsel fees	£ 4,710	
Average total expert fees	£ 1,960	
Average costs discovery + documents	£ 7,114	
% of successful parties with legal aid	17%	

### (b) Results of statistical modelling

**Delay between instruction and issue of proceedings:** It appears that the period of delay between instruction and issue of proceedings is significantly affected by the year of instruction, the complexity of the case and the presence of legal aid. Average delays between instruction and issue of proceedings have decreased in recent years in breach of contract cases at the rate of about 20% per year. When the successful party has legal aid, the period of delay is almost 70% longer than cases without legal aid. There was also evidence that complexity affected the period of delay between instruction and issue of proceedings, with delay increasing as complexity increases.

**Case duration:** Total case duration is affected by the weight of cases, by the presence of legal aid and by the date of conclusion, although the last two variables appear to constitute the main effects on duration. As weight increases, so does the total duration of the case. The estimates suggest that weight D cases last about 35% longer than weight E cases, and weight B cases last about 60% longer than weight E cases. Legal aid also has a significant effect on the length of breach of contract cases. When the successful party has legal aid, case duration is about 45% longer than when the successful party does not have legal aid. There is also evidence that the length of breach of contract cases has been *declining* in recent years, by about 10% per year.

**Costs:** Costs are affected by the weight of cases, the duration of cases and by the presence of legal aid. Costs increase substantially as weight of cases increases; weight A cases cost almost 30 times as much as weight E cases. Duration also has an impact on costs; doubling the duration of breach of contract cases increases costs by about 15%, holding other factors constant. Since duration has been declining recently, the effect is likely to stabilise or reduce costs. There was no evidence that legal aid had any independent effect on costs, although it may have an effect through its impact on case length, which does affect costs. There was no evidence that the value of the claim, the stage reached in proceedings or the means by which cases were concluded had any significant effect on costs levels. Costs have neither increased nor decreased increasing in recent years. Taking inflation into account, the apparent stability of costs levels represents a *decline* in real terms.



## JUDICIAL REVIEW

### (a) Case type characteristics

Judicial Review	Mean	Median
Costs allowed	£ 13,233	£ 7,642
Claim Value		
Delay between instruction and issue	3 months	2 months
Duration	12 months	11 months
Average total counsel fees	£ 5,354	
Average total expert fees	£ 193	
Average costs discovery + documents	£ 3,580	
% of successful parties with legal aid	58%	

### (b) Results of statistical modelling

**Delay between instruction and issue of proceedings:** *None* of the explanatory variables had any significant effect on the period of delay between date of instruction and issue of proceedings. There is *no evidence* that delay between date of instruction and issue has decreased over time. Nor is there any evidence to suggest that delay between instruction and issue is affected by the weight of the case, or whether the winning party *had* legal aid (58% of winning parties had legal aid).

**Case duration:** The analysis of case duration among judicial review cases produced *no* convincing evidence that any of the explanatory variables included in the model had a significant effect on the length of cases. The explanation for variation in judicial review cases evidently lies elsewhere, although the average duration of judicial review cases is, in any case, generally quite short.

**Costs:** Of the explanatory variables included in the model, only the weight of cases and the presence of legal aid appeared to have any significant effect on costs. There is a linear trend in relation to case weight: as weight increases so does the level of costs, and weight A cases cost about 14 times as much as weight E cases. The effect of legal aid on costs is not entirely consistent. The general pattern suggests that when the winning party has legal aid costs are generally *higher* than when the successful party does not have legal aid, but the pattern varies according to the weight of the case. The lightest weight cases (E) cost about 60% *more* if the successful party has legal aid; among weight D cases there is no significant difference in costs between cases with and without legal aid; weight C cases with legal aid appear to cost about one third *less* than similar cases without legal aid. It is therefore difficult to reach a confident conclusion about the effect of legal aid. Costs were *not* significantly affected by the duration of the case, the stage reached in proceedings, the means by which the case was concluded, or the date of conclusion. There is therefore no evidence to suggest, for example, that costs are higher in lengthier cases, or that the cost of cases has been increasing in recent years. In common with most other case types, the apparent stability of costs in judicial review cases probably represents a decrease in costs in real terms.



## CHANCERY

### (a) Case type characteristics

Chancery	Mean	Median
Costs allowed	£ 18,261	£ 10,510
Claim Value	£636,735	£ 36,109
Delay between instruction and issue	6 months	2 months
Duration	32 months	27 months
Average total counsel fees	£ 4,239	
Average total expert fees	£ 1,326	
Average costs discovery + documents	£ 5,798	
% of successful parties with legal aid	29%	

### (b) Results of statistical modelling

**Delay between instruction and issue of proceedings:** The year of first instruction and the presence of legal aid significantly affect the period of delay. The period of delay has been decreasing in recent years by about 15%. Legal aid also significantly affects the period of delay in Chancery cases. Among cases in which the successful party had legal aid, the period of delay was about 60% longer than when the winning party did not have legal aid. There was *no* evidence that the complexity or weight of cases affected the period of delay between instruction and issue of proceedings.

**Case duration:** Case duration is affected by case weight, legal aid and the date of case conclusion. As weight increases, so does the total duration of the case. The estimates suggest that weight D cases last about 10% longer than weight E cases; and weight C cases last about 30% longer than weight E cases. (There were insufficient cases in categories A or B to produce reliable estimates). Chancery cases in which the successful party has legal aid are estimated to last *twice* as long as cases in which the winning party does not have legal aid. Total case length, from instruction to conclusion, has *declined* in recent years. The annual reduction in case length is estimated to be about 13%.

**Costs:** Costs are significantly affected by the weight of the case, the duration of the case and the value of the claim, although the influence of claim value occurs primarily among the lightest cases (weight E). Costs increase as duration increases; doubling the duration of cases increases costs by about 20%. Among the lightest weight cases (E) there appears to be a significant increase in costs as the value of claims rise. Thus doubling the value of a weight E case would increase costs by about 12%. This effect does not occur, however, among weight D cases or weight C cases, and there were too few weight A or B cases to produce reliable results. There was no evidence that stage of proceedings reached, method of case conclusion or legal aid had any significant effect on costs. There is no evidence to suggest that costs have been increasing in recent years, and when inflation is taken into account, the apparent stability of costs levels represents a *decline* in real terms in costs in Chancery cases.

## QUEEN'S BENCH 'OTHER'

### (a) Case type characteristics

Queen's Bench 'other'	Mean	Median
Costs allowed	£ 18,852	£ 8,503
Claim Value	£143,482	£ 29,000
Delay between instruction and issue	7 months	4 months
Duration	28 months	21 months
Average total counsel fees	£ 4,581	
Average total expert fees	£ 1,333	
Average costs discovery + documents	£ 6,192	
% of successful parties with legal aid	18%	

### (b) Results of statistical modelling

**Delay between instruction and issue of proceedings:** The year of first instruction, weight of case, and the presence of legal aid, all have a significant effect on the period of delay between instruction and issue of proceedings. The period of delay has been declining in recent years, by about 25% per year. When the winning party has legal aid, the delay is estimated to be about 75% longer than when the winning party does not have legal aid. The weight of cases also significantly affects delay, but in the opposite direction to most other case types. In common with personal injury cases, the model suggests that in Queen's Bench 'other' cases, the *heavier* the case, the *shorter* the period of delay between instruction and issue of proceedings. Thus weight C cases have a delay which is 40% *shorter* than weight D/E cases. Weight A/B cases have a delay which is 60% *shorter* than weight D/E cases.

**Case duration:** The weight of cases, the date of conclusion, and the presence of legal aid all significantly affect the total length of cases. As weight increases, so does case length. The model estimates suggest that weight C/D cases take about 30% longer than weight E cases; weight B cases take about 80% longer than weight E cases; and weight A cases take two-and-a-half times as long as weight E cases. When the successful party has legal aid, cases last about *twice as long* as when they do not have legal aid. There is also evidence that the length of cases has been *reducing* by about 10% per year.

**Costs:** Case weight, case duration, and claim value all significantly affect costs in Queen's Bench 'other' cases. Increasing case weight affects costs substantially. The estimates suggest that weight A cases cost about 24 times as much as weight E cases. Higher value claims tend to have higher costs, holding other factors constant, but the impact is greater among *shorter* cases. In general, longer cases have higher costs, holding other factors constant, although the trend is less marked among high value cases. Stage reached in proceedings has *no* significant impact on costs, nor does legal aid. Holding other factors constant, costs were similar among settlements, judgments and summary judgments, but costs were about 60% higher among cases ended by Orders. In common with most other case types, costs have remained stable in recent years, suggesting a *decline* in real terms.

COMMERCIAL

(a) Case type characteristics

Commercial	Mean	Median
Costs allowed	£ 56,319	£ 18,897
Claim Value	£10,145,884	£118,454
Delay between instruction and issue	5 months	2 months
Duration	25 months	20 months
Average total counsel fees	£ 8,447	
Average total expert fees	£ 7,245	
Average costs discovery + documents	£ 19,142	
% of successful parties with legal aid		*%

(b) Results of statistical modelling

Delay between instruction and issue of proceedings:

Case duration:

**Costs:** Of the explanatory variables included in the model for Commercial cases, only case weight and case duration had a significant effect on costs (claim value could not be included). Among Commercial cases, the effect of an increase in weight is an increase in costs, and the impact is quite marked. The estimates suggest that weight D cases cost about 80% more than weight E cases; weight C cases cost about 4 times as much as weight E cases; weight B cases cost about six times as much as weight E cases; and weight A cases cost about 18 times as much as weight E cases. Case duration also independently affects costs in Commercial cases. The results of the model suggest that doubling the duration of Commercial cases will increase costs, by about 10%, holding other factors constant. There was no evidence that stage of proceedings significantly affects costs in Commercial cases, when other factors are held constant. Nor was there any evidence that method of case conclusion affected costs in Commercial cases. The lack of significance of these variables suggests that, holding weight, and case duration constant, cases concluded on the basis of a settlement are not systematically less expensive than cases concluded on the basis, for example, of judgment. In common with most other case types, the year in which the case was concluded had *no* significant effect on costs in Commercial cases. Thus there is no evidence that costs in Commercial cases have either increased or decreased in recent years. Once again, the apparent relative stability of costs in Commercial cases in the sample in recent years suggests that there may have been a *decline* in costs in real terms.

## APPENDIX A

	<b>Spreadsheet Heading</b>	<b>Description of variable</b>
1.	W.R. No	Reference number
2.	Brought in	Total amount of costs claimed
3.	Allowed at	Total amount of costs allowed after taxation (to be categorised in bands)
4.	Value	Value of claim £ (to be categorised into bands) (NB This information is available only for those cases where the Plaintiff in the action was successful and where the case was concluded on the basis of a settlement or judgment)
5.	Stage	Stage of proceedings reached before conclusion as follows: 1 = Issue of proceedings 2 = Set down for trial 3 = Doors of the court 4 = Trial
6.	Weight	The weight of the case as assessed by the taxing office A = Heaviest B C D E = Lightest
7.	Outcome	How the case was concluded as follows:  Acc = Acceptance of monies in court Ord = Order Con Ord = Consent Order J = Judgment Con J = Consent Judgment Summ J = Summary Judgment Dis = Dismissed S/O = Struck Out W/D = Withdrawn/Discontinued
8.	Pltff won	Indicates whether the Plaintiff won the action  0 = No 1 = Yes
9.	Deft won	Indicates whether the Defendant won the action  0 = No 1 = Yes

10.	S.o.C. pages	Indicates the number of pages in the statement of claim
11.	S.o.C. amended	Indicates whether the statement of claim was amended Y = Yes N = No
12.	S.o.C. comp	Assessment of complexity of statement of claim  A = Most Complex B C D E = Least Complex
13.	Reqs F & Bs	The number of requests for further and better particulars
14.	Interloc Appns	The number of interlocutory applications made
15.	Csl Pleadings £s Claimed	The amount claimed for Counsel in respect of Pleadings
16.	Csl Pleadings £s Allowed	Amount allowed by the Court for Counsel's Pleadings
17.	Csl Conferences £s Claimed	The amount claimed for Conferences with Counsel
18.	Csl Conferences £s Allowed	The amount allowed by the Court for Conferences
19.	Csl Briefs £s Claimed	The amount claimed for Counsel's Briefs
20.	Csl Briefs £s Allowed	The amount allowed for Counsel's Briefs
21.	Csl Advices £s Claimed	The amount claimed for Counsel's Advices
22.	Csl Advices £s Allowed	The amount allowed for Counsel's Advices
23.	Csl total £s Claimed	The total amount claimed in respect of Counsel's fees
24.	Csl total £s Allowed	The total amount allowed in respect of Counsel's fees
25.	Disc Hrs Cl	The number of hours claimed in respect of "Discovery"
26.	Disc Val Cl	The monetary value of the hours claimed for "Discovery"



27.	Disc Hrs All	The number of hours allowed in respect of "Discovery"
28.	Disc Val All	The monetary value of the hours allowed for "Discovery"
29.	Docs Hrs Cl	The number of hours claimed in respect of "Documents"
30.	Docs Val Cl	The monetary value of the hours claimed for "Documents"
31.	Docs Hrs All	The number of hours allowed in respect of "Documents"
32.	Docs Val All	The monetary value of the hours allowed for "Documents"
33.	Exps No.	The total number of experts used on the case
34.	Exps Med	The number of medical experts
35.	Exps Acct	The number of accident experts used
36.	Experts Other	Other types of experts used.
37.	Exp Fee Claimed	Total amount claimed for experts' fees
38.	Exp Fee Allowed	Total amount allowed for experts' fees
39.	% `1'	The % of the total costs claimed, formed by Counsel fees
40.	% `1A'	The % of the total costs allowed, formed by Counsel fees
41.	% `2'	The % of the total costs claimed, formed by Discovery
42.	% `2A'	The % of the total costs allowed, formed by Discovery
43.	% `3'	The % of the total costs claimed, formed by Documents
44.	% `3A'	The % of the total costs allowed, formed by Documents
45.	% `4'	The % of the total costs claimed, formed by Expert fees
46.	% `4A'	The % of the total costs allowed, formed by Expert fees
47.	% `5'	The % of the total costs claimed, formed by the 4 heads above
48.	% `5A'	The % of the total costs allowed, formed by the 4 heads above
49.	% `6'	The % of the value of the claim formed by the total costs allowed
50.	Claims Assessors Allowed	Amount allowed for claims assessor's fee

- |     |                |  |
|-----|----------------|--|
| 51. | Legal Aid      | Whether winning party was legally aided<br>Y = Yes<br>N = No |
| 52. | Cypher Stage A | Date of first instruction                                    |
| 53. | Cypher Stage 1 | Date of issue of proceedings                                 |
| 54. | Cypher Stage 2 | Date of setting down for trial                               |
| 55. | Cypher Stage 3 | Date of settlement   |
| 56. | Cypher Stage 4 | Date of trial  |

**APPENDIX B**

**STATISTICAL APPENDIX**

# Analysis of Duration from Date of 1st Instruction to date of Issue of Proceedings

## Cases where Plaintiff won, and excluding 93 cases with 'negative' duration

### Data Used in Analysis

Response variable	Ln (Duration*)
Explanatory variables	Legal Aid ( 1=data missing, 2=case without legal aid, 3=case with legal aid)
	Complexity of Case (1= 'E' - least complex, .. 5='A' - most complex, 6=data missing**)
	Weight of Case (1 = 'E' - light case,,, 5='A' - heavy case)
	No. of Pages in Statement of Claim ***
	Start-date (Date of 1st Instruction)

- Note
- \* Cases with 'zero' duration (days) set to have duration of 0.5
  - \*\* data missing on Personal Injury cases only
  - \*\*\* GLIM analysis includes 'Dummy' variable for No. of Pages (1=data missing, 0=data provided)

# ANALYSIS OF DELAY BETWEEN FIRST INSTRUCTION AND ISSUE OF PROCEEDINGS

## MEDICAL NEGLIGENCE

### Full Model

```
[o]
[o] R-squared equals 0.0443
[o] R-squared (adjusted) equals 0.0152
[o] estimate s.e. parameter
[o] 1 2.563 0.1603 1
[o] 2 -0.1457 0.2318 AID(2)
[o] 3 0.000 aliased AID(3) (no missing cases)
[o] 4 -0.004692 0.002013 STDATE
[o] 5 0.2272 0.1883 WGHT(2)
[o] 6 0.1416 0.2013 WGHT(3)
[o] 7 0.2121 0.2256 WGHT(4)
[o] 8 -0.1470 0.2480 WGHT(5)
[o] scale parameter 0.7627
[o]
```

### Preferred Model

```
[o]
[o] R-squared equals 0.0243
[o] R-squared (adjusted) equals 0.0195
[o] estimate s.e. parameter
[o] 1 2.687 0.06699 1
[o] 2 -0.004405 0.001964 STDATE
[o] scale parameter 0.7593
```

# ANALYSIS OF DELAY BETWEEN FIRST INSTRUCTION AND ISSUE OF PROCEEDINGS

## PERSONAL INJURY

### Full Model

```
[o]
[o] R-squared equals 0.2071
[o] R-squared (adjusted) equals 0.1887
[o] estimate s.e. parameter
[o] 1 3.243 0.3020 1
[o] 2 -0.7564 0.2969 AID(2)
[o] 3 -0.3551 0.2950 AID(3)
[o] 4 -0.01401 0.002171 STDATE
[o] 5 -0.1251 0.1249 WGHT(2)
[o] 6 -0.2728 0.1381 WGHT(3)
[o] 7 -0.5393 0.1892 WGHT(4)
[o] 8 -0.7885 0.5256 WGHT(5)
[o] scale parameter 0.8048
[o]
```

### Preferred Model

```
[o]
[o] R-squared equals 0.2071
[o] R-squared (adjusted) equals 0.1887
[o] estimate s.e. parameter
[o] 1 3.243 0.3020 1
[o] 2 -0.7564 0.2969 AID(2)
[o] 3 -0.3551 0.2950 AID(3)
[o] 4 -0.01401 0.002171 STDATE
[o] 5 -0.1251 0.1249 WGHT(2)
[o] 6 -0.2728 0.1381 WGHT(3)
[o] 7 -0.5393 0.1892 WGHT(4)
[o] 8 -0.7885 0.5256 WGHT(5)
[o] scale parameter 0.8048
```



# ANALYSIS OF DELAY BETWEEN FIRST INSTRUCTION AND ISSUE OF PROCEEDINGS

## PROFESSIONAL NEGLIGENCE

### Full model

```
[o] R-squared equals 0.1484
[o] R-squared (adjusted) equals 0.1208
[o] estimate s.e. parameter
[o] 1 2.581 0.1635 1
[o] 2 -0.4283 0.1635 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.008641 0.002753 STDATE
[o] 5 -0.2051 0.1856 WGHT(2)
[o] 6 -0.01725 0.2160 WGHT(3)
[o] 7 -0.06505 0.2773 WGHT(4)
[o] 8 0.3091 0.3631 WGHT(5)
[o] scale parameter 0.9941
[.]
```

### Preferred Model

```
[o]
[o] R-squared equals 0.1592
[o] R-squared (adjusted) equals 0.1458
[o] estimate s.e. parameter
[o] 1 3.836 0.7611 1
[o] 2 0.000 aliased AID(1)
[o] 3 0.4430 0.1606 AID(3)
[o] 4 -0.008968 0.002627 STDATE
[o] 5 -0.8947 0.3822 NEWCMPLX
[o] scale parameter 0.9659
```

# ANALYSIS OF DELAY BETWEEN FIRST INSTRUCTION AND ISSUE OF PROCEEDINGS

## OFFICIAL REFEREE

### Full Model

```
[o]
[o] R-squared equals 0.1874
[o] R-squared (adjusted) equals 0.1608
[o] estimate s.e. parameter
[o] 1 1.515 0.1806 1
[o] 2 0.000 aliased AID(1)
[o] 3 0.3495 0.2102 AID(3)
[o] 4 -0.01604 0.002998 STDATE
[o] 5 -0.04259 0.2118 WGHT(2)
[o] 6 0.1930 0.2203 WGHT(3)
[o] 7 0.3816 0.3153 WGHT(4)
[o] 8 0.05367 0.4488 WGHT(5)
[o] scale parameter 1.200
```

### Preferred Model

```
[o]
[o] R-squared equals 0.1957
[o] R-squared (adjusted) equals 0.1871
[o] estimate s.e. parameter
[o] 1 1.068 0.2410 1
[o] 2 -0.01703 0.002846 STDATE
[o] 3 0.4435 0.1635 NEWCMPLX
[o] scale parameter 1.163
**
```

# ANALYSIS OF DELAY BETWEEN FIRST INSTRUCTION AND ISSUE OF PROCEEDINGS

## BREACH OF CONTRACT

### Full Model

```
[o]
[o] R-squared equals 0.2261
[o] R-squared (adjusted) equals 0.1997
[o] estimate s.e. parameter
[o] 1 1.395 0.1595 1
[o] 2 0.000 aliased AID(1)
[o] 3 0.4923 0.2103 AID(3)
[o] 4 -0.01728 0.003045 STDATE
[o] 5 0.1261 0.1839 WGHT(2)
[o] 6 -0.06619 0.2393 WGHT(3)
[o] 7 0.7097 0.3845 WGHT(4)
[o] 8 1.098 1.092 WGHT(5)
[o] scale parameter 1.172
```

### Preferred Model

```
[o]
[o] R-squared equals 0.2292
[o] R-squared (adjusted) equals 0.2119
[o] estimate s.e. parameter
[o] 1 1.147 0.2129 1
[o] 2 0.06981 0.03590 PAGE
[o] 3 1.198 0.6524 PGDMY
[o] 4 0.000 aliased AID(1)
[o] 5 0.5212 0.2071 AID(3)
[o] 6 -0.01815 0.003012 STDATE
[o] scale parameter 1.154
```

# ANALYSIS OF DELAY BETWEEN FIRST INSTRUCTION AND ISSUE OF PROCEEDINGS

## JUDICIAL REVIEW

### Full Model

```
[o] R-squared (adjusted) equals -0.0206
[o] estimate      s.e.      parameter
[o] 1      0.6721      0.3142      1
[o] 2      0.000      aliased     AID(1)
[o] 3     -0.009567     0.1899     AID(3)
[o] 4     -0.001804     0.005169   STDATE
[o] 5      0.1025      0.2011     WGHT(2)
[o] 6     -0.1113      0.2318     WGHT(3)
[o] 7      0.5491      0.4346     WGHT(4)
[o] 8     -0.1130      0.7435     WGHT(5)
[o] scale parameter 1.026
```

# ANALYSIS OF DELAY BETWEEN FIRST INSTRUCTION AND ISSUE OF PROCEEDINGS

## CHANCERY

### Full Model

```
[o]
[o] R-squared equals 0.2458
[o] R-squared (adjusted) equals 0.2173
[o]
[o] estimate      s.e.      parameter
[o] 1      1.506      0.1728      1
[o] 2      0.000      aliased     AID(1)
[o] 3      0.5124     0.2056     AID(3)
[o] 4     -0.01345    0.002704   STDATE
[o] 5     -0.2944     0.1964     WGHT(2)
[o] 6     -0.4544     0.2622     WGHT(3)
[o] 7      1.650      1.178      WGHT(4)
[o] 8     -0.6082     0.6736     WGHT(5)
[o] scale parameter 1.294
[ ^ ]
```

### Preferred Model

```
[i] ? $fit -aid.stdate$
[o] deviance = 214.74 (change = +0.002934)
[o] residual df = 163 (change = +1 )
[o]
[i] ? $use rsq$
[o] R-squared equals 0.2129
[o] R-squared (adjusted) equals 0.2032
[o]
[o] estimate      s.e.      parameter
[o] 1      1.335      0.1307      1
[o] 2      0.000      aliased     AID(1)
[o] 3      0.4931     0.2047     AID(3)
[o] 4     -0.01389    0.002639   STDATE
[o] scale parameter 1.317
```

# ANALYSIS OF DELAY BETWEEN FIRST INSTRUCTION AND ISSUE OF PROCEEDINGS

## QUEEN'S BENCH 'OTHER'

### Full Model

```
[o] R-squared (adjusted) equals 0.4012
[o] estimate s.e. parameter
[o] 1 1.814 0.1549 1
[o] 2 0.000 aliased AID(1)
[o] 3 0.5418 0.2165 AID(3)
[o] 4 -0.02318 0.002840 STDATE
[o] 5 0.2038 0.1833 WGHT(2)
[o] 6 -0.3874 0.2446 WGHT(3)
[o] 7 -1.406 0.5272 WGHT(4)
[o] 8 -0.4124 0.4975 WGHT(5)
[o] scale parameter 1.065
[o]
```

### Preferred Model

```
[o] R-squared equals 0.4110
[o] R-squared (adjusted) equals 0.3978
[o] estimate s.e. parameter
[o] 1 1.931 0.1290 1
[o] 2 0.000 aliased AID(1)
[o] 3 0.5578 0.2161 AID(3)
[o] 4 -0.02469 0.002707 STDATE
[o] 5 -0.4913 0.2305 NEWGHT(2)
[o] 6 -0.9624 0.3610 NEWGHT(3)
[o] scale parameter 1.071
```



## Analysis of Duration from Date of 1st Instruction to Settlement of Case

### Data Used in Analysis

Response variable	Ln (Duration*)
Explanatory variables	Legal Aid ( 1=case without legal aid, 2=case with legal aid, 3=data missing**)
	Winner of Case (1=Plaintiff, 2=Defendant, 3=Unknown(missing) )
	Complexity of Case (1= 'E' - least complex, .. 5='A' - most complex, 6=data missing)
	Weight of Case (1 = 'E' - light case,.., 5='A' - heavy case)
	No. of Pages in Statement of Claim ***
	Settlement date

- Note
- \* Cases with 'zero' duration (days) set to have duration of 0.5
  - \*\* data missing on Personal Injury cases only
  - \*\*\* GLIM analysis includes 'Dummy' variable for No. of Pages (1=data missing, 0=data provided)

# ANALYSIS OF DURATION FROM FIRST INSTRUCTION TO CONCLUSION OF CASE

## MEDICAL NEGLIGENCE

### Full Model

```
[o] R-squared (adjusted) equals 0.0186
[o] estimate s.e. parameter
[o] 1 3.843 0.1236 1
[o] 2 0.2153 0.09177 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.0005888 0.001383 SETDATE
[o] 5 0.000 aliased WINNER(2)
[o] 6 -0.09157 0.3519 WINNER(3)
[o] 7 0.1079 0.07438 WGHT(2)
[o] 8 0.09725 0.08084 WGHT(3)
[o] 9 0.08963 0.08964 WGHT(4)
[o] 10 0.2282 0.09767 WGHT(5)
[o] scale parameter 0.1208
[o]
```

### Preferred Model

```
[o]
[o] R-squared equals 0.0248
[o] R-squared (adjusted) equals 0.0200
[o] estimate s.e. parameter
[o] 1 3.920 0.08681 1
[o] 2 0.2057 0.09039 AID(2)
[o] 3 0.000 aliased AID(3)
[o] scale parameter 0.1206
```

# ANALYSIS OF DURATION FROM FIRST INSTRUCTION TO CONCLUSION OF CASE

## PERSONAL INJURY

### Full Model

```
[o] R-squared (adjusted) equals 0.0710
[o] estimate s.e. parameter
[o] 1 3.658 0.2486 1
[o] 2 0.1814 0.05903 AID(2)
[o] 3 -0.1011 0.1651 AID(3)
[o] 4 0.002904 0.003723 SETDATE
[o] 5 -1.032 0.2569 WINNER(2)
[o] 6 0.1398 0.5116 WINNER(3)
[o] 7 -0.002586 0.06821 WGHT(2)
[o] 8 -0.03811 0.07657 WGHT(3)
[o] 9 -0.1123 0.1065 WGHT(4)
[o] 10 -0.1621 0.2936 WGHT(5)
[o] scale parameter 0.2490
[ol
```

### Preferred Model

# ANALYSIS OF DURATION FROM FIRST INSTRUCTION TO CONCLUSION OF CASE

## PROFESSIONAL NEGLIGENCE

### Full model

```
[o] R-squared (adjusted) equals 0.1561
[o] estimate s.e. parameter
[o] 1 3.300 0.1387 1
[o] 2 0.4680 0.07560 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.0002416 0.002148 SETDATE
[o] 5 0.04043 0.1599 WINNER(2)
[o] 6 0.01237 0.5167 WINNER(3)
[o] 7 0.1131 0.09445 WGHT(2)
[o] 8 0.003060 0.1110 WGHT(3)
[o] 9 0.2487 0.1353 WGHT(4)
[o] 10 0.3164 0.1878 WGHT(5)
[o] scale parameter 0.2589
```

### Preferred Model

```
[o] R-squared equals 0.1588
[o] R-squared (adjusted) equals 0.1547
[o] estimate s.e. parameter
[o] 1 3.380 0.04537 1
[o] 2 0.4524 0.07308 AID(2)
[o] 3 0.000 aliased AID(3)
[o] scale parameter 0.2593
```

# ANALYSIS OF DURATION FROM FIRST INSTRUCTION TO CONCLUSION OF CASE

## OFFICIAL REFEREE

### Full Model

```
[o] R-squared (adjusted) equals 0.1760
[o] estimate s.e. parameter
[o] 1 3.289 0.1826 1
[o] 2 0.6145 0.1278 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.006214 0.003293 SETDATE
[o] 5 -0.4107 0.1982 WINNER(2)
[o] 6 -0.4122 0.7070 WINNER(3)
[o] 7 0.1401 0.1295 WGHT(2)
[o] 8 0.3573 0.1357 WGHT(3)
[o] 9 0.7934 0.1856 WGHT(4)
[o] 10 0.5403 0.2821 WGHT(5)
[o] scale parameter 0.4855
[o]
```

### Preferred Model

```
[o] R-squared equals 0.1881
[o] R-squared (adjusted) equals 0.1678
[o] estimate s.e. parameter
[o] 1 3.281 0.1827 1
[o] 2 0.6416 0.1275 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.007176 0.003236 SETDATE
[o] 5 0.1675 0.1289 NEWWGHT(2)
[o] 6 0.3953 0.1347 NEWWGHT(3)
[o] 7 0.7345 0.1669 NEWWGHT(4)
[o] scale parameter 0.4904
```

# ANALYSIS OF DURATION FROM FIRST INSTRUCTION TO CONCLUSION OF CASE

## BREACH OF CONTRACT

### Full Model

```
[o] R-squared (adjusted) equals 0.0905
[o] estimate s.e. parameter
[o] 1 3.299 0.2097 1
[o] 2 0.4104 0.1405 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.008387 0.003618 SETDATE
[o] 5 -0.09493 0.1633 WINNER(2)
[o] 6 0.5132 0.5468 WINNER(3)
[o] 7 0.2459 0.1225 WGHT(2)
[o] 8 0.5569 0.1569 WGHT(3)
[o] 9 0.5843 0.2185 WGHT(4)
[o] 10 0.9588 0.5503 WGHT(5)
[o] scale parameter 0.5806
```

### Preferred Model

```
[o] R-squared equals 0.1243
[o] R-squared (adjusted) equals 0.0989
[o] estimate s.e. parameter
[o] 1 3.331 0.2081 1
[o] 2 0.3689 0.1398 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.008834 0.003569 SETDATE
[o] 5 0.2951 0.1189 CMPLX(2)
[o] 6 0.6258 0.1546 CMPLX(3)
[o] 7 0.4917 0.2807 CMPLX(4)
[o] 8 0.000 aliased CMPLX(5)
[o] 9 -0.06960 0.3914 CMPLX(6)
[o] scale parameter 0.5753
```



# ANALYSIS OF DURATION FROM FIRST INSTRUCTION TO CONCLUSION OF CASE

## JUDICIAL REVIEW

### Full Model

```
[o] R-squared equals 0.0482
[o] R-squared (adjusted) equals 0.0095
[o] estimate s.e. parameter
[o] 1 2.401 0.2971 1
[o] 2 0.1498 0.1395 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.002997 0.004207 SETDATE
[o] 5 -0.3265 0.1666 WINNER(2)
[o] 6 -0.7997 1.018 WINNER(3)
[o] 7 0.008381 0.1480 WGHT(2)
[o] 8 0.02356 0.1611 WGHT(3)
[o] 9 0.1481 0.2711 WGHT(4)
[o] 10 0.5276 0.6000 WGHT(5)
[o] scale parameter 0.6864
```

# ANALYSIS OF DURATION FROM FIRST INSTRUCTION TO CONCLUSION OF CASE

## CHANCERY

### Full Model

```
***
[o] R-squared (adjusted) equals 0.1834
[o] estimate s.e. parameter
[o] 1 3.640 0.2530 1
[o] 2 0.6965 0.1414 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.01338 0.004225 SETDATE
[o] 5 0.2083 0.1833 WINNER(2)
[o] 6 0.2432 0.2801 WINNER(3)
[o] 7 0.09283 0.1675 CMPLX(2)
[o] 8 0.2532 0.2316 CMPLX(3)
[o] 9 0.4880 0.5430 CMPLX(4)
[o] 10 -1.522 0.9217 CMPLX(5)
[o] 11 -0.4280 0.1735 CMPLX(6)
[o] scale parameter 0.8298
^
```

### Preferred Model

```
[o] R-squared equals 0.1937
[o] R-squared (adjusted) equals 0.1733
[o] estimate s.e. parameter
[o] 1 3.590 0.2526 1
[o] 2 0.6924 0.1414 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.01190 0.004168 SETDATE
[o] 5 0.1147 0.1667 NEWCMPLX(2)
[o] 6 0.2644 0.2328 NEWCMPLX(3)
[o] 7 -0.3753 0.1696 NEWCMPLX(4)
[o] scale parameter 0.8400
^
```

# ANALYSIS OF DURATION FROM FIRST INSTRUCTION TO CONCLUSION OF CASE

## QUEEN'S BENCH 'OTHER'

### Full Model

```
[o] R-squared (adjusted) equals 0.2147
[o] estimate s.e. parameter
[o] 1 3.205 0.2296 1
[o] 2 0.7311 0.1649 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 -0.009193 0.003778 SETDATE
[o] 5 -0.4500 0.2093 WINNER(2)
[o] 6 -0.6531 0.4431 WINNER(3)
[o] 7 0.2830 0.1409 WGHT(2)
[o] 8 0.5311 0.1928 WGHT(3)
[o] 9 -0.6181 0.4413 WGHT(4)
[o] 10 0.9607 0.4023 WGHT(5)
[o] scale parameter 0.7463
```

### Preferred Model

```
[o] R-squared equals 0.3460
[o] R-squared (adjusted) equals 0.3123
[o] estimate s.e. parameter
[o] 1 3.239 0.2170 1
[o] 2 0.8364 0.1537 AID(2)
[o] 3 0.000 aliased AID(3)
[o] 4 1.613 1.235 WINNER(2)
[o] 5 -5.390 1.925 WINNER(3)
[o] 6 -0.008517 0.003609 SETDATE
[o] 7 0.2565 0.1247 NCMLX(2)
[o] 8 0.5820 0.4788 NCMLX(3)
[o] 9 0.8964 0.4752 NCMLX(4)
[o] 10 -1.075 0.2663 NCMLX(5)
[o] 11 -0.02841 0.01968 WINNER(2).SETDATE
[o] 12 0.08315 0.03141 WINNER(3).SETDATE
[o] scale parameter 0.6536
```

## Analysis of Costs Allowed

### Data Used in Analysis

Response variable	Ln (Costs Allowed)
Explanatory variables	Legal Aid ( 1=case without legal aid, 2=case with legal aid, 3=data missing**)
	Winner of Case (1=Plaintiff, 2=Defendant, 3=Unknown(missing) )
	Complexity of Case (1= 'E' - least complex, .. 5='A' - most complex, 6=data missing)
	Weight of Case (1 = 'E' - light case,.., 5='A' - heavy case)
	No. of Pages in Statement of Claim ***
	Ln (Duration*)
	Settlement date
	Stage of Proceedings Reached (1=Issue of Proceedings, 2=Set down for trial, 3=Doors of Court, 4=Trial )
	Outcome of Case (1=Acceptance of Monies in court 2=Consent Judgment, 3=Consent Order, 4=Dismissed 5=Judgment, 6=Order, 7=Struck Out, 8=Summary Judgment 9=U/Q, 10=Withdrawn )
	Ln (Value of Case)

Note : \* Cases with 'zero' duration (days) set to have duration of 0.5

\*\* data missing on Personal Injury cases only

\*\*\* GLIM analysis includes 'Dummy' variable for No. of Pages (1=data missing, 0=data provided)

Analysis weighted to account for different data collection period for cases with costs < £6,000.

## ANALYSIS OF COSTS

### MEDICAL NEGLIGENCE

#### Full Model

```
[o] R-squared (adjusted) equals 0.8131
[o]      estimate      s.e.      parameter
[o]      1          8.429      0.4540      1
[o]      2      0.005354      0.001604      SETDATE
[o]      3      -0.03960      0.07965      LNDUR      *
[o]      4      0.07654      0.1046      AID (2)      *
[o]      5          0.000      aliased      AID (3)
[o]      6          0.000      aliased      WINNER (2)      *
[o]      7      0.1700      0.3969      WINNER (3)
[o]      8      0.03321      0.02604      LNVAL      *
[o]      9      -0.04815      0.1055      STG (2)      *
[o]     10      0.002667      0.09878      STG (3)
[o]     11      0.07078      0.09588      STG (4)
[o]     12          0.000      aliased      OUT (2)      *
[o]     13      -0.1066      0.1188      OUT (3)
[o]     14      -0.1144      0.1702      OUT (4)
[o]     15      -0.1638      0.1385      OUT (5)
[o]     16      -0.3307      0.2302      OUT (6)
[o]     17      -0.3668      0.1946      OUT (7)
[o]     18          0.000      aliased      OUT (8)
[o]     19          0.000      aliased      OUT (9)
[o]     20      -0.3043      0.4003      OUT (10)
[o]     21      0.5900      0.08425      WGHT (2)
[o]     22      1.155      0.09757      WGHT (3)
[o]     23      1.994      0.1208      WGHT (4)
[o]     24      2.349      0.1501      WGHT (5)
[o] scale parameter 0.1928
```

#### Preferred Model

```
[o] R-squared equals 0.8213
[o] R-squared (adjusted) equals 0.8168
[o]      estimate      s.e.      parameter
[o]      1          8.518      0.09532      1
[o]      2      0.005816      0.001497      SETDATE
[o]      3      0.5914      0.08004      WGHT (2)
[o]      4      1.193      0.08786      WGHT (3)
[o]      5      2.090      0.09753      WGHT (4)
[o]      6      2.477      0.1063      WGHT (5)
[o] scale parameter 0.1890
```

## ANALYSIS OF COSTS

### PERSONAL INJURY

#### Full Model

```
[o] R-squared (adjusted) equals 0.6908
[O] estimate s.e. parameter
[O] 1 6.460 0.4175 1
[O] 2 0.001849 0.003120 SETDATE
[O] 3 0.2130 0.04934 LNDUR
[O] 4 0.1007 0.05196 AID(2)
[O] 5 -0.2000 0.1419 AID(3)
[O] 6 0.6216 0.2275 WINNER(2)
[O] 7 -0.1477 0.4409 WINNER(3)
[O] 8 0.1443 0.02767 LNVAL
[O] 9 0.06647 0.07412 STG(2)
[O] 10 0.1063 0.08639 STG(3)
[O] 11 0.09845 0.08279 STG(4)
[O] 12 0.000 aliased OUT(2)
[O] 13 -0.001007 0.08293 OUT(3)
[O] 14 0.1516 0.1561 OUT(4)
[O] 15 -0.1115 0.1141 OUT(5)
[O] 16 -0.1346 0.2619 OUT(6)
[O] 17 0.1289 0.1799 OUT(7)
[O] 18 -0.3325 0.4397 OUT(8)
[O] 19 0.000 aliased OUT(9)
[O] 20 -0.3496 0.2620 OUT(10)
[O] 21 0.3698 0.06638 WGHT(2)
[O] 22 0.8737 0.08143 WGHT(3)
[O] 23 1.616 0.1187 WGHT(4)
[O] 24 2.049 0.2722 WGHT(5)
[O] scale parameter 0.1822
```

#### Preferred Model

```
[O]
[O] R-squared equals 0.7099
[O] R-squared (adjusted) equals 0.6997
[O] estimate s.e. parameter
[O] 1 6.404 0.3577 1
[O] 2 1.937 0.4659 WINNER(2)
[O] 3 -0.1927 0.4302 WINNER(3)
[O] 4 0.2563 0.05162 LNDUR
[O] 5 0.1496 0.02719 LNVAL
[O] 6 0.3493 0.06424 WGHT(2)
[O] 7 0.8547 0.07889 WGHT(3)
[O] 8 1.602 0.1133 WGHT(4)
[O] 9 2.046 0.2653 WGHT(5)
[O] 10 0.08766 0.05055 AID(2)
[O] 11 -0.1769 0.1391 AID(3)
[O] 12 -0.4479 0.1385 WINNER(2).LNDUR
[O] 13 0.000 aliased WINNER(3).LNDUR
[O] scale parameter 0.1770
```



## ANALYSIS OF COSTS

### PROFESSIONAL NEGLIGENCE

#### Full model

```
[o] R-squared (adjusted) equals 0.7641
[o] estimate s.e. parameter
[o] 1 6.489 0.4779 1
[o] 2 0.002246 0.002035 SETDATE
[o] 3 0.2668 0.06815 LNDUR
[o] 4 -0.1322 0.07903 AID(2)
[o] 5 0.000 aliased AID(3)
[o] 6 -0.6248 0.1581 WINNER(2)
[o] 7 -0.8287 0.4870 WINNER(3)
[o] 8 0.1521 0.03732 LNVAL
[o] 9 -0.1367 0.1106 STG(2)
[o] 10 -0.2192 0.1208 STG(3)
[o] 11 -0.2699 0.1504 STG(4)
[o] 12 0.000 aliased OUT(2)
[o] 13 0.05477 0.1171 OUT(3)
[o] 14 -0.4564 0.3104 OUT(4)
[o] 15 0.2765 0.1923 OUT(5)
[o] 16 0.3553 0.2574 OUT(6)
[o] 17 -0.04891 0.2121 OUT(7)
[o] 18 -0.08564 0.1996 OUT(8)
[o] 19 0.000 aliased OUT(9)
[o] 20 0.000 aliased OUT(10)
[o] 21 0.5379 0.09475 WGHT(2)
[o] 22 1.200 0.1175 WGHT(3)
[o] 23 1.715 0.1602 WGHT(4)
[o] 24 2.658 0.2082 WGHT(5)
[o] scale parameter 0.3210
```

#### Preferred Model

```
[o] R-squared equals 0.7660
[o] R-squared (adjusted) equals 0.7565
[o] estimate s.e. parameter
[o] 1 6.630 0.4476 1
[o] 2 -0.5216 0.1532 WINNER(2)
[o] 3 -0.6731 0.4892 WINNER(3)
[o] 4 0.5552 0.09268 WGHT(2)
[o] 5 1.251 0.1155 WGHT(3)
[o] 6 1.752 0.1568 WGHT(4)
[o] 7 2.644 0.2066 WGHT(5)
[o] 8 0.1588 0.03609 LNVAL
[o] 9 0.2050 0.06297 LNDUR
[o] scale parameter 0.3314
```

# ANALYSIS OF COSTS

## OFFICIAL REFEREE

### Full Model

```
[o] R-squared (adjusted) equals 0.8051
[O] estimate s.e. parameter
[O] 1 6.716 0.3776 1
[O] 2 0.002878 0.002113 SETDATE
[O] 3 0.2562 0.04588 LNDUR
[O] 4 -0.09085 0.08610 AID(2)
[O] 5 0.000 aliased AID(3)
[O] 6 -0.2715 0.1284 WINNER(2)
[O] 7 -0.2768 0.4446 WINNER(3)
[O] 8 0.1148 0.03086 LNVAL
[O] 9 0.01972 0.09347 STG(2)
[O] 10 0.1047 0.1249 STG(3)
[O] 11 -0.09982 0.1222 STG(4)
[O] 12 0.1251 0.2111 OUT(2)
[O] 13 0.1857 0.1188 OUT(3)
[O] 14 0.000 aliased OUT(4)
[O] 15 0.2695 0.1595 OUT(5)
[O] 16 0.1244 0.2046 OUT(6)
[O] 17 0.3041 0.1878 OUT(7)
[O] 18 0.4041 0.1602 OUT(8)
[O] 19 0.000 aliased OUT(9)
[O] 20 0.0002397 0.2875 OUT(10)
[O] 21 0.6536 0.08489 WGHT(2)
[O] 22 1.368 0.09558 WGHT(3)
[O] 23 2.044 0.1459 WGHT(4)
[O] 24 2.448 0.2133 WGHT(5)
[O] scale parameter 0.1894
```

### Preferred Model

```
[o] R-squared equals 0.8266
[O] R-squared (adjusted) equals 0.8177
[O] estimate s.e. parameter
[O] 1 7.914 0.5021 1
[O] 2 0.2247 0.04257 LNDUR
[O] 3 0.03052 0.04543 LNVAL
[O] 4 0.4884 0.6217 WGHT(2)
[O] 5 -0.2916 0.7789 WGHT(3)
[O] 6 -1.695 1.129 WGHT(4)
[O] 7 -4.143 2.559 WGHT(5)
[O] 8 0.02396 0.06165 WGHT(2) .LNVAL
[O] 9 0.1644 0.07467 WGHT(3) .LNVAL
[O] 10 0.3330 0.09671 WGHT(4) .LNVAL
[O] 11 0.5353 0.1991 WGHT(5) .LNVAL
[O] scale parameter 0.1771
[O]
```

## ANALYSIS OF COSTS

### BREACH OF CONTRACT

#### Full Model

```
[o]
[o] R-squared equals 0.7551
[o] R-squared (adjusted) equals 0.7304
[o] estimate s.e. parameter
[o] 1 8.178 0.4398 1
[o] 2 0.0007399 0.002275 SETDATE
[o] 3 0.1471 0.04662 LNDUR
[o] 4 0.1380 0.09301 AID(2)
[o] 5 0.000 aliased AID(3)
[o] 6 -0.08707 0.1108 WINNER(2)
[o] 7 0.7178 0.3814 WINNER(3)
[o] 8 0.01312 0.02949 LNVAL
[o] 9 -0.08313 0.1133 STG(2)
[o] 10 -0.07839 0.1487 STG(3)
[o] 11 0.05784 0.1620 STG(4)
[o] 12 -0.03690 0.3229 OUT(2)
[o] 13 -0.01344 0.1319 OUT(3)
[o] 14 0.000 aliased OUT(4)
[o] 15 -0.005170 0.2014 OUT(5)
[o] 16 -0.1035 0.2937 OUT(6)
[o] 17 -0.1211 0.2539 OUT(7)
[o] 18 -0.1771 0.1792 OUT(8)
[o] 19 0.000 aliased OUT(9)
[o] 20 -0.6116 0.5189 OUT(10)
[o] 21 0.7797 0.08354 WGHT(2)
[o] 22 1.557 0.1113 WGHT(3)
[o] 23 2.381 0.1577 WGHT(4)
[o] 24 3.431 0.3828 WGHT(5)
[o] scale parameter 0.2403
[o]
```

#### Preferred Model

```
[o] R-squared equals 0.7381
[o] R-squared (adjusted) equals 0.7320
[o] estimate s.e. parameter
[o] 1 8.283 0.1328 1
[o] 2 0.1650 0.04237 LNDUR
[o] 3 0.7503 0.07629 WGHT(2)
[o] 4 1.549 0.09947 WGHT(3)
[o] 5 2.377 0.1369 WGHT(4)
[o] 6 3.397 0.3507 WGHT(5)
[o] scale parameter 0.2389
```

# ANALYSIS OF COSTS

## JUDICIAL REVIEW

### Full Model

[o] R-squared (adjusted) equals 0.5529

[o]	estimate	s.e.	parameter
[o] 1	8.427	0.2464	1
[o] 2	0.0008591	0.002485	SETDATE
[o] 3	-0.01158	0.04394	LNDUR
[o] 4	0.1520	0.08125	AID(2)
[o] 5	0.000	aliased	AID(3)
[o] 6	-0.01490	0.1003	WINNER(2)
[o] 7	-0.9072	0.3909	WINNER(3)
[o] 8	0.000	aliased	LNVAL
[o] 9	-0.1501	0.1195	STG(2)
[o] 10	-0.1633	0.1372	STG(3)
[o] 11	-0.06275	0.1628	STG(4)
[o] 12	0.01860	0.1986	OUT(2)
[o] 13	0.1198	0.1377	OUT(3)
[o] 14	0.000	aliased	OUT(4)
[o] 15	0.2329	0.1935	OUT(5)
[o] 16	-0.007869	0.1975	OUT(6)
[o] 17	0.3280	0.4101	OUT(7)
[o] 18	-0.04890	0.1892	OUT(8)
[o] 19	0.000	aliased	OUT(9)
[o] 20	0.000	aliased	OUT(10)
[o] 21	0.5421	0.09060	WGHT(2)
[o] 22	1.161	0.1022	WGHT(3)
[o] 23	1.671	0.1664	WGHT(4)
[o] 24	3.048	0.3343	WGHT(5)

[o] scale parameter 0.2627

\* no values given for any Judicial Review case

### Preferred Model

[o] R-squared equals 0.5562

[o] R-squared (adjusted) equals 0.5459

[o]	estimate	s.e.	parameter
[o] 1	8.452	0.06869	1
[o] 2	0.5189	0.08676	WGHT(2)
[o] 3	1.161	0.09482	WGHT(3)
[o] 4	1.669	0.1647	WGHT(4)
[o] 5	2.680	0.3061	WGHT(5)
[o] 6	0.1720	0.07220	AID(2)
[o] 7	0.000	aliased	AID(3)

[o] scale parameter 0.2669

[o]

# ANALYSIS OF COSTS

## CHANCERY

### Full Model

```
[o] R-squared (adjusted) equals 0.6689
[o] estimate s.e. parameter
[o] 1 8.001 0.3425 1
[o] 2 -0.004197 0.002194 SETDATE
[o] 3 0.1576 0.03712 LNDUR
[o] 4 -0.03556 0.08179 AID(2)
[o] 5 0.000 aliased AID(3)
[o] 6 0.04769 0.1067 WINNER(2)
[o] 7 0.1618 0.1590 WINNER(3)
[o] 8 0.05496 0.02471 LNVAL
[o] 9 -0.03625 0.1022 STG(2)
[o] 10 0.1621 0.1162 STG(3)
[o] 11 -0.005242 0.1418 STG(4)
[o] 12 -0.4402 0.2031 OUT(2)
[o] 13 -0.03578 0.1345 OUT(3)
[o] 14 0.000 aliased OUT(4)
[o] 15 -0.07742 0.1889 OUT(5)
[o] 16 0.03902 0.1987 OUT(6)
[o] 17 0.8656 0.5299 OUT(7)
[o] 18 -0.007784 0.1614 OUT(8)
[o] 19 0.000 aliased OUT(9)
[o] 20 0.000 aliased OUT(10)
[o] 21 0.6464 0.07870 WGHT(2)
[o] 22 1.424 0.1081 WGHT(3)
[o] 23 2.502 0.3721 WGHT(4)
[o] 24 2.880 0.3351 WGHT(5)
[o] scale parameter 0.2485
```

### Preferred Model

```
[o] R-squared equals 0.6929
[o] R-squared (adjusted) equals 0.6776
[o] estimate s.e. parameter
[o] 1 7.031 0.3518 1
[o] 2 0.1217 0.03330 LNVAL
[o] 3 0.1618 0.03331 LNDUR
[o] 4 2.193 0.5082 WGHT(2)
[o] 5 3.136 0.7916 WGHT(3)
[o] 6 6.863 4.086 WGHT(4)
[o] 7 0.9880 1.665 WGHT(5)
[o] 8 -0.1479 0.04855 WGHT(2) .LNVAL
[o] 9 -0.1571 0.07180 WGHT(3) .LNVAL
[o] 10 -0.3369 0.3075 WGHT(4) .LNVAL
[o] 11 0.1031 0.1070 WGHT(5) .LNVAL
[o] scale parameter 0.2420
```

## ANALYSIS OF COSTS

### QUEEN'S BENCH 'OTHER'

#### Full Model

[o] R-squared (adjusted) equals 0.7510  
[o] estimate s.e. parameter  
[o] 1 6.702 0.3553 1  
[o] 2 -0.003073 0.002217 SETDATE  
[o] 3 0.3138 0.03815 LNDUR  
[o] 4 -0.01824 0.1065 AID(2)  
[o] 5 0.000 aliased AID(3)  
[o] 6 0.05000 0.1314 WINNER(2)  
[o] 7 0.05919 0.2723 WINNER(3)  
[o] 8 0.1243 0.02339 LNVAL  
[o] 9 -0.07152 0.09816 STG(2)  
[o] 10 0.05284 0.1344 STG(3)  
[o] 11 0.2304 0.1907 STG(4)  
[o] 12 0.1603 0.1970 OUT(2)  
[o] 13 -0.005069 0.1273 OUT(3)  
[o] 14 0.000 aliased OUT(4)  
[o] 15 -0.3439 0.2260 OUT(5)  
[o] 16 0.4222 0.2029 OUT(6)  
[o] 17 0.000 aliased OUT(7)  
[o] 18 -0.0007040 0.1511 OUT(8)  
[o] 19 0.000 aliased OUT(9)  
[o] 20 0.000 aliased OUT(10)  
[o] 21 0.5415 0.08958 WGHT(2)  
[o] 22 1.231 0.1253 WGHT(3)  
[o] 23 1.981 0.2774 WGHT(4)  
[o] 24 3.032 0.2575 WGHT(5)  
[o] scale parameter 0.2731

#### Preferred Model

[o] R-squared equals 0.7742  
[o] R-squared (adjusted) equals 0.7609  
[o] estimate s.e. parameter  
[o] 1 5.108 0.5724 1  
[o] 2 0.2889 0.1728 OUT(2)  
[o] 3 -0.01604 0.1224 OUT(3)  
[o] 4 0.000 aliased OUT(4)  
[o] 5 -0.07982 0.1467 OUT(5)  
[o] 6 0.4546 0.1931 OUT(6)  
[o] 7 0.000 aliased OUT(7)  
[o] 8 -0.003081 0.1362 OUT(8)  
[o] 9 0.000 aliased OUT(9)  
[o] 10 0.000 aliased OUT(10)  
[o] 11 0.2595 0.05413 LNVAL  
[o] 12 0.8684 0.2052 LNDUR  
[o] 13 0.5116 0.08540 WGHT(2)  
[o] 14 1.216 0.1190 WGHT(3)  
[o] 15 1.892 0.2718 WGHT(4)  
[o] 16 3.189 0.2529 WGHT(5)  
[o] 17 -0.05306 0.01974 LNVAL.LNDUR  
[o] scale parameter 0.2622

# ANALYSIS OF COSTS

## COMMERCIAL

### Full Model

```
[o] R-squared (adjusted) equals 0.6964
[o] estimate s.e. parameter
[o] 1 8.660 0.2480 1
[o] 2 0.002092 0.002220 SETDATE
[o] 3 0.1105 0.03114 LNDUR
[o] 4 -0.2044 0.5857 AID(2)
[o] 5 0.000 aliased AID(3)
[o] 6 -0.1260 0.1508 STG(2)
[o] 7 -0.1401 0.1579 STG(3)
[o] 8 -0.1991 0.2071 STG(4)
[o] 9 -0.1495 0.1760 OUT(2)
[o] 10 -0.2648 0.1227 OUT(3)
[o] 11 0.000 aliased OUT(4)
[o] 12 0.1032 0.2293 OUT(5)
[o] 13 -0.08254 0.2479 OUT(6)
[o] 14 0.09131 0.3790 OUT(7)
[o] 15 -0.06735 0.2320 OUT(8)
[o] 16 0.000 aliased OUT(9)
[o] 17 0.000 aliased OUT(10)
[o] 18 0.6047 0.1198 WGHT(2)
[o] 19 1.392 0.1157 WGHT(3)
[o] 20 1.876 0.1455 WGHT(4)
[o] 21 2.868 0.1704 WGHT(5)
[o] scale parameter 0.3270
[o]
```

### Preferred Model

```
[o] R-squared (adjusted) equals 0.6327
[o] estimate s.e. parameter
[o] 1 8.530 0.1076 1
[o] 2 0.1051 0.03021 LNDUR
[o] 3 0.5821 0.1166 WGHT(2)
[o] 4 1.370 0.1140 WGHT(3)
[o] 5 1.873 0.1429 WGHT(4)
[o] 6 2.899 0.1692 WGHT(5)
[o] scale parameter 0.3310
```