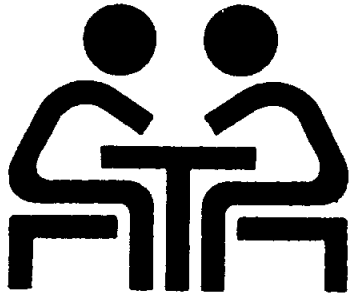


Lord Chancellor's Department

NORTHERN IRELAND COURT SERVICE



Legal Aid

Annual Report 1990–1991

LONDON: HMSO

Legal Aid

Annual Reports of The Law
Society and of the Lord
Chancellor's Advisory
Committee
1990–91

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The Operation and Finance of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 Twenty Sixth Report

1. To: THE LORD HIGH CHANCELLOR of Great Britain

The Council of the Law Society of Northern Ireland ("the Society") have the honour in accordance with the provisions of the above-mentioned Order to present to your Lordship their 26th Annual Report on the operation and finance of the said Order in Northern Ireland covering the period 1 April 1990 to 31 March 1991. The Report format follows that of last year. The Society and the Legal Aid Committee wish to express their disappointment about the delay of almost ten months which occurred between the submission of last year's Report and its laying before Parliament.

2. Introduction, Developments and Finance

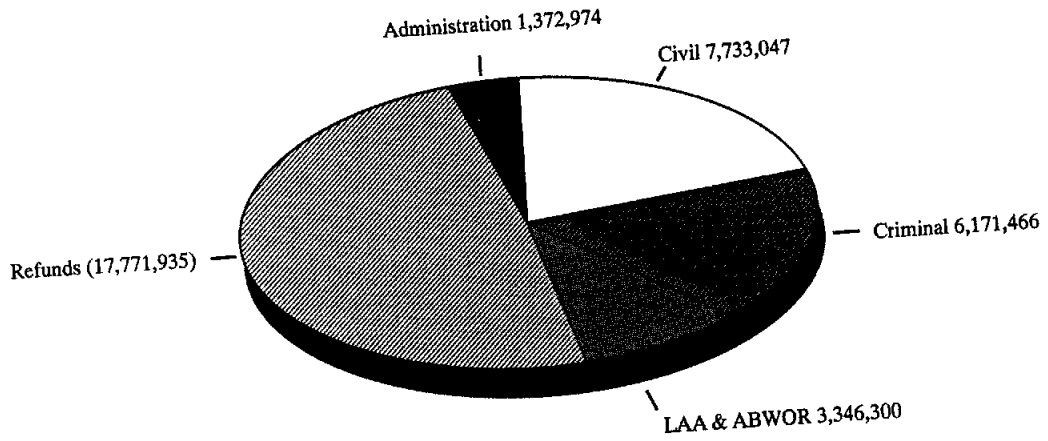
2.1 1990-91 has been another year of high activity in the Legal Aid Department of the Society ("the Department"). The Department received over 58,000 green forms, 11,536 ABWOR applications, over 19,000 applications for civil legal aid and almost 22,000 criminal aid certificates. This intake of work totalled almost 111,000 compared with almost 106,000 last year. Associated with this, 35,825 letters were received in relation to legal aid certificates and 17,749 in connection with applications for legal aid. At the close of the year just over 800 of these had not been attended to, representing less than a week's intake. Alongside this activity was the finalisation of the repair of the bomb damage and the repainting and recarpeting of the premises.

2.2 Towards the end of 1989/90 the Police and Criminal Evidence (Northern Ireland) Order 1989 was introduced involving in the period January to March 236 such cases being dealt with. In the current year 3,821 such cases were dealt with necessitating the payment of fees amounting to £297,263. In connection with PACE the Legal Aid Advisory Committee held a conference on 26 March 1991 which was attended by representatives of the Society, the Department, the Northern Ireland Court Service, the profession and the police and it is worth recording that the overall view was that the PACE arrangements were working smoothly.

2.3 With the introduction in March 1990 of extended use of the Green Form Scheme by solicitors to gather evidential material to firm up applications for civil legal aid the General Authority issued to the profession covering this is not gathering momentum with anything like the speed that it should — see comment in paragraph 3.3. This is a pity because it is a most useful tool for solicitors to use and should enable them to start work on many cases immediately after seeing their clients and thus quicken the whole process. Any extra expenditure arising out of it would not be seen as additional expenditure since it will in the long run be offset by a reduction in the cost of bills in civil proceedings.

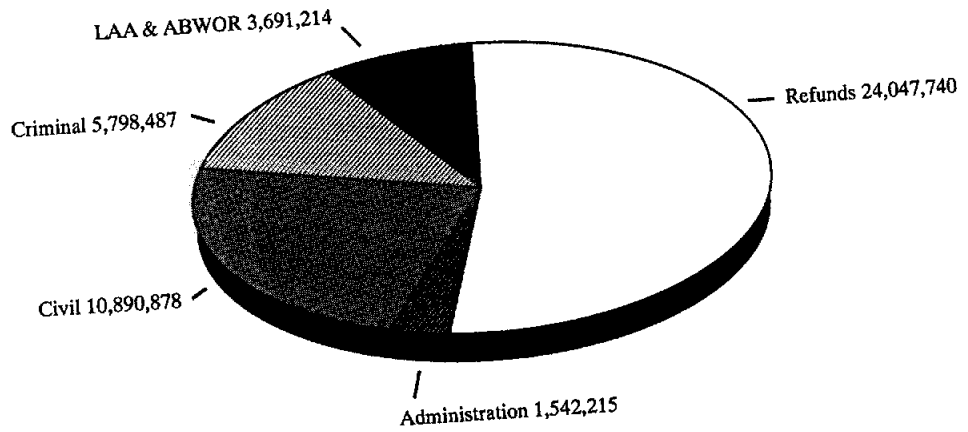
2.4 The draft Legal Aid in Criminal Proceedings (Costs) Rules (Northern Ireland) 1991 are still under discussion with the Lord Chancellor's Department (the Northern Ireland Court Service) by the professions. The Department has been fairly heavily involved during the year with both the professions and the Northern Ireland Court Service in producing comparative case costings using existing and proposed criminal fee rates.

CASH FLOW THROUGH THE LEGAL AID FUND 1989/90



Total Cash Flow £36,395,722

CASH FLOW THROUGH THE LEGAL AID FUND 1990/91



Total Cash Flow £45,970,535

2.5 A comparative analysis of the cash flow in relation to the Legal Aid Fund is given on the previous page. Refunds cover contributions and damages.

2.6 Briefly, £6.191m more damages were recovered by assisted persons in proceedings during the year, advice and assistance costs rose by £0.145m, ABWOR costs rose by £0.2m, the cash flow of civil legal aid by £3.16m, the cost of criminal proceedings fell by £0.373m and administration costs increased by 12.33%. In so far as administration costs are concerned, they break down almost the same as last year, namely, 72.5% salaries, pensions and national insurance costs and 27.5% overhead and running expenses. The increased cost reflects increases in salaries agreed in national negotiations and increments and general increases in the costs of goods and services. Payments in respect of criminal legal aid are deflated this year by approximately £1.15m as a number of unforeseeable circumstances affected end-of-year cash flow.

Administrative expenditure on the civil side of operations exceeded Government Grant-in-Aid received during the year. The additional expenditure was funded out of unexpended credit balances of Grant-in-Aid for prior years which had been accumulating in the Fund and by other arrangements with the Northern Ireland Court Service with the agreement of the Northern Ireland Audit Office.

2.7 The trends apparent from the Z Charts included in each main area of legal aid show—

1. A steady increase in applications for advice and assistance;
2. ABWOR applications at a fairly level receipt rate of 11,500 approximately;
3. A downturn in applications for civil legal aid; and
4. A downturn in criminal aid certificates being received.

3. Legal Advice and Assistance

3.1 During the year 58,332 applications for legal advice and assistance were received from solicitors. The year commenced with a backlog of 4,170 applications and closed with a backlog of 9,899. 50,448 (57,424) were paid. In addition, 2,155 (3,566) were returned or refused on financial and other grounds. An unknown further number of applications will have been covered in full by contributions or included in settlements and disposed of without a charge on the Fund being made by solicitors. The number of claims paid was 12.15% lower than in 1990 though the number of applications received increased by 15.12%.

3.2 Advice was given on the following matters:—

	1989-90		1990-91	
	Number Paid	%	Number Paid	%
Divorce or Judicial Separation	2,510	4.37	1,766	3.50
Other family matters	3,941	6.86	3,618	7.17
Crime	21,521	37.48	16,456	32.62
Landlord and tenant	2,361	4.11	1,981	3.93
Hire Purchase and Debt	3,051	5.31	2,710	5.37
Contract	1,042	1.81	996	1.97
Negligence	7,057	12.29	5,202	10.31
Government Services	1,577	2.75	950	1.88
Tribunals	654	1.14	719	1.43
Criminal Injury and Criminal Damage	2,669	4.65	2,243	4.45
PACE	236	0.41	3,821	7.57
Wills and Probate	—	—	369	0.74
*Miscellaneous	6,563	11.43	5,950	11.79
Case Codes omitted	4,242	7.39	3,667	7.27
	57,424		50,448	

ø A new case code category introduced this year.

* These cover such a great diversity of subject matters that they have not so far been separately case coded. The list of case codes used has since June 1991 been expanded to include assault and battery, breach of prison rules, false imprisonment and disputes with neighbours which make up a substantial portion of the miscellaneous category.

Authority to exceed limits on costs

3.3 During the year 6,789 (12,751) requests to exceed the statutory limit of £78.50 (£73.00) were authorised and 415 (439) were refused. It would at first sight appear that the reduction in the number of requests, 5,962, was due to the use by solicitors of the Green Form Scheme General Authority, mentioned in paragraph 2.3, which was in force throughout the entire year 1990-91, but this is not borne out from the statistics. Of the 50,448 paid cases above just 14.4% or 7,267 (5,618) were in excess of the statutory limit and they included 1,379 cases under the PACE arrangements introduced in January 1990 which do not require authority if not over £150. Even if 14.4% of the 9,899 backlog were also in excess of the limit, the total claims in the year over £78.50 would exceed the authorised requests by merely 524. It was expected when the revised Green Form policy was approved that there would be a considerably higher up-take of the use of the General Authority but as it became apparent during the year that this was not happening, the Society placed an article in 'The Writ' (the Society's monthly news magazine) reminding practitioners of the General Authority and advised them to use it to maximum effect. It is hoped that solicitors will respond to this appeal.

Legal Advice and Assistance Contributions Analysed (1990-91)

3.4 1,512 (1,842) contributions based on the applicant's income less allowances were assessed at various rates from £5 up to £75 and amounted to £26,196 (£28,350) in total.

Range (£)	Claims	%	Contributions (£)	%
Nil Contribution	48,936	97.01	0.00	0.00
00.01 — 10.00	513	1.02	2,575.00	9.82
10.01 — 20.00	567	1.12	8,367.00	31.94
20.01 — 30.00	165	0.32	4,121.00	15.74
30.01 — 40.00	144	0.28	4,959.00	18.93
40.01 — 50.00	72	0.14	3,201.00	12.22
Over — 50.00	51	0.11	2,973.00	11.35
	50,448		26,196.00	

The above table, as did the similar table last year, discloses the very high level, 97.01%, of persons qualifying for the Green Form Scheme at no cost to them. 2.99% were payers (3.2%) with an average contribution of £17.33 (£15.39). In England and Wales 10.3% were payers with an average contribution of £25.24.

Analysis of Claims and Payments (1990-91)

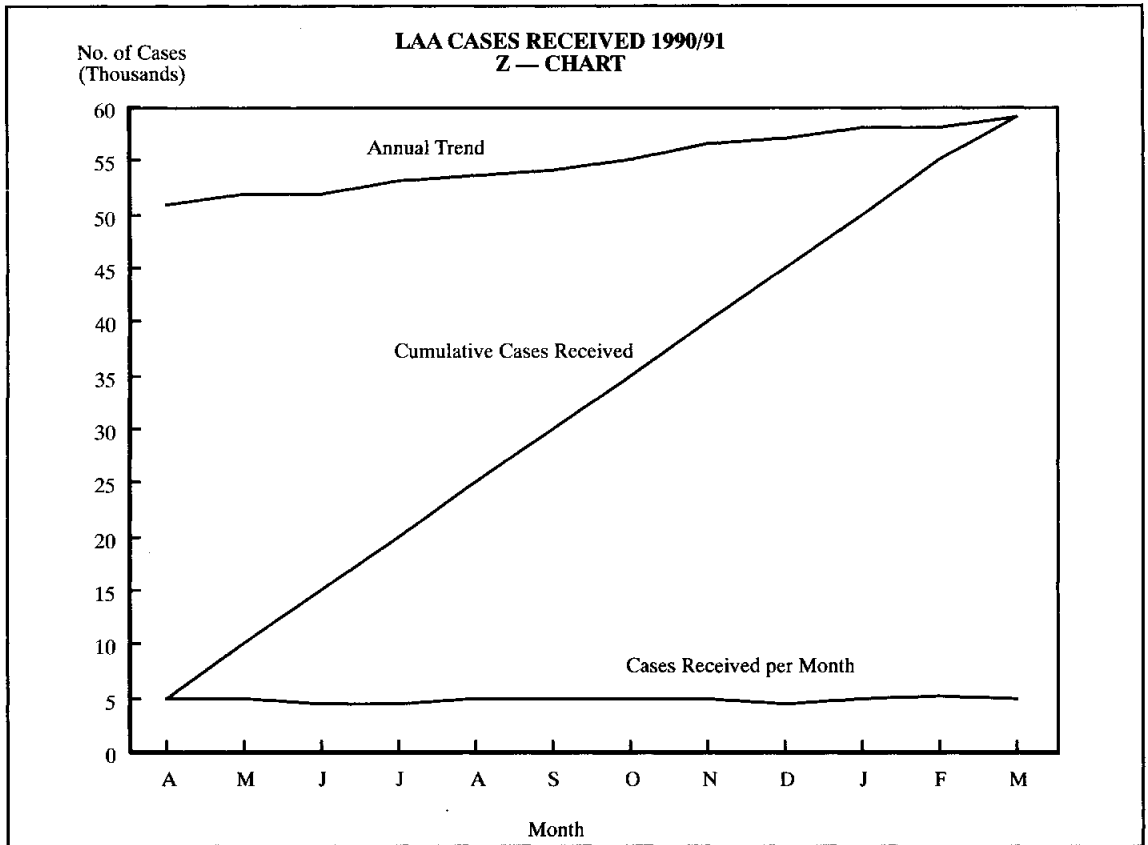
3.5

Range (£)	Claims	%	Payments (£)	%
00.00 — 10.00	3,864		1,881.00	0.08
10.01 — 20.00	3,840		59,253.00	2.52
20.01 — 30.00	11,068		260,525.00	11.08
30.01 — 40.00	6,778		230,428.00	9.80
40.01 — 50.00	10,529		468,615.00	19.93
50.01 — 60.00	3,802		209,501.00	8.91
60.01 — 70.00	1,947		126,970.00	5.40
70.01 — 80.00	1,553		116,625.00	4.96
80.01 — 90.00	2,372		199,861.00	8.50
90.01 — 100.00	1,156		106,279.00	4.52
— and over	3,539		571,367.00	24.30
	50,448		2,351,305.00	

The overall average claim was £46.61 (£38.44) as against £73.42 in England and Wales in 1990-91 and £62.03 in Scotland in 1989-90. 7,267 of the claims above were in respect of payments exceeding the statutory limit of £78.50 and they amounted to £895,650 giving an average of £123.25, last year's average was £116.31. Included also in the Table above are 3,821 PACE cases totalling £297,263. The increase in the average cost is attributable to a greater number of cases this year being paid in excess of the statutory limit of £78.50 and this also has caused the overall increase in the cost this year. Since the cost of disbursements was less than last year, the overall increase in average cost must be due to solicitors having to spend more time giving advice to clients.

Note: In mainland Britain advice and assistance is used in many nationality and immigration cases which incur high costs in disbursements.

Para. 3.6



4. Assistance by way of Representation

4.1 In the year 1990-91, 11,536 (11,426) applications for authority to proceed by way of representation were received in the Department and the year started with a Nil backlog and closed with a backlog of 421. A number of cases are under written query, a number have been adjourned generally and a further number were paid under another certificate. In a number of cases ABWOR approval has been granted but no fee assessment has been received.

4.2 Fees in the following proceedings were paid by the end of the year:—

	1989-90		1990-91	
	Cases Paid	%	Cases Paid	%
Maintenance	7,064	80.22	7,664	78.93
Protection and exclusion	1,065	12.09	1,262	13.00
Affiliation	154	1.75	187	1.93
Children and Young Persons	450	5.11	517	5.32
Debt or Ejectment	27	0.31	30	0.31
Mental Health Review Tribunal	33	0.37	37	0.38
Prison Board of Visitors	3	0.03	2	0.02
(No Code Cases)	10	0.12	11	0.11
Total	8,806		9,710	

4.3 Authority is required in representation cases for medical and other expert reports and attendances as well as for unusually large expenditure.

4.4 The total contributions payable by clients and deducted from payments to solicitors amounted to £36,204 (£28,628).

Contributions Analysed (1990-91)

Range (£)	Claims	%	Contributions (£)	%
Nil contribution	8,391	86.42	—	—
00.01 — 10.00	227	2.34	1,115.08	3.08
10.01 — 20.00	353	3.63	5,358.19	14.80
20.01 — 30.00	179	1.84	4,373.44	12.08
30.01 — 40.00	237	2.44	8,127.80	22.45
40.01 — 50.00	111	1.14	4,876.68	13.47
Over 50.00	212	2.19	12,352.81	34.12
Total	9,710		36,204.00	

From the table above it can be seen that the average contribution per contributor was £27.45 and that 13.58% were payers. Last year the average contribution per contributor was £28.51 and 12.6% were payers. In England and Wales the average contribution was £35.04 and 17% were payers.

4.5 The results of paid cases are:—

	1990-91			
	Cases Paid	%	Payments (£)	%
Won with costs	439	4.53	70,211.18	5.24
*Won no costs	5,024	51.74	782,104.30	58.37
Lost no costs	1,403	14.44	213,581.34	15.94
Withdrawn	1,990	20.50	177,403.82	13.24
Withdrawn reconciliation reported	374	3.86	30,549.90	2.28
Adjourned generally	56	0.57	9,245.37	0.69
Dismissed	182	1.87	28,004.08	2.09
Won in some part and lost in others	181	1.86	27,200.12	2.03
No code cases	61	0.63	1,607.89	0.12
Total	9,710		1,339,908.00	

* Most of these are either maintenance cases with both sides legally aided or are maintenance cases with one party legally aided and the other not and poor financial circumstances prevented costs being awarded.

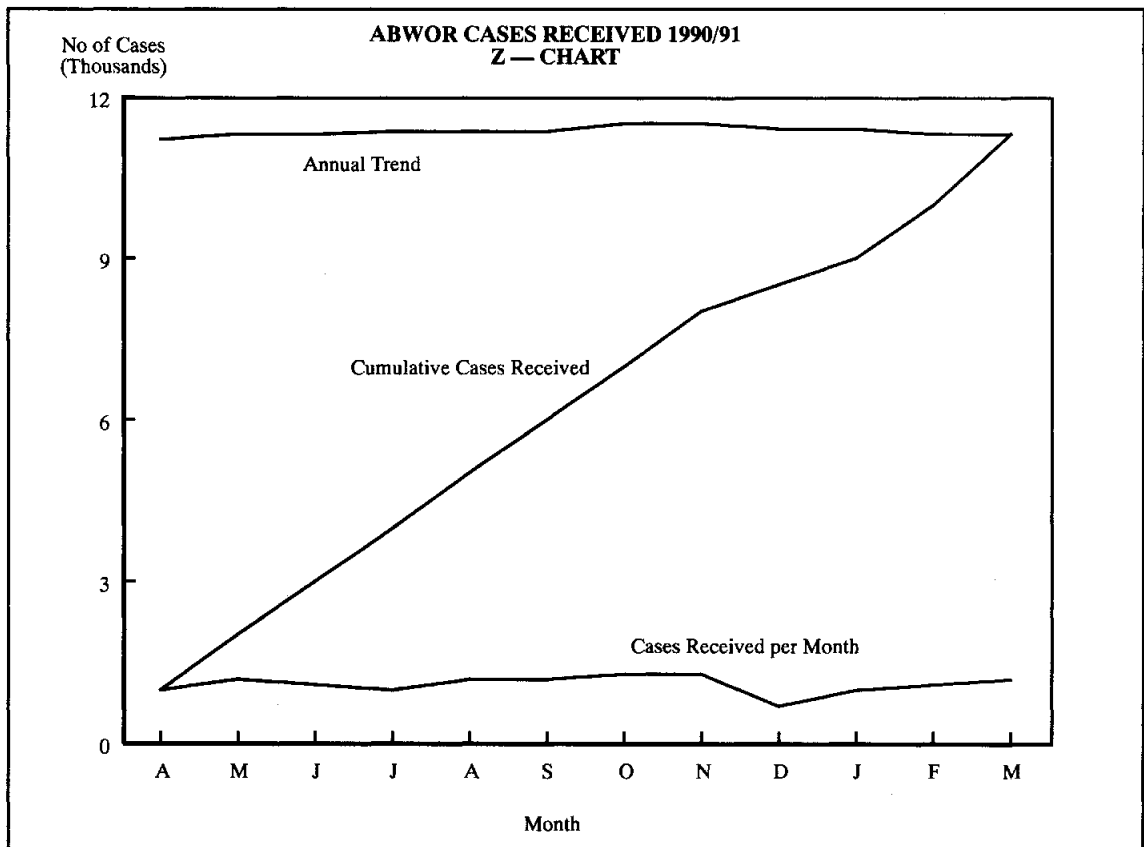
4.6 Analysis of claims and payments 1990-91:—

Range (£)	Claims	%	Payments (£)	%
00.01 — 25.00	94	0.97	401.97	0.03
25.01 — 50.00	92	0.95	4,019.72	0.30
50.01 — 75.00	1,110	11.43	75,436.82	5.63
75.01 — 100.00	1,528	15.74	133,454.84	9.96
100.01 — 125.00	1,080	11.12	121,127.68	9.04
125.01 — 150.00	1,964	20.23	273,743.20	20.43
150.01 — 175.00	1,886	19.42	299,603.43	22.36
175.01 — 200.00	855	8.80	160,386.99	11.97
Over 200.00	1,101	11.34	271,733.34	20.28
Total	9,710		1,339,908.00	

This data shows that the overall average of claims paid was £137.99. The average cost last year was £129.35 and thus this year's average cost is just 6.68% higher which is less than the annual fee increase. Influencing this were claims in respect of representation in the prior year assessed at last year's fee levels. It is noted that in the Legal Aid Board's Report in England and Wales the average of representation claims paid was £301.72.

Just over £200,000 more was spent on ABWOR fees this year than last year. The increase in expenditure arises largely as a result of 920 more claims received for payment this year (probably the result of the shortfall in claims received last year) and a greater percentage of the claims falling into the higher cost ranges e.g. 39.56% above £150 as against 27.94% last year.

Para. 4.7



5. Civil Legal Aid

5.1 The Department received 19,078 (20,461) applications for civil legal aid proceedings during the year. 15,188 of these were registered and the other 3,890 (3,482) were returned to solicitors largely because the new supplementary application procedure was not properly followed. In some cases the new forms were attached but were not properly completed. Those returned represent over 20% of the total applications received which is higher than last year and is an unacceptably high proportion. A notice was placed in 'The Writ' drawing the attention of the profession to this and seeking their co-operation in reducing this problem which causes delay in dealing with their clients needs. On 1 April 1990 there were no unregistered applications and the same position obtained at 31 March 1991. The volume of applications is 6.76% lower than in 1989-90. Magistrates' Court applications amounted to just 9. Of the 15,188 applications, 4,803 were accompanied by emergency applications.

Registered Applications were for proceedings in:—

	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91
Appellate Courts	422	449	833	693	741	746
High Court	5,813	8,102	7,001	6,969	7,230	7,201
County Court	8,262	13,019	11,099	10,330	8,990	7,204
Others	291	385	287	30	18	28
	14,788	21,955	19,220	18,022	16,979	15,179
Magistrates' Courts	259	83	31	12	3	9
(Certified proceedings)	15,047	22,038	19,251	18,034	16,982	15,188
Applications under ABWOR	9,797	10,644	11,068	10,728	11,426	11,536
	24,844	32,682	30,319	28,762	28,408	26,724

5.2 These applications requested Legal Aid for:—

	1989-90		1990-91	
	Applications	%	Applications	%
Appellate Certificates	741	4.4	746	4.9
High Court, non-matrimonial	4,972	29.2	4,752	31.3
High Court, matrimonial	2,258	13.3	2,449	16.1
County Court	8,990	53.0	7,204	47.43
Lands Tribunal	—	—	2	0.01
Judgments Enforcement Office	18	0.1	26	0.2
Magistrates' Courts	3	—	9	0.06
	16,982		15,188	

5.3 The types of action in these applications were:—

	1989-90		1990-91	
	Applications	%	Applications	%
Divorce, Nullity, etc.	2,005	11.8	2,205	14.5
Maintenance and Other matrimonial	319	1.9	354	2.3
Employer's Liability	1,973	11.6	1,615	10.6
Road Accidents	1,524	9.0	1,274	8.4
Negligence — Tripping cases	2,313	13.6	1,233	8.1
Negligence — Medical cases	229	1.3	214	1.4
*Other Negligence	2,733	16.1	2,574	17.0
Contract	646	3.8	577	3.8
Bankruptcy	182	1.1	250	1.7
Tort	971	5.7	815	5.4
Criminal Injury	1,042	12.0	2,039	13.6
Adoption, Affiliation, Wardship etc.	630	3.7	653	4.3
High Court Bail	518	3.1	611	4.0
Other Types of action	897	5.3	774	5.1
	16,982		15,188	

* a substantial number of these relate to landlord/tenant problems

There has been a significant drop in the number of tripping cases, probably due to the decision in the 'Brady' case and there is also a notable increase in bankruptcy applications likely due to the influence of the recession and high interest charges on small businesses. The 114 bankruptcy cases paid this year including interim payments in other such cases cost the Fund £43,451. It is understood that in England and Wales such costs would be a charge on the funds of the Official Receiver.

5.4 The Department issued during the year:—

	1989-90	1990-91
Full certificates	15,625	8,792
Limited certificates	5,893	3,923
Emergency certificates	2,811	2,931
Certificates in Magistrates' Courts	3	9
	24,332	15,655

	1989-90	% of total applications received	1990-91	% of total applications received
Offers of Certificate on payment of contribution not accepted	672	3.28	586	3.07
Applications abandoned or withdrawn *	3,917	19.14	3,804	19.94
Applications for which a Certificate was refused on legal grounds	505	2.47	877	4.60
Applications for which a Certificate was refused on financial grounds	458	2.24	359	1.88
	5,552	27.13	5,626	29.49

* These include some successful settlements and also others which were clearly regarded as having little or no chance of success.

It should be noted that these statistics are retrieved from cases closed during the year.

5.5 On 1 April 1990, 1,583 reports for payment were awaiting assessment. At 31 March 1991 the corresponding figure was 1,767 — there was an error in last year's Report in this connection as the figures given recorded only the reports awaiting staff assessment and did not include those for Committee assessment.

5.6 The legal outcome of 20,051 (13,667) cases finally concluded during the year is summarised below:—

	Certificate issued without restriction of Court		Certificate issued for County Court		Certificate issued for Magistrates' Court		1990-91 Total		1989-90 Total	
<i>Assisted person successful:</i>										
(a) with costs and/or damages awarded	825	%	1,278	%	18	%	2,121	%	2,196	%
(b) no costs awarded	1,944	51.78	310	27.60	57	72.1	2,311	39.6	2,221	42.19
(c) costs against	3		—		—		3		32	
(d) before certificate/ Enforcement costs incurred	21		—		—		21		83	
Case settled	1,706	31.64	2,997	52.10	4	3.8	4,707	41.8	3,962	36.88
<i>Assisted person unsuccessful:</i>										
(a) with costs and/or damages against	14		23		1		38		24	
(b) no costs awarded	864	16.58	1,069	20.30	24	24.1	1,957	18.6	2,143	20.93
(c) with reduced damages and/or costs for	16		76		—		92		82	
	5,393		5,753		104		11,250		10,743	
Discharged or withdrawn	4,297		4,263		241		8,801		2,924	
	9,690		10,016		345		20,051		13,667	

Note: Cases may be deemed successful in that a judgement for the assisted person or a settlement was obtained and the case was not lost.

The number of cases this year shown as discharged/withdrawn is abnormally high. The explanation is that a very large number of case files in which certificates (both full or limited) had been issued and in respect of which no reports on case had been received over the years were weeded out. The solicitors were written to and given thirty days within which to submit their reports on case otherwise the cases would be withdrawn and the files closed.

The discharges have nothing whatsoever to do with the legal merits of the cases concerned. These cases are not therefore taken into account in calculating the percentages in the table.

This table discloses a healthy 81.4% success rate.

Summary of success of certain types of case

Successful in that a judgement for the assisted person or a settlement was obtained.

	1990-91	1989-90
	%	%
Divorce, Nullity, etc.	96	97
Road accidents	89	89
Employer's Liability	70	88
Appeals of matrimonial cases — County Court	63	63
Contract	70	69
Tripping	79	78

5.7 Contributions assessed and contributions analysed (1990-91)

Range (£)	Cases	%	Amount (£)	%
Nil Certificates	13,693	87.47	—	—
00.01 – 20.00	118	0.75	1,282.75	0.21
20.01 – 50.00	151	0.96	5,071.75	0.83
50.01 – 100.00	215	1.37	15,675.25	2.55
100.01 – 150.00	212	1.35	26,394.75	4.30
150.01 – 200.00	155	0.99	27,419.00	4.46
200.01 – 300.00	301	1.92	74,189.50	12.08
300.01 – 400.00	223	1.42	77,679.50	12.65
400.01 – 500.00	167	1.07	75,259.75	12.25
500.01 – 750.00	286	1.83	174,777.00	28.45
750.01 – 1000.00	101	0.65	84,462.00	13.75
Over 1000.00	33	0.22	52,085.00	8.48
Total	15,655		614,296.25	

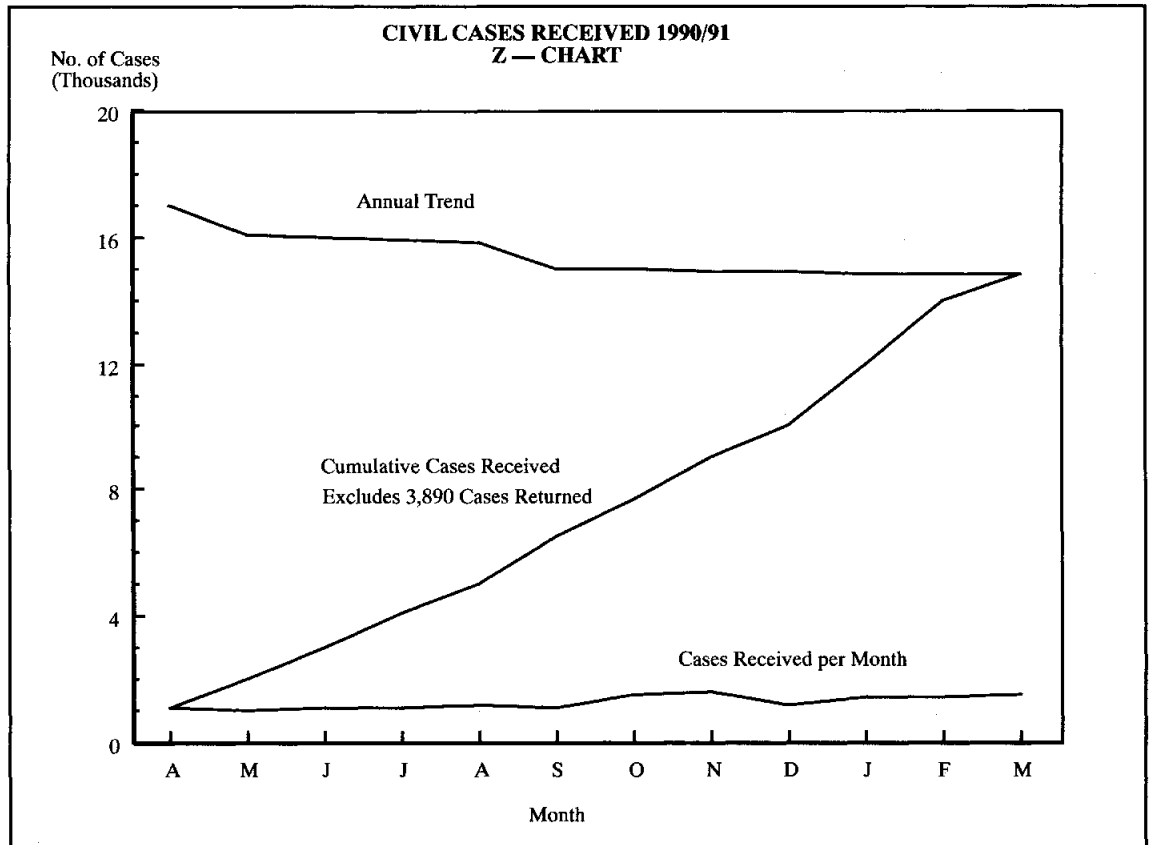
Over the 15,655 cases assessed 87.47% (86.32%) were eligible for free legal aid. Of the total contributions assessed the average contribution per contributor was £313.09 (£276.92) and 12.53% (13.68%) of those assessed were payers. The picture disclosed in the Table is similar to that in 1989-90. In England and Wales in 1990-91, 81.4% of cases assessed qualified for free legal aid and 18.6% were payers. In Scotland in 1989-90 82.4% and 76.2% were non-contributors in Sheriff Courts and Court of Session cases respectively and 17.6% and 23.8% were payers.

5.8 Analysis of claims and payments (1990-91)

Range (£)	No.	Value (£)	% Cases	% Cost
Adjustments and Interim Payments	946	(61,071.15)	6.47	(0.56)
0.00 to 49.99	767	18,584.67	5.26	0.17
50.00 to 99.99	1,117	75,224.79	7.66	0.69
100.00 to 199.99	1,597	237,923.80	10.95	2.18
200.00 to 299.99	1,257	310,408.15	8.62	2.85
300.00 to 399.99	1,458	516,341.78	10.00	4.74
400.00 to 499.99	1,586	707,471.23	10.87	6.50
500.00 to 749.99	1,979	1,211,204.46	13.57	11.12
750.00 to 999.99	1,097	946,963.61	7.52	8.70
1000.00 to 1999.99	1,440	1,934,259.29	9.87	17.76
2000.00 to 4999.99	1,203	3,749,370.04	8.25	34.43
5000.00 to 9999.99	108	690,096.42	0.74	6.34
10000 and over	32	554,100.91	0.22	5.09
Total	14,587	10,890,878.00		

An analysis of payments by way of fees paid out of the Fund or received by way of direct authorities is given in the table above. The total of these breakdown as £5,154,633 profit costs to solicitors, £2,228,149 fees to counsel and £3,508,096 by way of disbursements. Comparing the data in the table with the corresponding table in last year's report shows that this year there were significantly higher numbers of cases in the higher cost bands over £500 to account for bulk of the £3.158m increase over the figure last year. This does not mean that the cost to the Fund has increased to that extent since most of the £3.158m was covered by costs won in court or obtained in settlement actions. The actual net cost to the Fund of civil legal aid was less than £3m.

Para. 5.9



5.10 Legal Aid in Civil Matters

Comparative statistics from commencement to 1990/91

To 31st March in each year	Applications Received	Certificates Issued	Cases Concluded	Legal Advice and Assistance Claims*	Contributions Received	Costs Recovered	Damages Recovered	Northern Ireland Court Service Grant	Total Receipts	Administration Costs	Solicitors' fees and Counsel's fees and Outlay**
First 5 years 65/66 to 69/70	13,415	10,019	6,249		75,368	176,366	761,395	170,515	1,187,660	116,707	294,832
Second 5 years 70/71 to 74/75	25,337	20,810	15,969	7,422	169,925	522,583	2,603,359	542,945	3,851,531	261,302	933,640
Third 5 years 75/76 to 79/80	34,548	28,618	20,595	19,502	338,952	1,354,711	7,351,181	1,558,572	10,651,368	775,764	2,389,363
Fourth 5 years 80/81 to 84/85	60,506	48,665	37,362	100,138	796,946	8,703,578	38,417,893	7,233,152	55,330,477	2,114,099	14,542,144
Fifth 5 years 85/86 to 89/90	95,780	76,761	45,669	257,452	1,693,120	24,407,448	88,153,001	23,307,334	138,076,371	4,548,244	44,837,186
90/91	19,078	15,655	20,051	68,042	570,936	7,819,721	23,748,455	7,408,641	39,729,804	1,215,779	14,582,091
Cumulative totals	248,664	200,528	145,895	452,556	3,645,247	42,984,407	161,035,284	40,221,159	248,827,211	9,031,895	77,579,256

* Up to 30th August 1978 these claims were for oral advice only, and up to 24th November 1980 representation in Court was not included, a Magistrates' Court Certificate for the latter being issued.

** A percentage of outlay returns to the Exchequer by way of VAT, Court Fees and Stamp Duty. The amount of outlay this year was £4,152,318 and counsel's fees amounted to £2,231,738.

6. Criminal Legal Aid

6.1 The Department received 21,887 criminal aid certificates from the Courts for criminal legal aid proceedings and at the end of the year all certificates were registered on the computer.

	1989-90		1990-91	
	Number Issued	%	Number Issued	%
In Magistrates' Courts	19,521	84.0	18,454	84.31
In Crown Court	1,663	7.2	1,487	6.79
Appeal to County Court	981	4.2	993	4.54
High Court Bail applications	1,085	4.6	953	4.36
	23,250		21,887	

6.2 These Certificates covered the following types of offence:—

	1989-90		1990-91	
	Number Issued	%	Number Issued	%
Road Traffic Offences	2,653	11.41	2,533	11.57
TDA/Allowing oneself to be carried	627	2.70	675	3.08
Theft	6,628	28.51	5,473	25.01
Assault and Violence	2,420	10.41	3,497	15.98
Disorderly Behaviour	2,746	11.81	1,243	5.68
Alcohol related	100	0.43	60	0.27
Sexual	474	2.04	560	2.56
Forgery and Financial	1,054	4.53	1,399	6.39
Arson and Malicious Damage	2,019	8.68	2,248	10.27
Murder	212	0.91	217	0.99
Breach of Probation and CSO	216	0.93	477	2.18
Civil Disturbances	1,265	5.44	932	4.26
*Miscellaneous	2,836	12.20	2,573	11.76
	23,250		21,887	

*includes appeals and bails

It is worth noting the continuing reduction over the last few years in the number of certificates granted by the Courts in respect of civil disturbances which is also mirrored in the public order paragraphs on pages 10 and 26 of the Chief Constable's Annual Report for 1990. It is also worth noting from these statistics a significant increase in the number of certificates in respect of assault and violence (this year's figure is the highest in the last 10 years) and a slight surge this year in the number of certificates in respect of forgery and financial. The number of certificates received this year in respect of arson and malicious damage is short of the peak year 1987/88 but represents the highest percentage of total over the last 10 years.

6.3 364 (1990 — 465) applications for Certificates were refused by the Courts during the year under review.

6.4 On 1 April 1990, 1,194 reports for payment were awaiting assessment and a further 1,421 were awaiting replies to queries, approval by senior staff or presentation to the Criminal Taxation Panel. The corresponding figures as at 31 March 1991 were, in the same order, 237 and 1,318.

6.5 The results of the cases which were reported as finished and which were paid in the year to 31st March 1991 were:—

	1989-90	1990-91
Magistrates Court:—		
Returned for trial	1,508	1,304
Fined	6,881	6,357
Imprisoned	1,370	1,093
Young Offenders Centre, Community Service Order	566	576
Training School, Attendance Order	398	414
Suspended Sentence	1,448	1,340
Probation or Bound Over	1,061	954
Absolute or Conditional Discharge	2,237	2,173
Acquitted, Withdrawn or Dismissed	1,534	1,714
Bench Warrant	492	471
Extradited	1	—
Instructions Withdrawn	467	436
	17,963	16,832
Crown Court:—		
Fined	60	54
Imprisoned	657	430
Young Offenders Centre, Community Service Order	244	206
Training School, Attendance Order	14	9
Suspended Sentence	452	357
Probation or Bound Over	116	92
Absolute or Conditional Discharge	78	45
Nolle Prosequi, Withdrawn or Not Proceeded With	31	16
Acquitted, Dismissed	151	151
Instructions Withdrawn	22	21
Bench Warrant	4	3
	1,829	1,384
Appeal to County Court:—		
Affirmed	269	256
Varied	510	519
Appeal Upheld	55	44
Withdrawn	59	53
	893	872
Bail:—		
Granted	666	600
Refused	428	333
Withdrawn	4	8
	1,098	941
	21,783	20,029

6.6 Analysis of Criminal Legal Aid Certificates and Payments in Bands (1990-91).

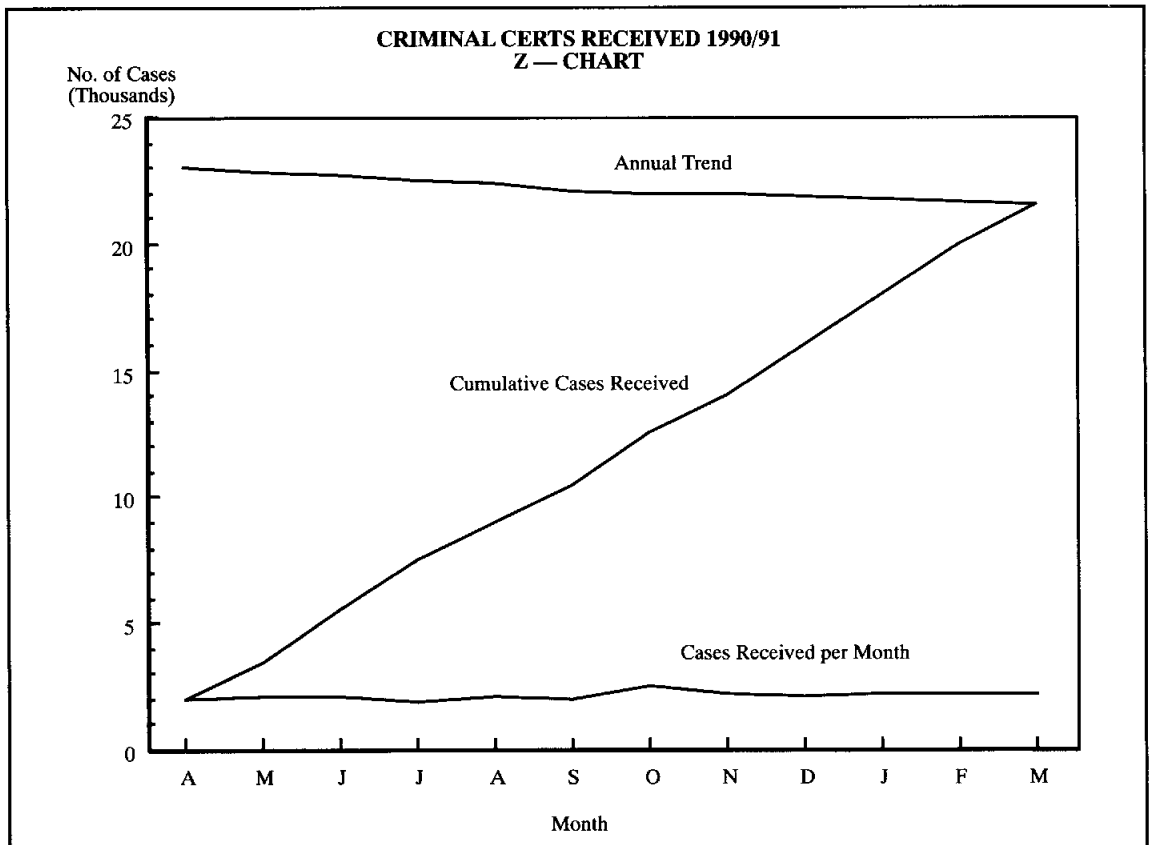
Range (£)	Certificates	%	Payments (£)	%
00.01 – 50.00	2,923	14.91	49,287	0.85
50.01 – 100.00	7,318	37.34	539,259	9.30
100.01 – 200.00	5,539	28.26	775,258	13.37
200.01 – 500.00	2,553	13.03	743,946	12.83
500.01 – 1000.00	471	2.40	346,170	5.97
1000.01 – 2000.00	496	2.53	687,701	11.86
2000.01 – 5000.00	205	1.05	607,681	10.48
5000.01 – 10000.00	48	0.25	327,615	5.65
10000.01 – 20000.00	14	0.07	206,425	3.56
20000.01 – 50000.00	20	0.10	687,121	11.85
50000.01 – 100000.00	10	0.05	679,583	11.72
Over 100000.00	1	0.01	148,441	2.56
Total	19,598		5,798,487	

The difference between 20,029 above and 19,598 is that in a number of cases the certificates covered more than one charge. Special 'ad hoc' financial provision usually has to be made to meet exceptional high cost cases which forward estimates cannot anticipate, i.e. those at the bottom of the table. This year such cases were paid within the financial provision.

The total payments for criminal legal aid can be broken down as follows — solicitors' profit costs £3,156,877, counsels' fees £1,767,683 and disbursements £873,927 representing 54.44%, 30.49% and 15.07% respectively of total payments. The overall average cost was £295.87 an increase of just 2.69%. It is noted that in Scotland in the year 1989-90 in cases where criminal legal aid was granted by the Legal Aid Board or the Courts 57,100 accounts were paid totalling £32,272,970 of which 86.9% was paid to solicitors, 6.4% to counsel and 6.7% in respect of outlays. The average cost was £565.20.

The reduction in overall spend this year results from less bills being paid because of the unusual circumstances outlined in paragraph 2.6. Had that not happened, overall spend would have been increased by £1.15m to almost £7m.

Para. 6.7



6.8 Legal Aid in Criminal Matters: Comparative statistics from commencement to 1990/91

	Criminal Certificates received by Solicitors	Criminal Cases Paid*	Fees to Solicitor and Counsel	Admini- stration Cost	Northern Ireland Court Service Grant
			£	£	£
5 years to 1971	13,945	10,871	270,319	18,143	288,462
5 years to 1976	35,826	27,505	1,805,710	58,814	1,864,524
5 years to 1981	62,272	53,884	6,565,384	345,790	6,911,174
5 years to 1986	116,426	94,509	18,335,409	788,883	19,113,065
1986/87	27,685	22,508	4,744,276	297,828	5,037,418
1987/88	25,802	21,195	5,338,653	276,007	5,608,745
1988/89	22,520	30,704	7,120,859	254,860	7,367,573
1989/90	23,250	21,783	6,171,466	291,280	6,455,663
1990/91	21,887	20,029	5,798,487	326,438	6,116,553
Cumulative totals	349,613	302,988	56,150,563	2,658,043	58,763,117

* Some cases were covered in the same Court by more than one Certificate and there were some cancellations. The results of a number of cases have not been returned over the years. The figure of criminal cases paid is therefore smaller than the number of cases disposed of.

Legal Aid Fund (Northern Ireland)

Receipts and Payments Account

for the year ended 31 March 1991

	Notes	1990/91		1989/90	
		£	£	£	£
HMG Grants received	2		7,408,641		6,039,548
Operating receipts					
Legal Aid	3		32,264,068		23,718,206
			39,672,709		29,757,754
<i>Less:</i>					
Salaries & Wages		812,766		740,812	
Other operating payments	4				
Administration		401,292		321,825	
Legal Aid		38,629,832		28,851,282	
			39,843,890		29,913,919
<i>Surplus (Deficit) from operation</i>			(171,181)		(156,165)
Other receipts/(payments) —net	5		55,375		30,988
<i>Excess (Shortfall) of Receipts over Payments for financial year</i>			(115,806)		(£125,177)

Note: This statement has not yet been examined by the Comptroller and Auditor-General.

Para 7.1
(Contd.)

Legal Aid Fund (Northern Ireland) Statement of Balances

as at 31 March 1991

		<u>1990/91</u>	<u>1989/90</u>
	<i>Notes</i>	<u>Bank & Cash</u>	<u>Bank & Cash</u>
		£	£
Balances at beginning of financial year		409,789	534,966
Add: Excess Less: (<i>Shortfall</i>) of receipts over payments for financial year		(115,806)	(125,177)
Balance at end of financial year	6	<u>293,983</u>	<u>409,789</u>

For and on behalf of the
Law Society of Northern Ireland

Brian F. Walker
President

Michael C. Davey
Secretary

29 July 1991

Notes 1 to 9 form part of this account

Para 7.1
(Contd.)

Legal Aid Fund (Northern Ireland)

Notes to the Accounts

1. This account is drawn up in a form directed by the Lord Chancellor, and approved by the Treasury.

2. HMG Grants received

	Notes	1990/91	1989/90
		£	£
Grant received from Class X Vote 3:—1990-1991		1,150,934	1,033,203
Grant received from Class X Vote 4:—1990-1991		6,257,707	5,006,344
		£7,408,641	£6,039,547

3. Operating receipts

	Notes	1990/91	1989/90
		£	£
<i>Legal Aid</i>			
Civil cases:			
Contributions by assisted persons		570,936	506,807
Costs	8	7,819,721	5,544,147
Damages recovered on behalf of assisted persons	8	23,748,455	17,557,289
		32,139,112	23,608,243
Legal advice and assistance:			
Contributions and costs received	8	124,956	109,963
		£32,264,068	£23,718,206

4. Other operating payments

	Notes	1990/91	1989/90
		£	£
<i>Administration</i>			
Rent, rates, insurance, heating, lighting and maintenance		129,478	102,162
Printing, stationery, postage, telephone and publications		120,262	107,836
Computer maintenance and supplies		28,995	20,242
Rental and maintenance of office furniture, machinery and equipment		12,888	3,588
Travelling and subsistence allowances and Committee attendance fees		55,678	47,394
Publicity — advertising the legal aid scheme		19,584	23,757
Miscellaneous		4,369	7,153
Bomb Damage		30,038	9,693
		£401,292	£321,825
<i>Legal Aid</i>			
Civil cases:			
Solicitors' charges and counsel's fees	8	7,372,905	5,255,448
Disbursements	8	3,508,054	2,464,526
Refund of contributions and payments to assisted persons of damages and other monies recovered on their behalf	8	24,047,741	17,771,935
Costs incurred by successful opponents of legally aided litigents		5,987	12,229
Miscellaneous legal and recovery costs		3,932	844
		34,938,619	25,504,982
Legal advice and assistance:			
Payments to solicitors	8	3,691,213	3,346,300
		£38,629,832	£28,851,282

**5. Other receipts/
(payments) net**

		1990/91	1989/90
		£	£
<i>Receipts</i>	Superannuation contributions of staff	30,904	24,421
	Other receipts	26,191	25,623
		57,095	50,044
<i>Payments</i>	Office furniture, machinery and equipment	692	4,550
	Computer procurement	1,029	14,507
		1,721	19,057
		£55,374	£30,987

6. Balance at year end

		1990/91	1989/90
		£	£
Cash at bank — Administration and Legal Aid		69,076	131,515
Saver Plus for assisted persons		224,806	278,173
Post Office Giro		1	1
Petty Cash		100	100
		£293,983	£409,789

7. Deposit Accounts for Assisted Persons

Monies have been received by the Fund on behalf of assisted persons and are held on deposit pending payment out. (See Note 6).

8. Amounts Set Off

In accordance with Article 19(10) of the Order, sums due to be paid into the Fund, amounting to £30,396,371.85 have been set off against sums payable out of the Fund. These amounts have been included as receipts and payments respectively in the Receipts and Payments Account, as under:—

		1990/91	1989/90
		£	£
<i>Receipts:</i>	Legal Aid: Civil cases costs	7,754,196	5,509,742
	Damages recovered	22,517,220	15,898,983
	Legal Advice and Assistance: Contributions and costs	124,956	57,132
		£30,396,372	£21,465,857
<i>Payments:</i>	Legal Aid: Civil cases:		
	Solicitors' charges and counsel's fees	5,174,292	3,702,992
	Disbursements	2,579,904	1,806,750
	Damages refunded	22,517,220	15,898,983
	Legal Advice and Assistance: Payments to Solicitors	124,956	57,132
		£30,396,372	£21,465,857

It should be noted that the above amounts are included in the totals set out under Notes 3 and 4. The distinction arises in that Note 3 includes sums paid in, in cash, and sums authorised by Committee to be set-off. Note 4 includes payments out of the Legal Aid Fund to solicitors and counsel, together with payments received by the legal representatives of assisted persons, and authorised by Committee to be set-off.

Note: The statement of account at paragraph 7.1 does not include the costs of Criminal aid fees or Criminal aid administration. These are shown at paragraph 7.2.

9. Losses

	1990/91	
	Cases	£
Claims abandoned: Contributions written off as irrecoverable	343	42,049
Costs written off as irrecoverable	766	59,167
	1,109	101,216

Note: The statement of account at paragraph 7.1 does not include the costs of Criminal aid fees or Criminal aid administration. These are shown at paragraph 7.2.

Para 7.2 **Legal Aid, Advice and Assistance
(Northern Ireland) Order, 1981
Account of Receipts and Payments
in Criminal Proceedings**

in the year ended 31 March, 1991

Receipts	1990/91		1989/90	
	£	£	£	£
HMG Grants received				
= Class X Vote 3: 1990-91	318,066		284,197	
= Class X Vote 4: 1990-91	5,798,487	6,116,553	6,171,466	6,455,663
Superannuation contributions by staff		8,372		7,083
		<u>6,124,925</u>		<u>6,462,746</u>
Payments				
<i>Administration: Current</i>				
Staff Salaries and Overhead Expenses	296,749		262,156	
Committee Attendance Fees and Travelling Allowances	8,816	305,565	10,148	272,304
<i>Other Payments</i>				
Office Furniture Machinery and Equipment	272		9,518	
Computer Procurement	20,601	20,873	9,458	18,976
<i>Legal Aid</i>				
Magistrates' Courts	1,881,064		1,932,131	
Defence	3,484,990		3,800,958	
Appeal Aid	253,426		248,657	
Bail	179,007	5,798,487	189,720	6,171,466
		<u>6,124,925</u>		<u>6,462,746</u>

For and on behalf of the
Law Society of Northern Ireland

Brian F. Walker
President

Michael C. Davey
Secretary

29 July 1991

7.3 Solicitor's Bills

	Profit Costs £	Disburse- ments £	Counsel's Fees £	Gross £	Government Grant paid £	1990-91 %	1989-90 %
<i>Civil</i>							
High Court Matrimonial	439,969	214,972	105,169	760,110	621,656	81.79	88.03
High Court Non-Matrimonial	2,895,257	2,089,144	1,606,012	6,590,413	1,285,711	19.51	17.47
County Court	2,029,219	1,390,444	675,411	4,095,074	907,924	22.17	28.94
Magistrates' Court	6,888	2,135	170	9,193	6,510	70.81	32.00
<i>Advice</i>							
Magistrates' Court — representation	1,109,932	228,728	1,248	1,339,908	1,303,704	97.30	95.50
Advice and Assistance	1,871,029	477,936	2,340	2,351,305	2,325,109	98.89	98.71
<i>Criminal</i>							
Crown Court	1,373,533	554,144	1,557,179	3,484,856	3,484,856	100.00	100.00
Magistrates' Court	1,557,660	272,162	51,372	1,881,194	1,881,194	100.00	100.00
Appeals from Magistrates' Court	129,744	27,316	96,235	253,295	253,295	100.00	100.00
Bail	95,939	20,242	62,826	179,007	179,007	100.00	100.00

Note: Civil figures are based on cases closed. Recovery and other procedures may keep civil cases open two or three years after payment. This year the number of civil cases closed was 20,051 compared to 13,667 in 1989-90. In advice and criminal, cases are closed after assessment and consequently the figures for these above are current year's bills.

ø There was an end-of-year adjustment of £135.

7.4 Outstanding Accounts The ledger account balances outstanding at the end of the year were:—

	1990-91 Amount owing £	1989-90 Amount owing £
Contributions due from assisted persons		
Balances remaining	630,394	602,847
Costs due from unsuccessful opponents		
Balances remaining	230,564	198,686
Costs paid to solicitors in advance	507,184	371,705
	1,368,142	1,173,238
Damages received but not yet paid over		
Balances held	317,616	498,263
	1,050,526	674,975

7.5 Damages payments analysed Damages awarded and reported to the Department during the year are analysed below:—

	1990-91	1989-90
Up to £300	620	369
Between £300 and £1,000	1,488	1,218
Between £1,000 and £3,000	3,568	2,631
Between £3,000 and £10,000	390	284
Between £10,000 and £30,000	83	50
Between £30,000 and £100,000	12	2
Over £100,000	2	2
	6,163	4,556

Notes:

- (i) These reported awards amounted to £23,748,455 (£17,557,289).
- (ii) In 466 (158) of these cases the statutory first charge of the Legal Aid Fund on sums recovered resulted in deductions from the damages received to meet a part of the Solicitor's bill.
- (iii) In 26 (2) cases the award was not monetary but concerned property recovered being retention or division of the matrimonial home.
- (iv) Not all awards were paid as 47 (23) were unenforceable.

(Over the last number of years there have been numerous both written and telephone enquiries from solicitors on the application of the statutory charge in civil proceedings cases and in advice and assistance cases. In an attempt to resolve the confusion over this aspect of legal aid, which is a difficult and complex matter, the Department issued a

paper during the year to practitioners explaining when the statutory charge applies to property or money recovered or preserved and the circumstances in which what has been recovered or preserved is exempt from the charge.)

7.6 Bad Debts written off

The amounts written off as irrecoverable were:—

	1990-91		1989-90	
Contributions	343	(£42,050)	52	(£ 8,208)
Costs	766	(£63,404)	61	(£20,431)
Revoked Emergency Certificates	—	—	—	—

The main grounds for write off were, the unjustifiable costs of enforcing recovery, the inability to trace debtors or their poor circumstances. Most of the debts written off were owed as a result of matrimonial cases. Included in the written off costs above £20,638 related to ABWOR cases. This year a large number of cases where contributions and/or costs had been outstanding for some time were reviewed and following further unsuccessful efforts to recover the outstanding amounts due, the monies were written off.

8. Average Case Costs

Significant average cost of cases have been extracted from the main areas of legal aid and are as follows:—

	1990-91	1989-90	1988-89	1987-88	1986-87
	£	£	£	£	£
<i>Advice</i>					
Advice and assistance claims gross	46.61	38.44	32.98	29.57	26.17
Representation cases gross	137.99	129.35	126.02	102.73	96.81
Representation, profit costs to solicitor	114.12	106.47	104.26	85.03	79.92
<i>Civil Legal Aid</i>					
High Court Matrimonial cases, gross	279.55	295.96	310.84	290.79	274.38
High Court Non-Matrimonial cases, gross	948.53	1,173.98	1,139.09	1,535.90	1,088.48
County Court cases, gross	408.77	574.58	511.07	503.36	480.56
Magistrates' Court cases, gross	26.56	40.69	60.19	81.59	87.05
High Court Matrimonial, profit costs to solicitor	161.81	166.67	173.74	153.29	146.24
High Court Non-Matrimonial, profit costs to solicitor	416.70	520.39	507.74	673.80	498.33
<i>Civil Legal Aid — net cost to the Fund</i>					
High Court Matrimonial cases, net	228.63	260.52	276.30	203.92	221.03
High Court Non-Matrimonial cases, net	185.05	205.08	163.40	68.17	159.43
County Court cases, net	90.60	160.56	131.66	85.16	129.35
Magistrates' Court cases, net	18.87	21.15	53.34	62.95	74.28
<i>Criminal Legal Aid</i>					
Crown Court Bills	2,518.06	2,634.06	2,586.83	1,854.03	1,482.39
Appeal to Crown Court Bills	290.63	321.64	270.94	256.57	217.75
Magistrates' Court Bills	117.76	127.10	105.55	95.76	76.80
Bail Bills	190.23	207.57	156.68	114.22	96.09
Solicitors' profit costs, Crown Court	992.44	1,075.79	1,027.44	741.37	570.48
Counsel's fees, Crown Court	1,125.13	1,134.04	1,164.46	829.23	686.27
Solicitors' profit costs, Magistrates' Court	92.54	105.82	88.81	80.22	61.90

Note:

In the Magistrates' courts most civil proceedings cases are now aided by way of representation, and the average of the remainder are based upon a dwindling number of cases.

Comments

Some of the average costs in the table above relative to the year 1987-88 are not regarded by the Department as normal, particularly those relating to High Court non-matrimonial cases and net costs to the fund in civil cases. This abnormal fluctuation was caused by a much smaller number of cases closed and by a disproportionate number of won and settled cases being included.

It is noticeable that in matrimonial cases payment is almost invariably made on foot of taxed bills of costs. Almost no use is made of the fixed cost provisions available for these cases. These would involve less effort on the part of solicitors and a saving in Taxing Master's time and court costs. The level of fees available under this procedure is clearly insufficient to attract greater use.

9. Administration

9.1 The Certifying Committee held 78 meetings during the year compared with 74 last year and the total casework dealt with was 2,857. At these meetings the Certifying Committee consider applications for legal aid referred by the professional staff in the Department. Of the 2,857 cases 780 full or limited certificates were granted, 325 limitations on certificates were lifted, 1,627 applications were refused, 102 were adjourned and 23 were withdrawn. 302 other minor and miscellaneous matters were dealt with by the Committee in addition to the 2,857 cases. The statistics show that 38.67% of referrals are granted. This is a very heavy caseload requiring considerable professional staff time, typing staff time and clerical staff time as a back-up. As mentioned in the paragraph dealing with legislative changes, change is afoot to delegate the power of refusal of legal aid to the professional staff and to delegate the power of revocation in certain cases to the senior professional staff and this will be implemented next year alongside a planned re-organisation of the appeal structure of the Legal Aid Committee.

The Legal Aid Committee heard 1,110 appeals during the year against refusals by the Certifying Committee. Of these, appeals were allowed in 424 cases and there were 413 refusals, 151 adjournments, 90 certificates discharged or revoked and 32 withdrawals. Again the high level of appeals placed a considerable burden on members of the Committee necessitating them holding two meetings on almost every three Fridays out of four each month. Again the meetings required considerable back-up from professional, typing and clerical staff with a very high level of photocopying demand. Change is afoot here also with a proposed change in the Legal Aid Scheme to enable the Committee to deal with appeals by sub-committees in order to cope with the large number of appeals arising and to reduce the backlog of appeals which build up. Another change in the manner of seeking appeals is being considered in an attempt to sift out 'rote' appeals and those with little or no merit.

9.2 The Legal Aid Committee also held 11 lengthy administration meetings during the year. These meetings deal with important matters concerning legal aid such as finance, staffing, work throughput, fee levels and proposals to improve efficiency in the administrative arrangements surrounding legal aid.

9.3 The venue this year for the Joint Consultative Committee was Newcastle, Co. Down, Northern Ireland, and was hosted by the Society and attended by representatives of the four legal aid jurisdictions. Common problems were discussed one of which was legal aid and 1992 and this set the scene for things requiring action to dovetail with the introduction of the Single European Market in 1992.

9.4 Following up the Report in July 1989 covering Financial and Management Information Systems in the Department the Working Group of senior staff from the Northern Ireland Court Service and the Department met on numerous occasions examining the establishment of suitable methods of work measurement, financial control of in-year expenditure and for forward financial forecasting. This has culminated in new systems having been established in these particular areas and they are seen as being pivotal to good and effective management.

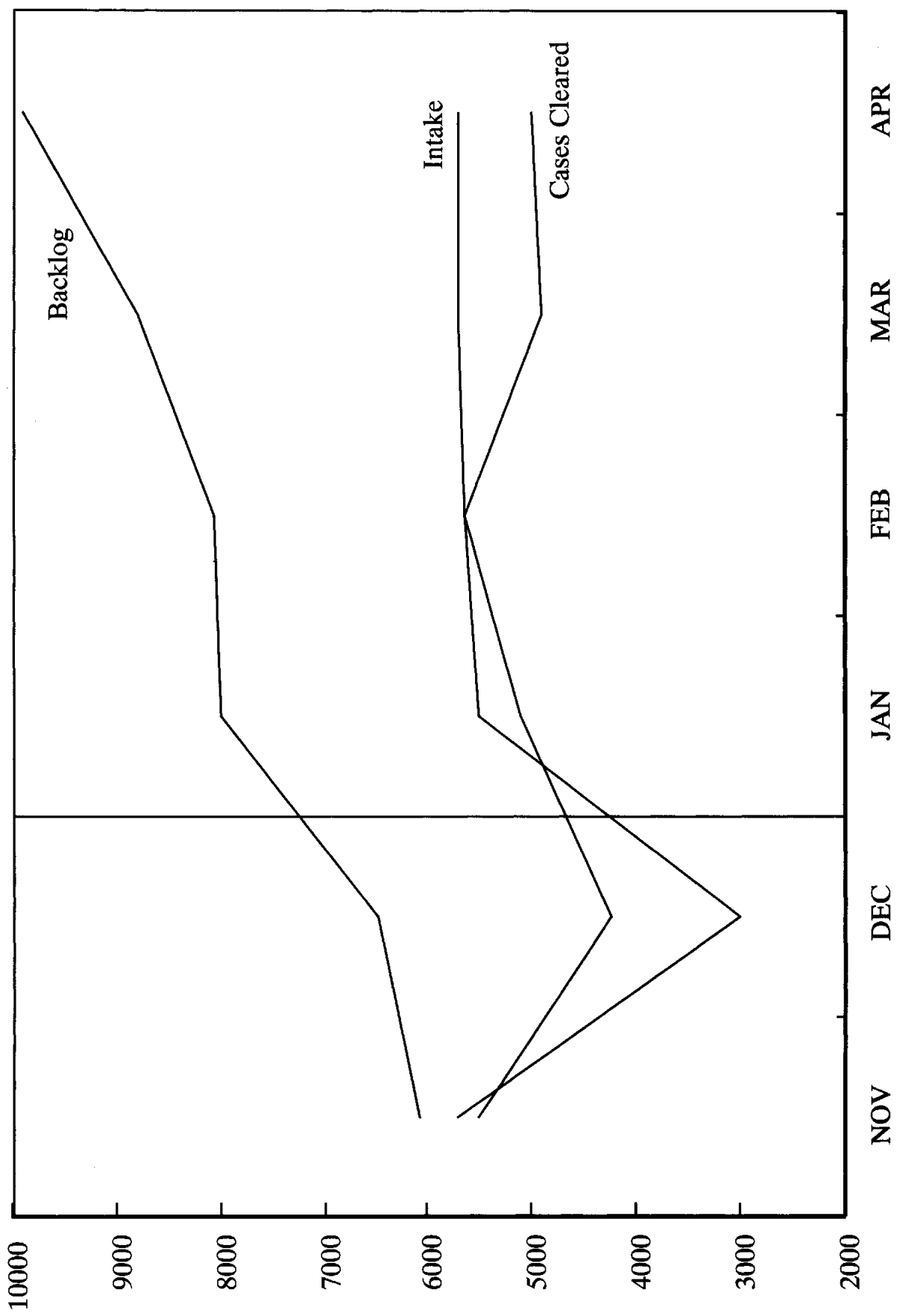
9.5 Graphs have been included on pages 26 to 32 which have been compiled from monthly management statistics and the graphs give a bird's eye picture of systems which closely monitor sectional performance in the Department. The statistics which supplement the graphs record man hours worked, man hours lost and case clearance rate per hour. The graph dealing with advice and assistance highlights a problem area that was already being dealt with by training and additional man hours. The incoming workload in this area is increasing year by year. It is seen as high volume low cost work and is regarded as the cornerstone of legal aid. The graphs are updated every month.

9.6 Another area covered by the July 1989 Report was the building of a suitable model from past expenditure data which could best be used to profile future expenditure trends. Various models were examined and found to be deficient in one way or another and it was eventually agreed to use the Holt two parameter exponential smoothing forecasting method. The graphs on pages 33 to 36 have been so constructed. In

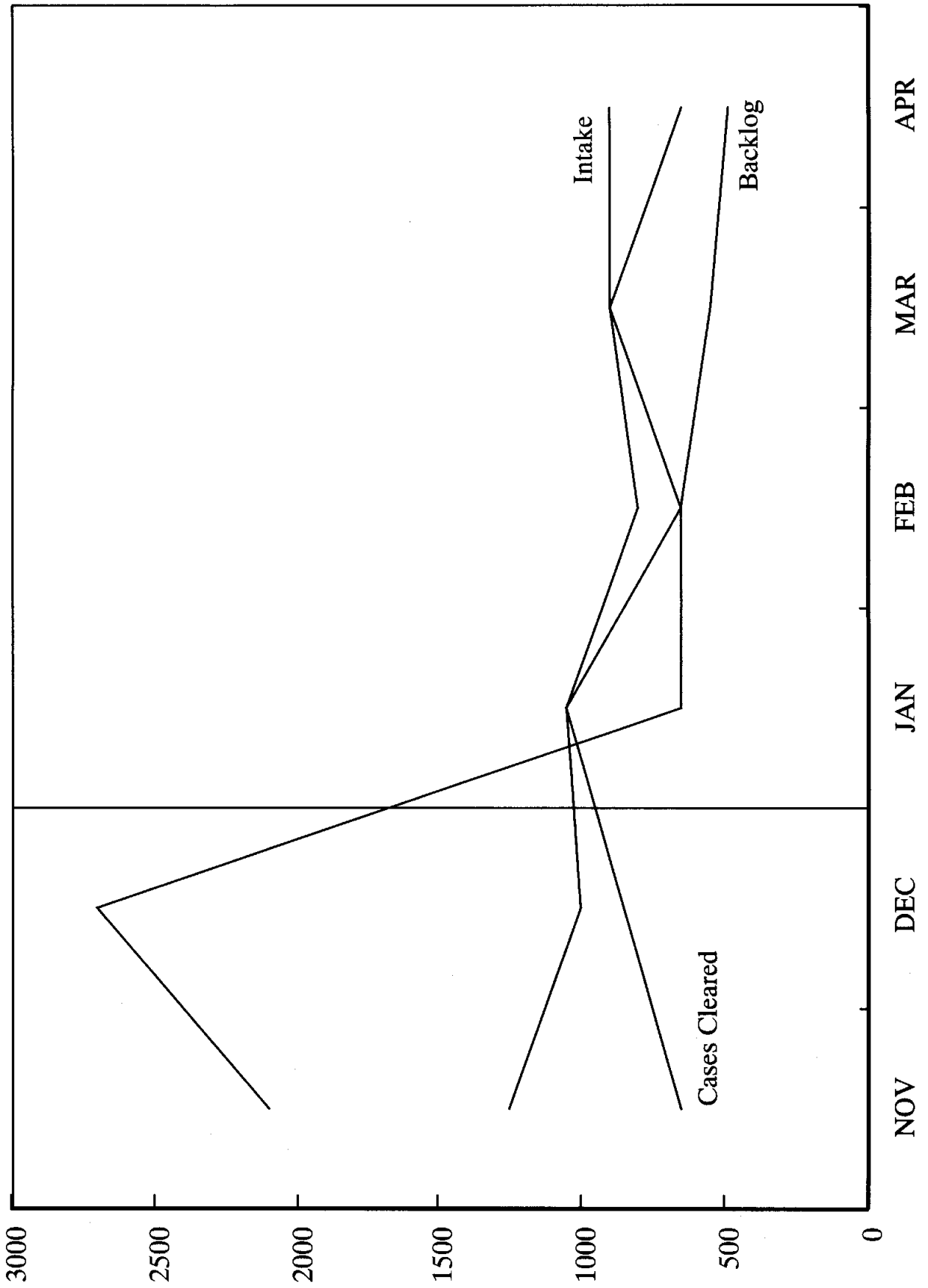
connection with in-year financial monitoring a revised method using spread sheets excluding damages from the equation was eventually agreed following discussions and correspondence with the Northern Ireland Audit Office and the Treasury.

9.7 Pie charts on pages 37 to 42 give a comparative picture of improving efficiency in the Department over the calendar years 1989 and 1990 (including most of the year under review) and they show that a much more efficient service is being provided to the public and the profession. It is the Department's objective to attempt to retain the improvements already achieved and to try to improve even further. Success in this area will depend largely on the levels of incoming work and the time necessarily taken in assimilating and putting into practice new systems of working such as is in train in relation to new proposed methods of assessing criminal fees. Later this year following the completion of training programmes it is hoped to introduce the new system of 'open' staff reporting, requiring as it does the setting of objectives, and discussions have already commenced in this connection.

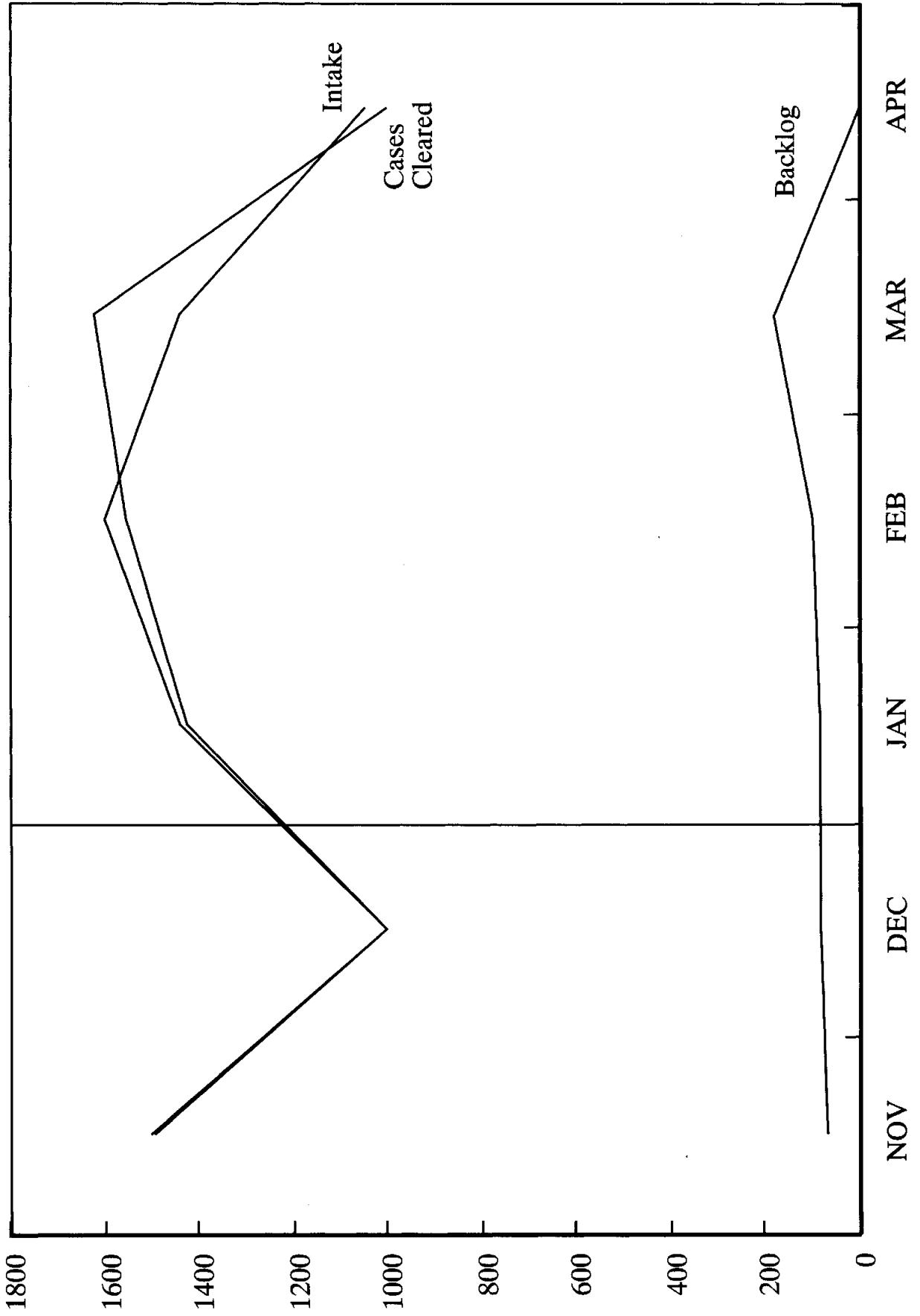
LEGAL ADVICE & ASSISTANCE PERFORMANCE MEASUREMENT NOVEMBER 1990 TO APRIL 1991



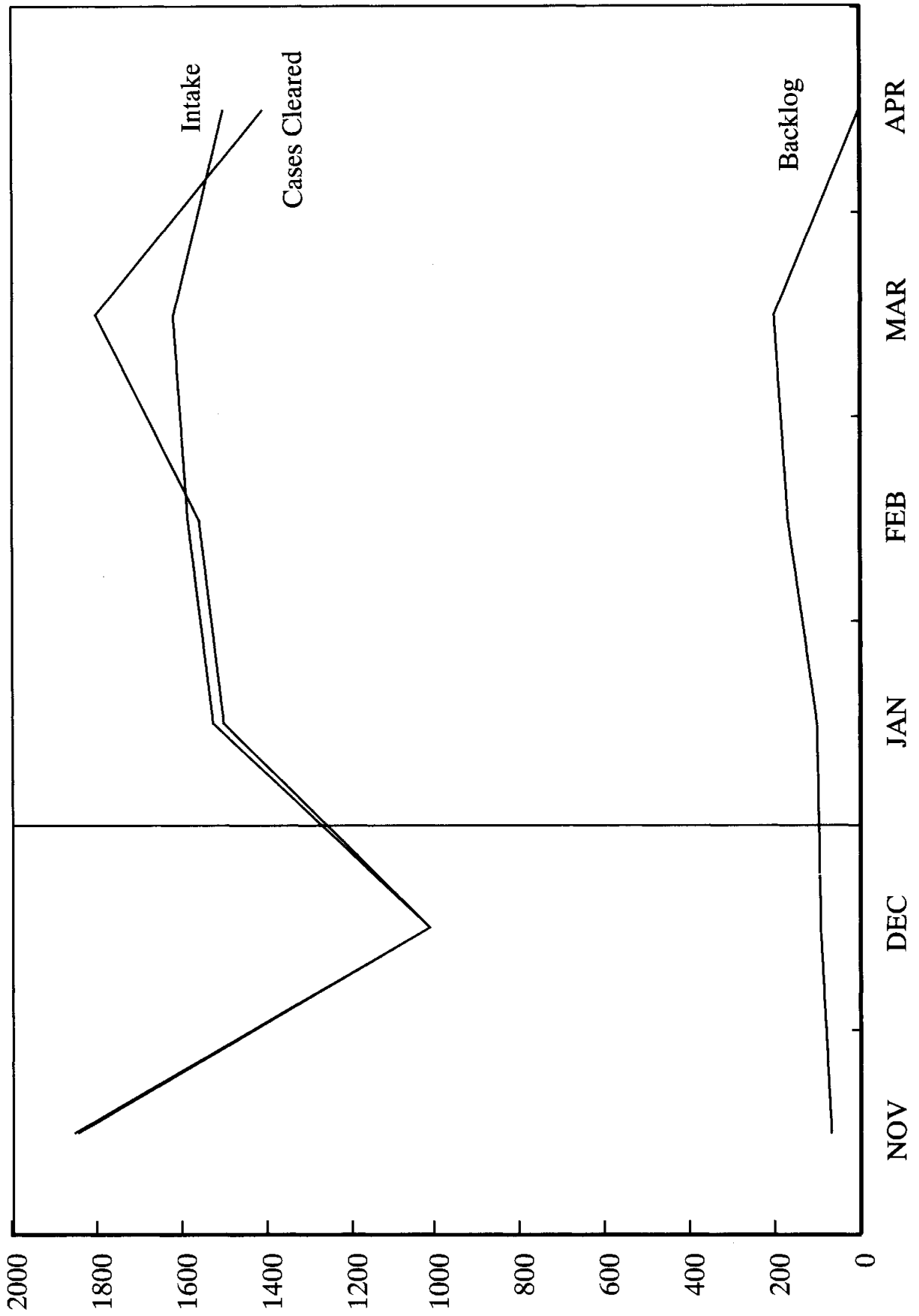
ABWOR PERFORMANCE MEASUREMENT NOVEMBER 1990 TO APRIL 1991



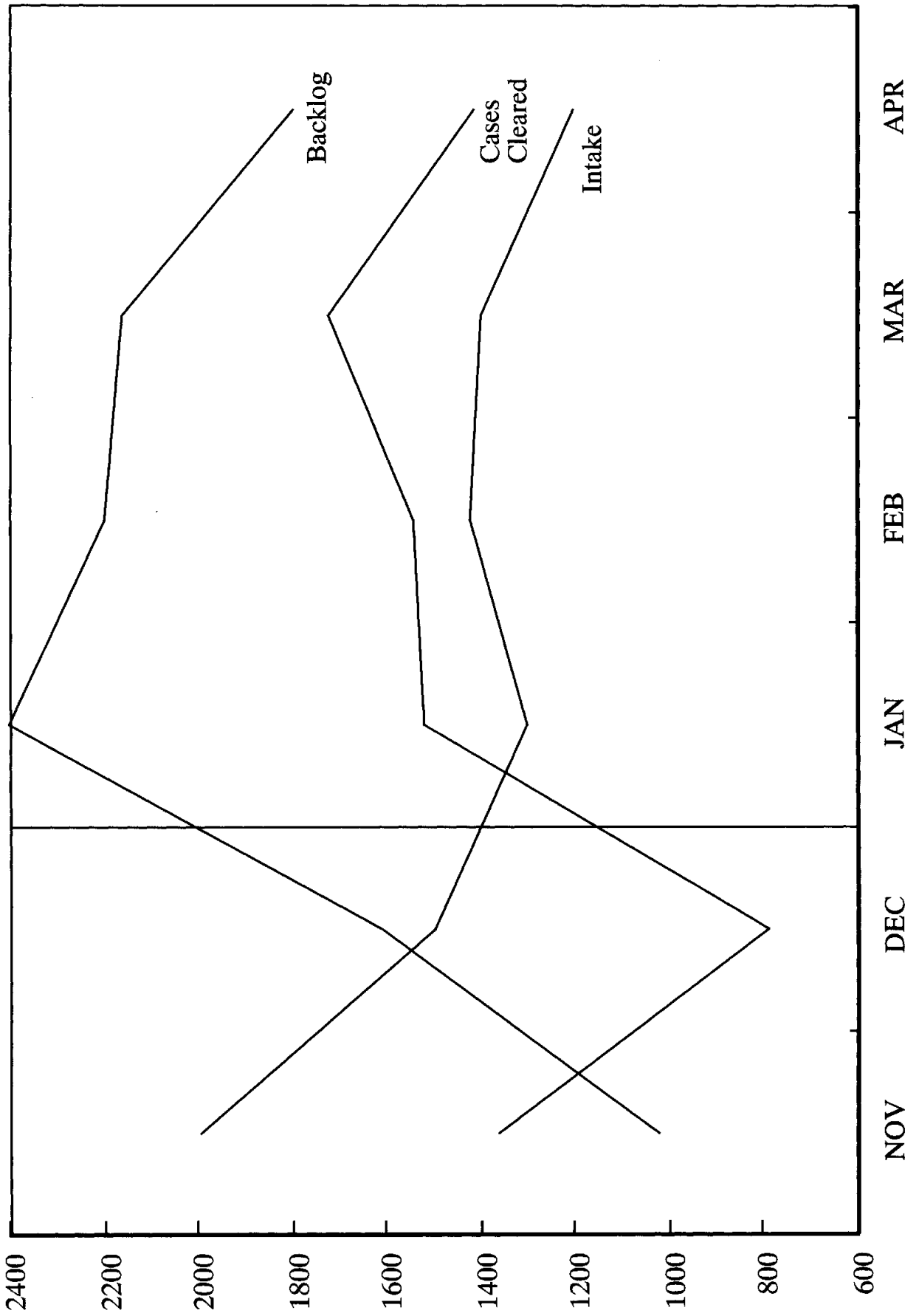
CIVIL REGISTRATION PERFORMANCE MEASUREMENT NOVEMBER 1990 TO APRIL 1991



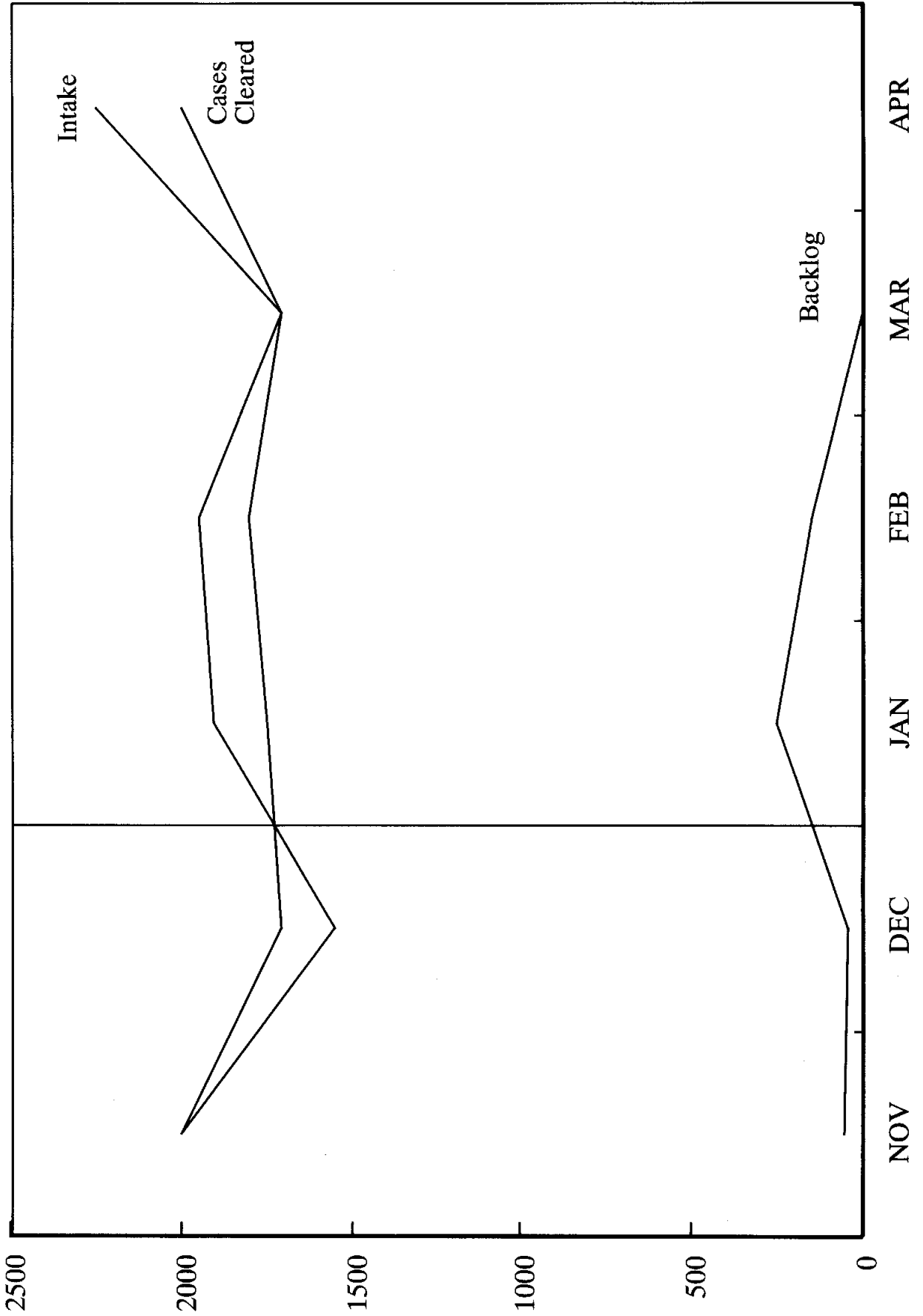
CIVIL ADJUDICATION PERFORMANCE MEASUREMENT NOVEMBER 1990 TO APRIL 1991



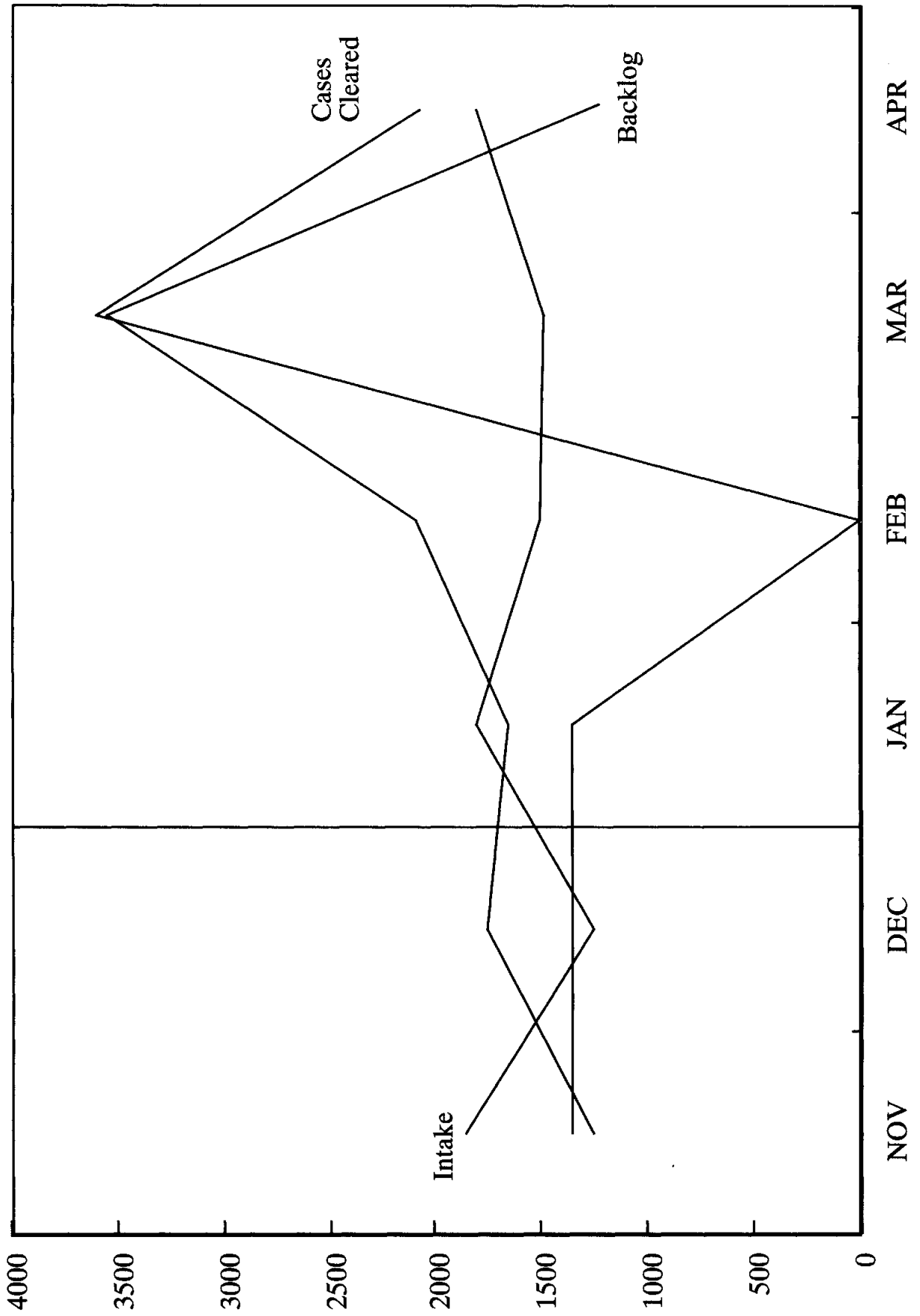
CIVIL ASSESSMENT PERFORMANCE MEASUREMENT NOVEMBER 1990 TO APRIL 1991



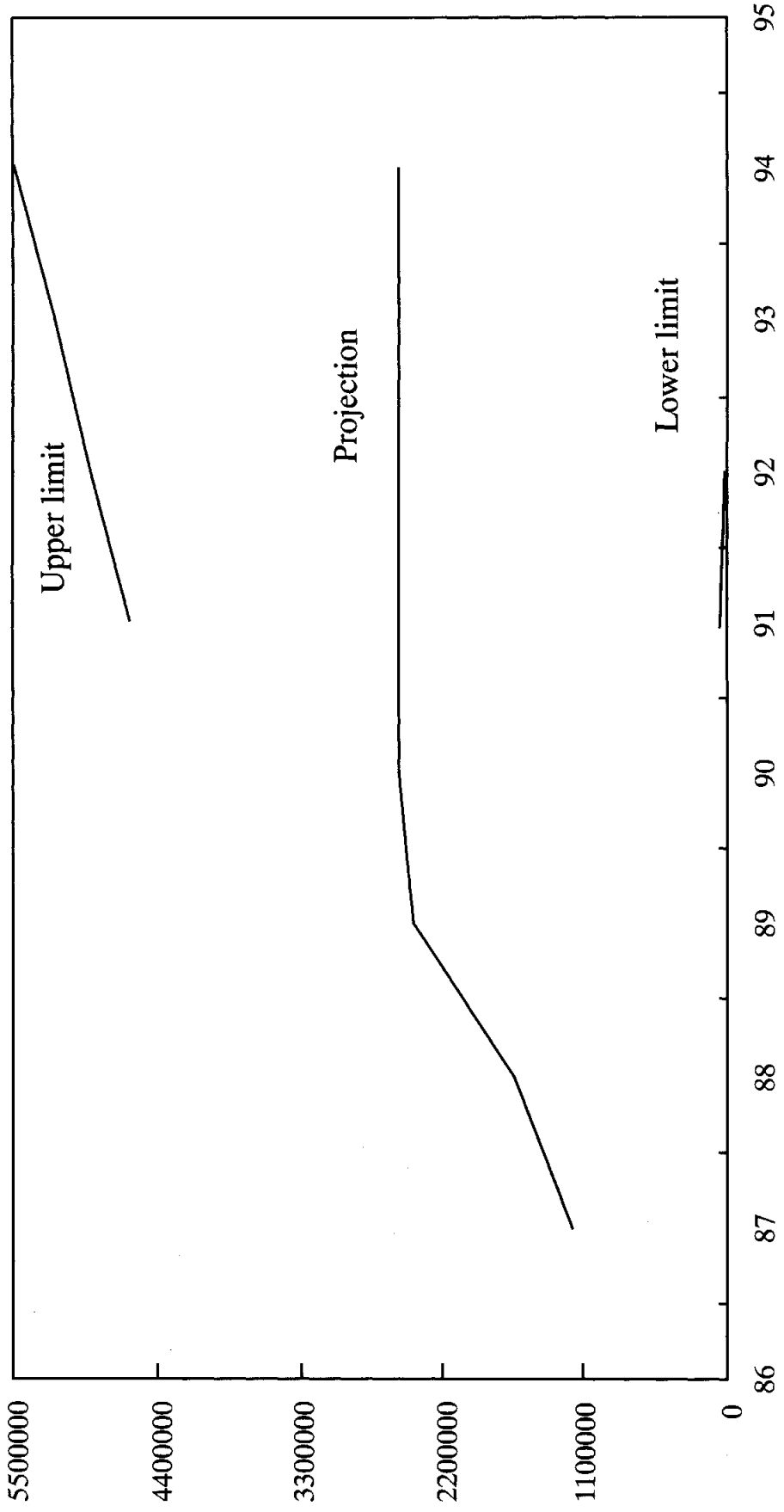
CRIMINAL REGISTRATION PERFORMANCE MEASUREMENT NOVEMBER 1990 TO APRIL 1991



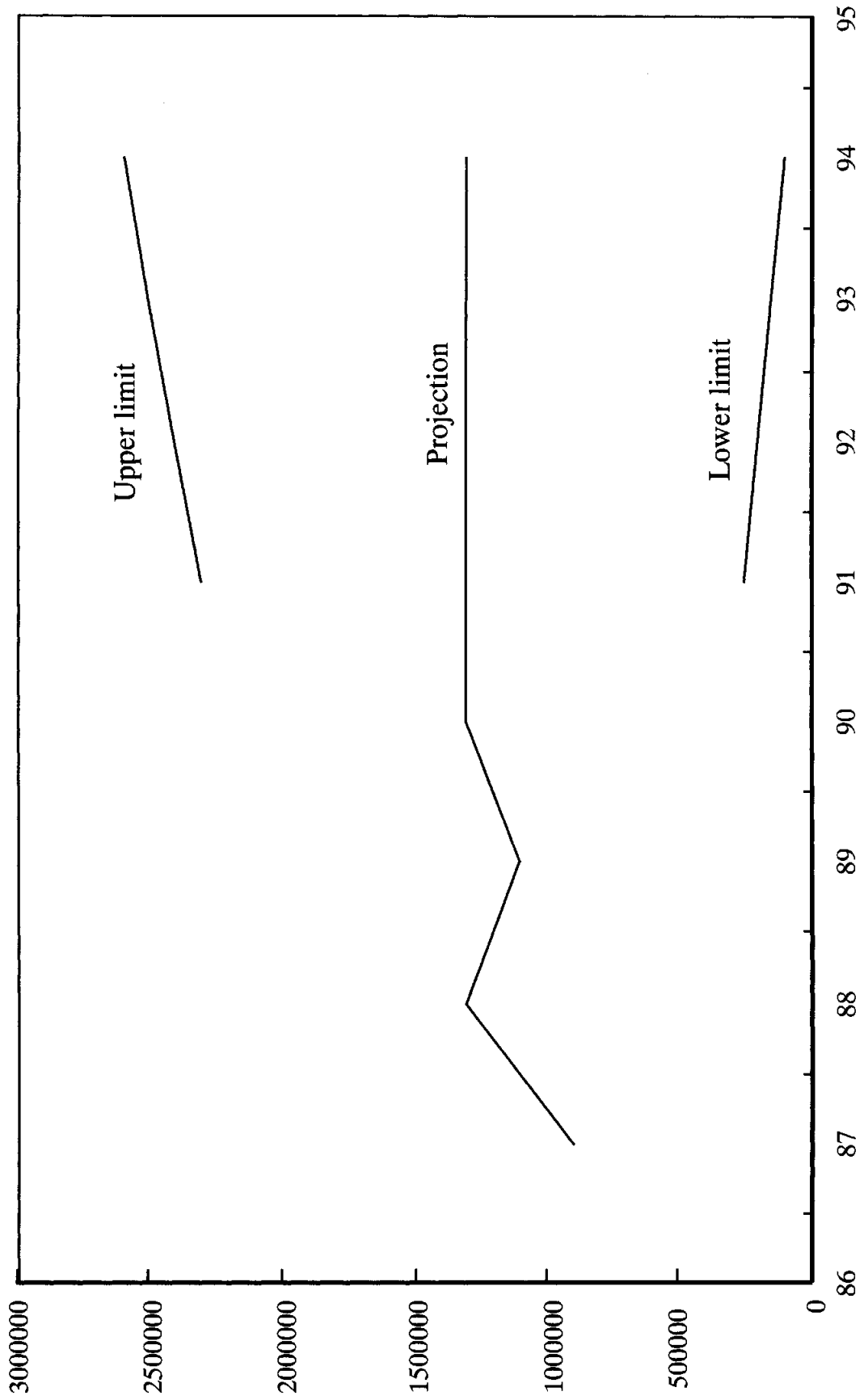
CRIMINAL ASSESSMENT PERFORMANCE MEASUREMENT NOVEMBER 1990 TO APRIL 1991



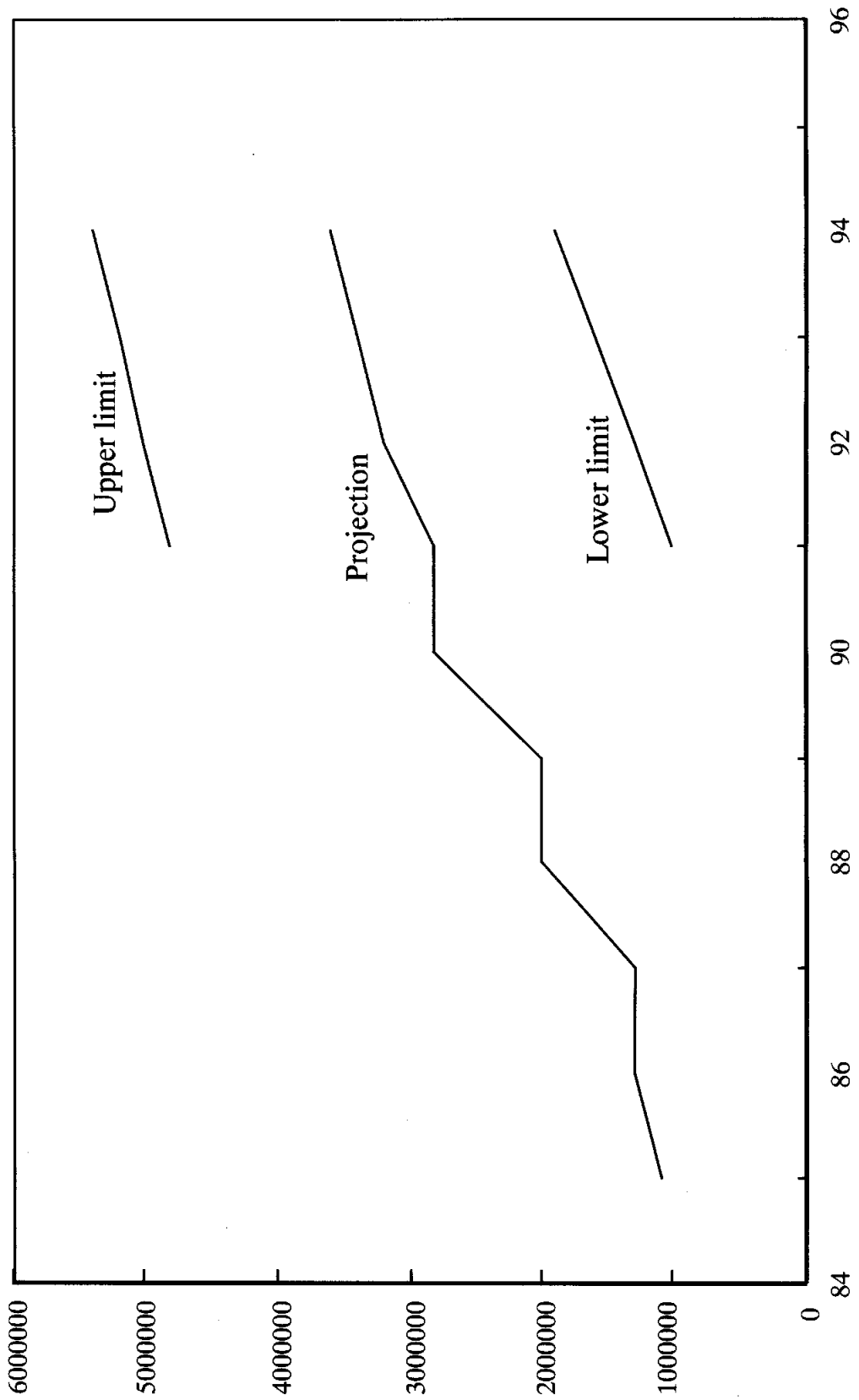
FORECAST OF LEGAL ADVICE & ASSISTANCE EXPENDITURE 1991/92 TO 1994/95



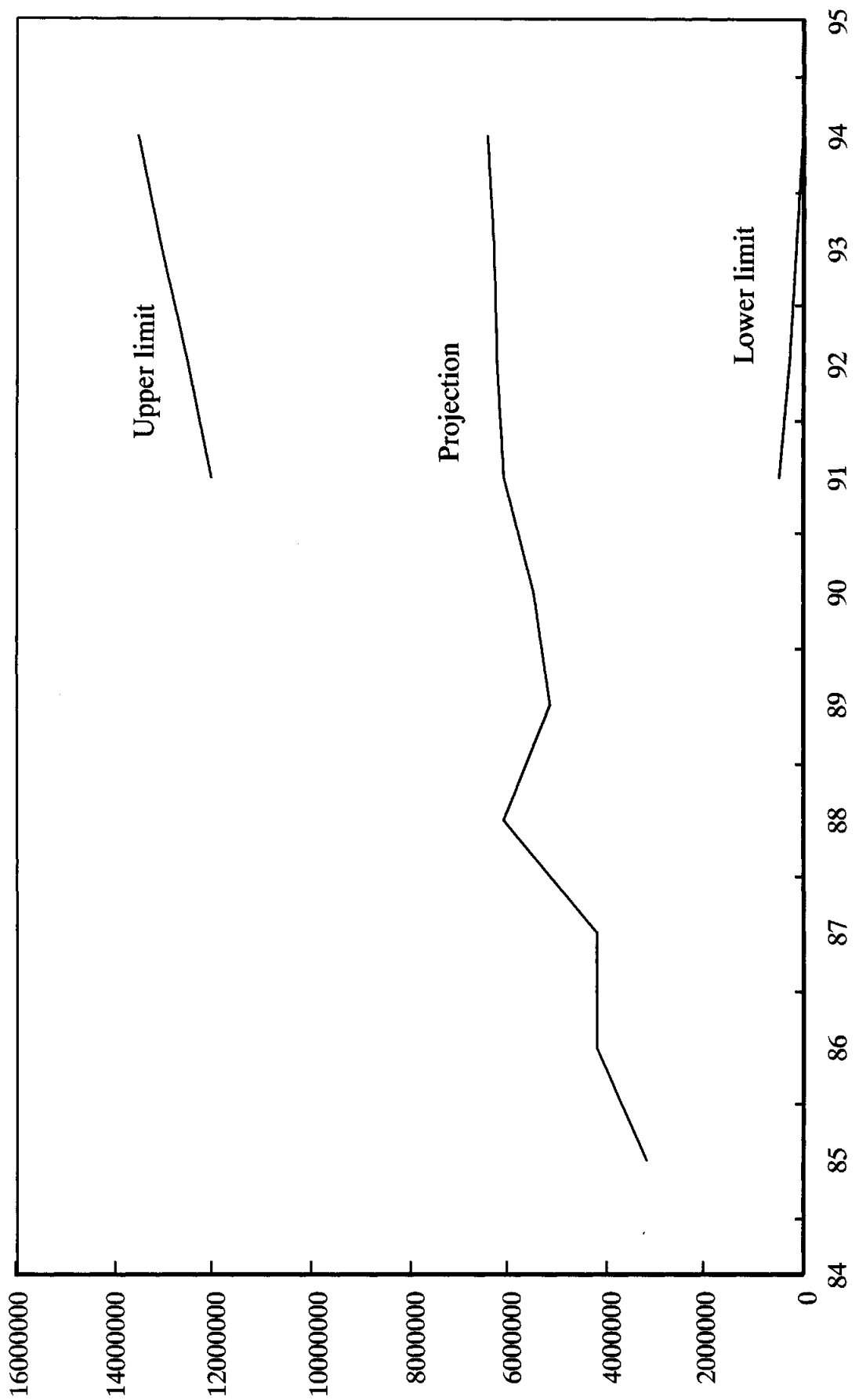
FORECAST OF ABWOR EXPENDITURE 1991/92 TO 1994/95



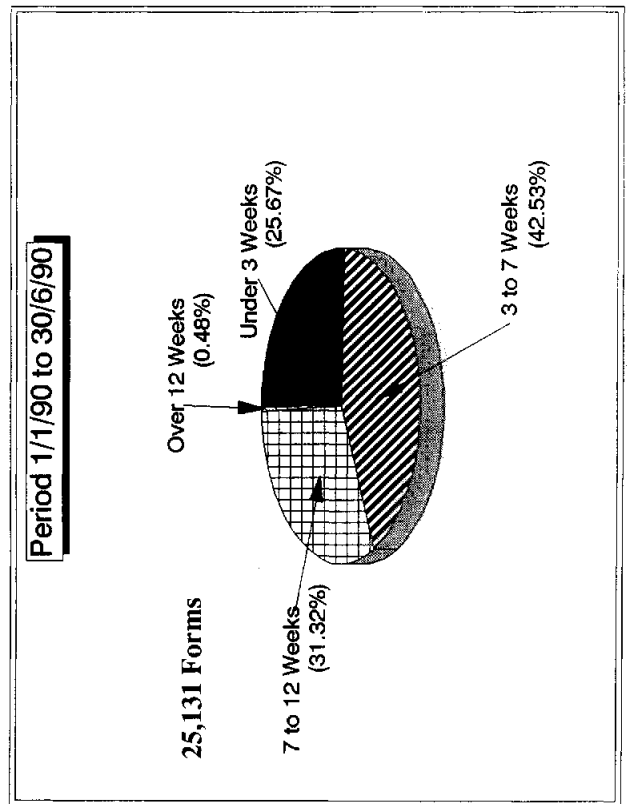
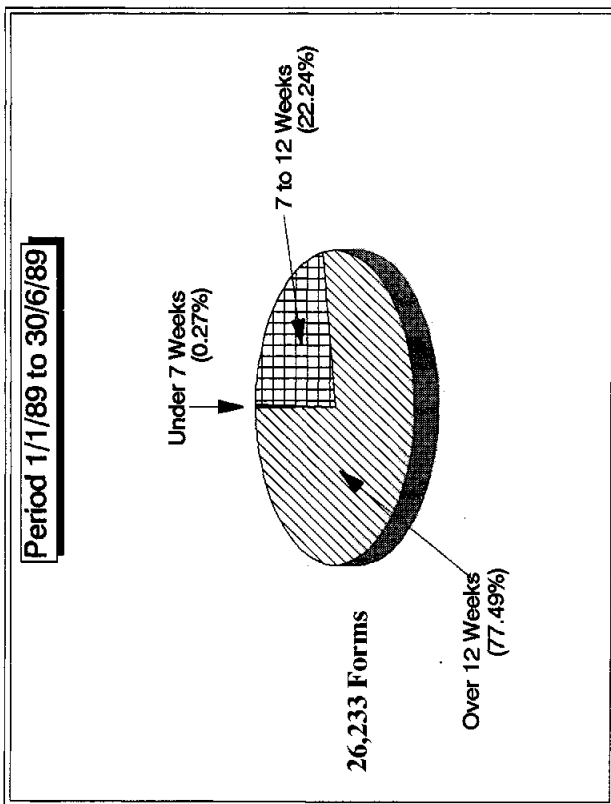
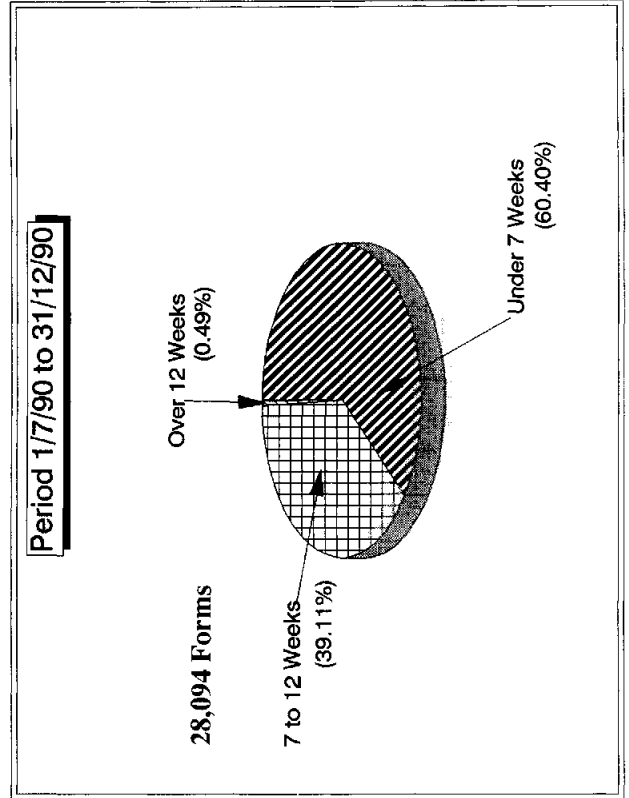
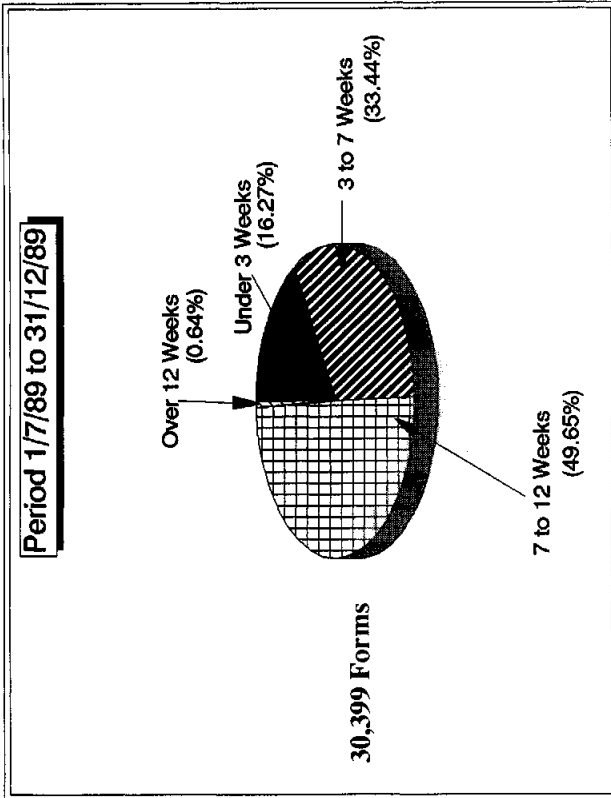
FORECAST OF CIVIL LEGAL AID EXPENDITURE 1991/92 TO 1994/95



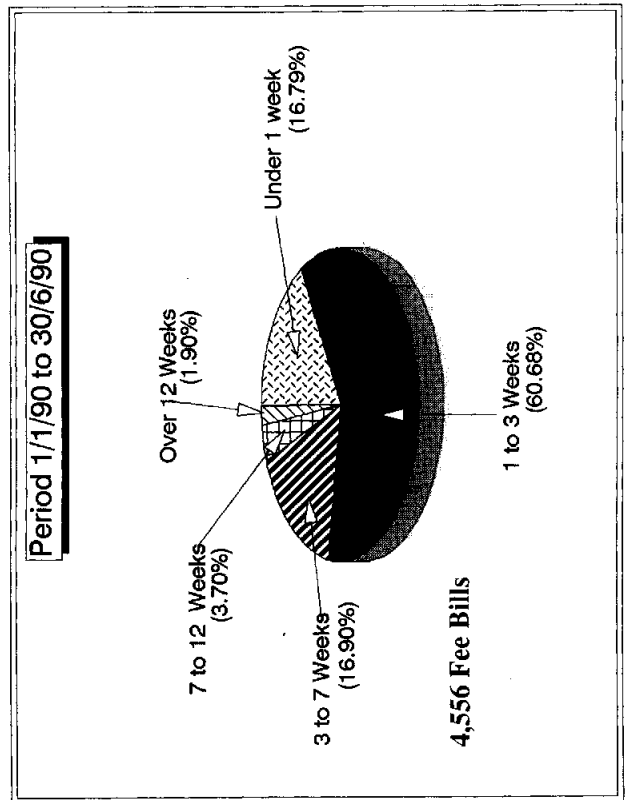
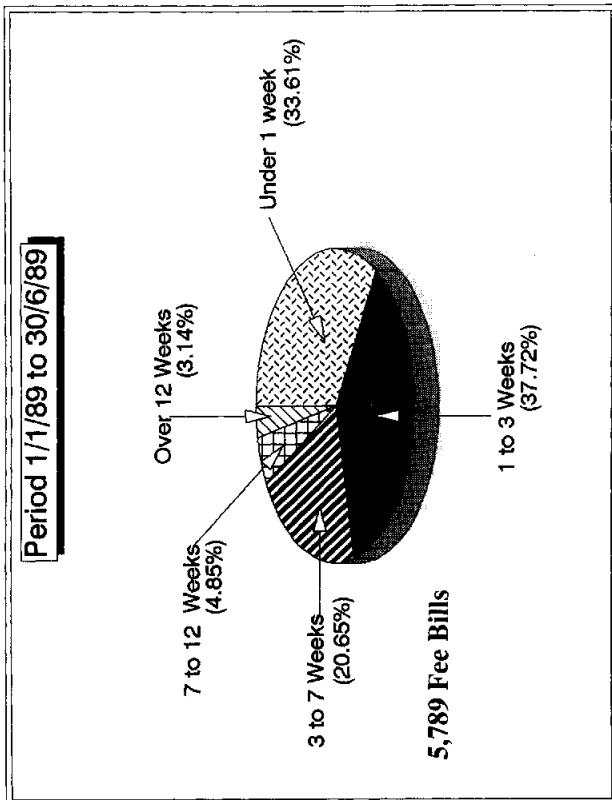
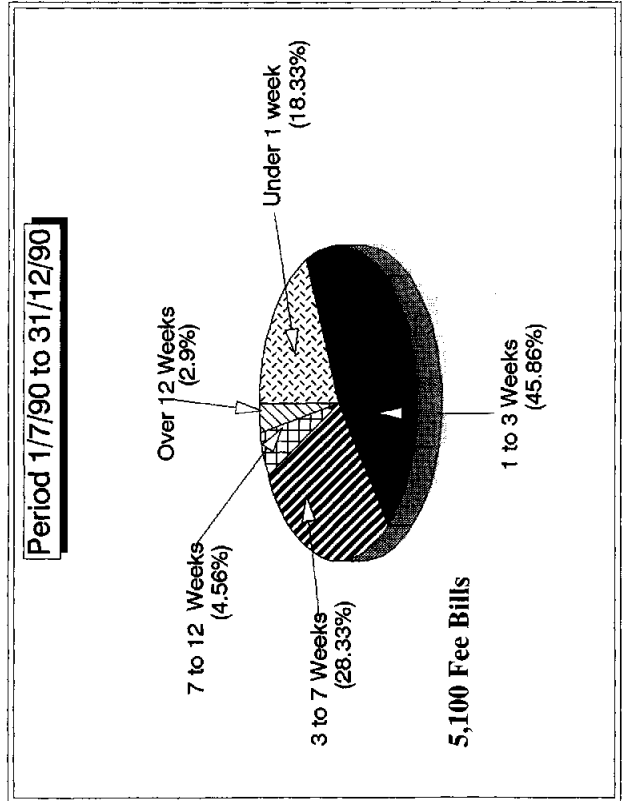
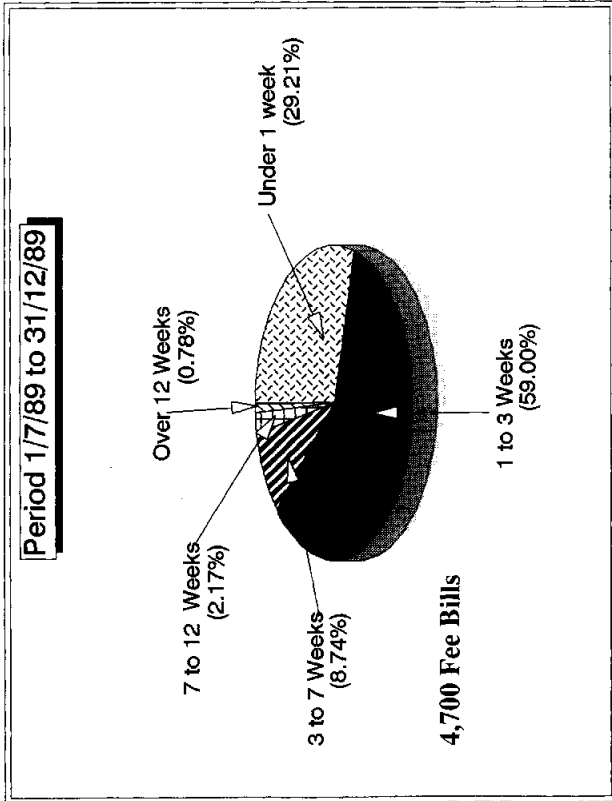
FORECAST OF CRIMINAL LEGAL AID EXPENDITURE 1991/92 TO 1994/95



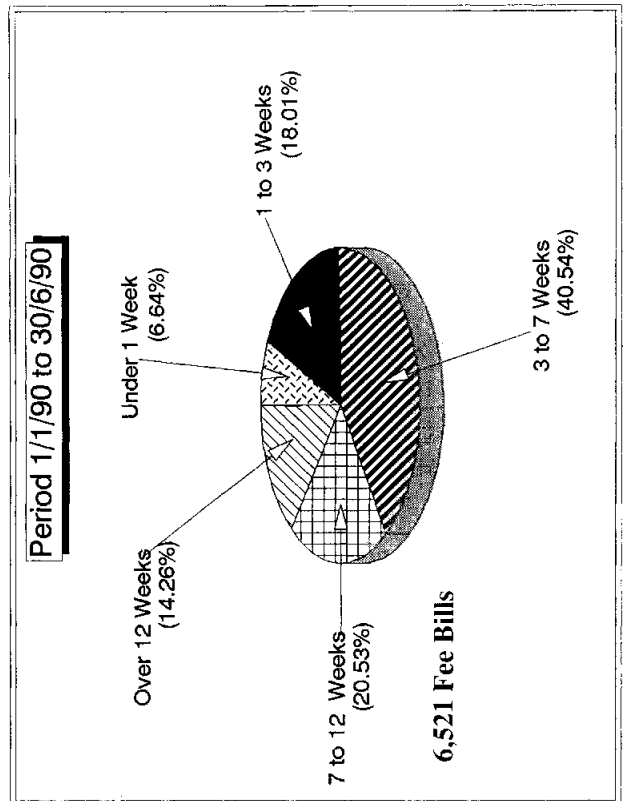
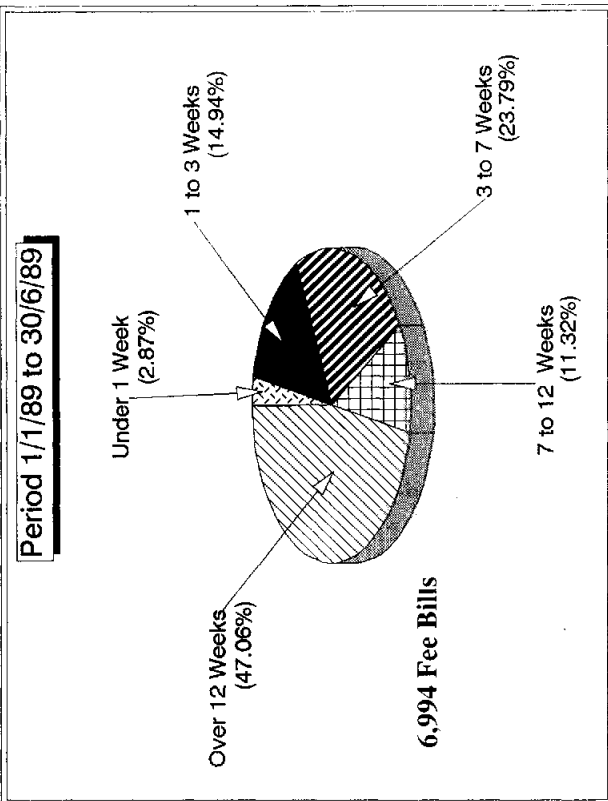
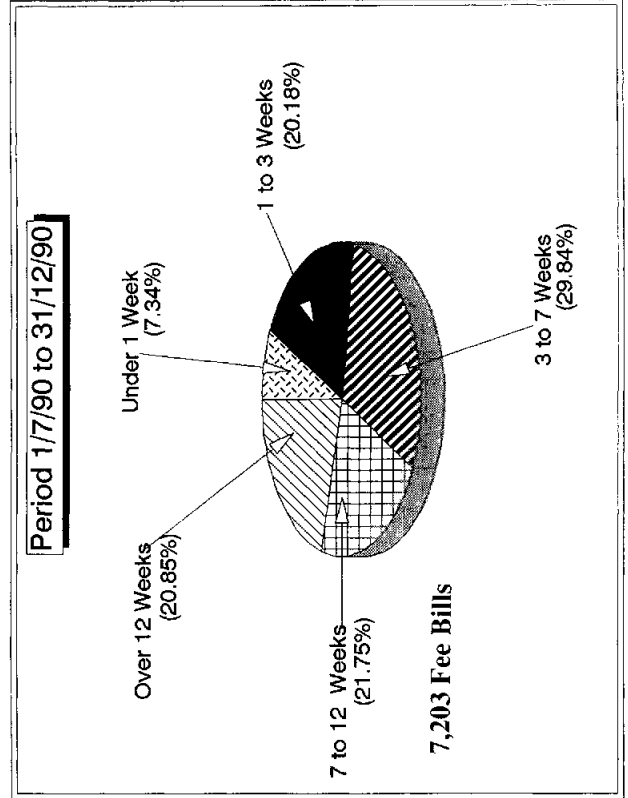
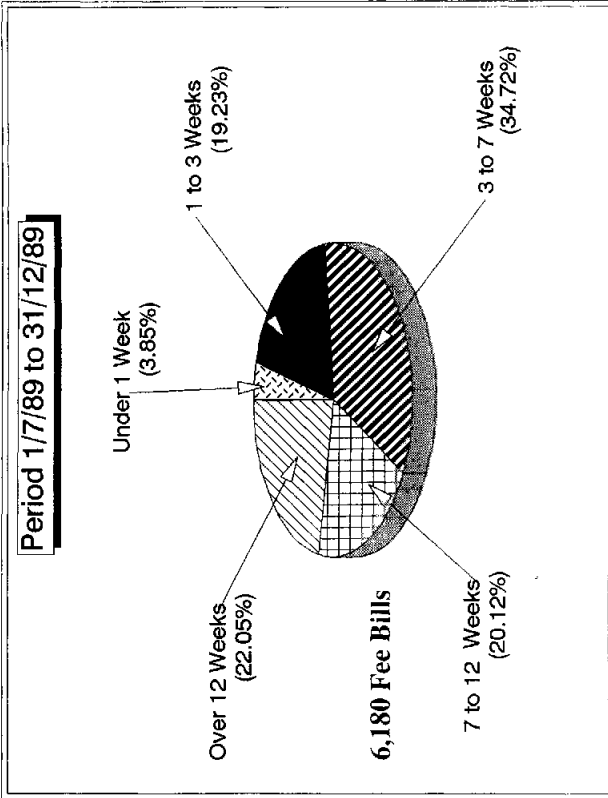
Green Forms – Time to pay from date of receipt



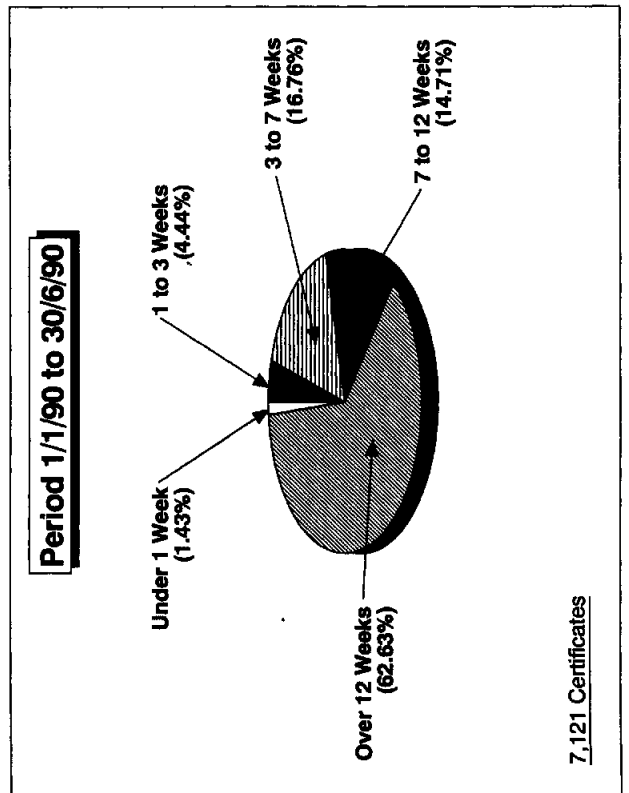
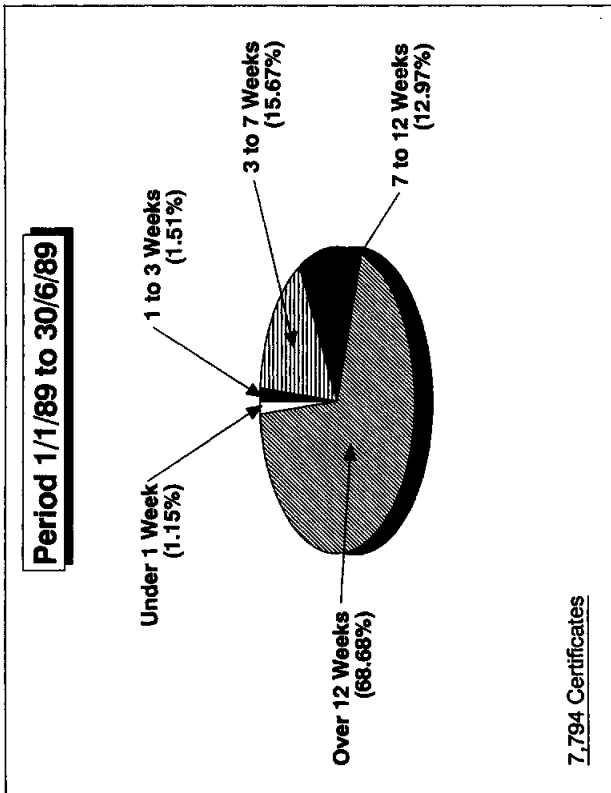
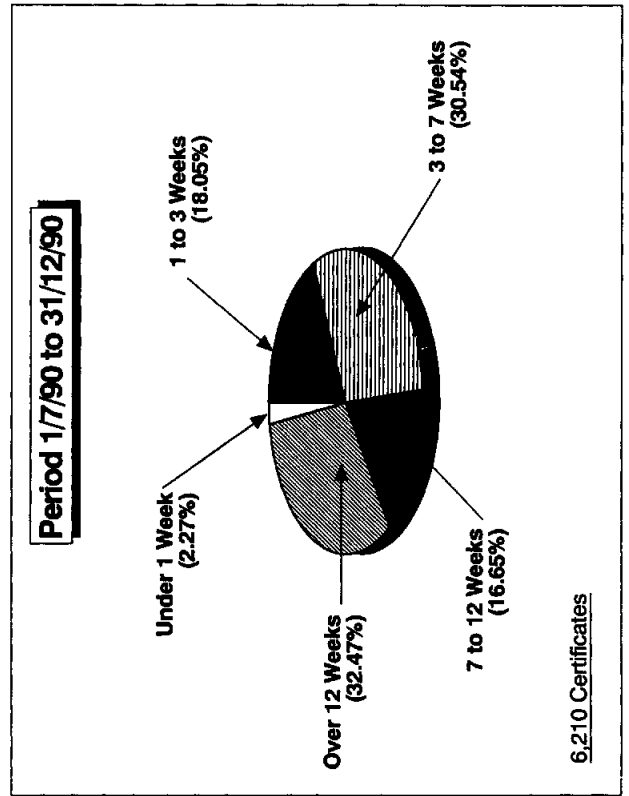
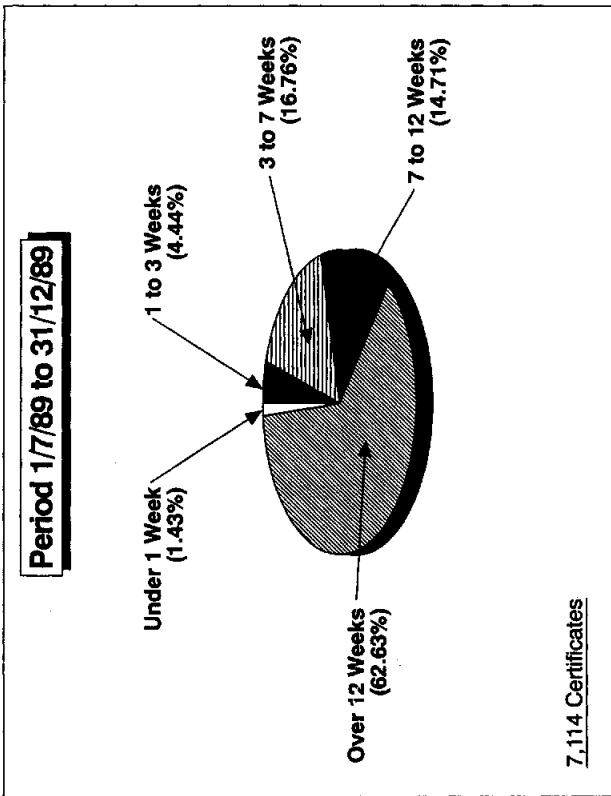
ABWOR Fees – Time to pay from date of receipt



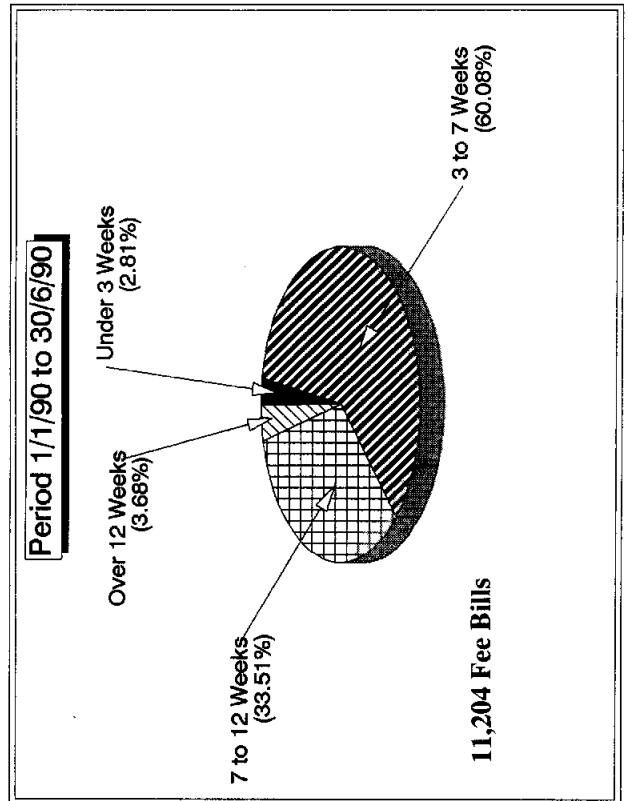
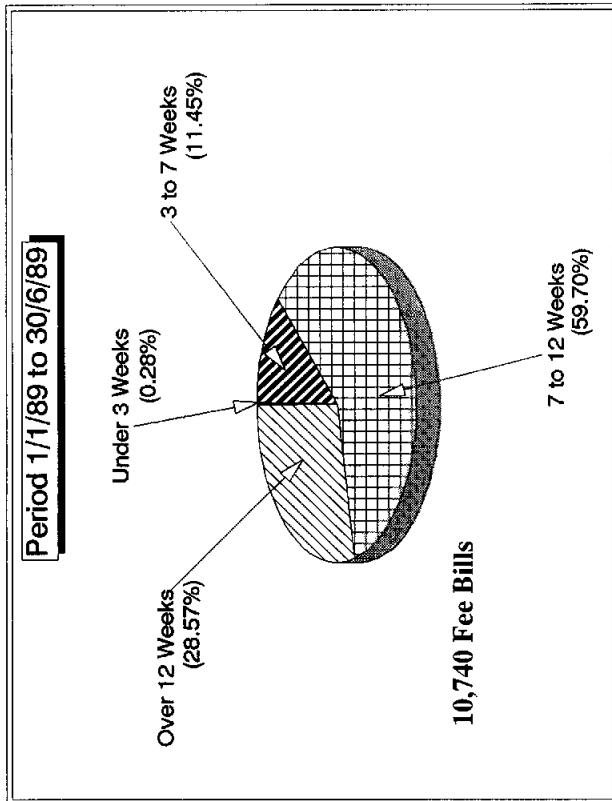
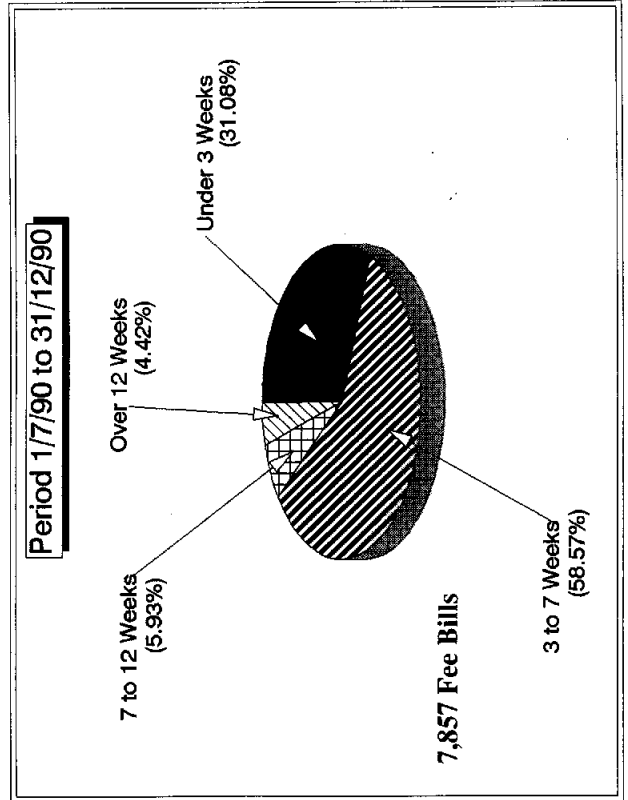
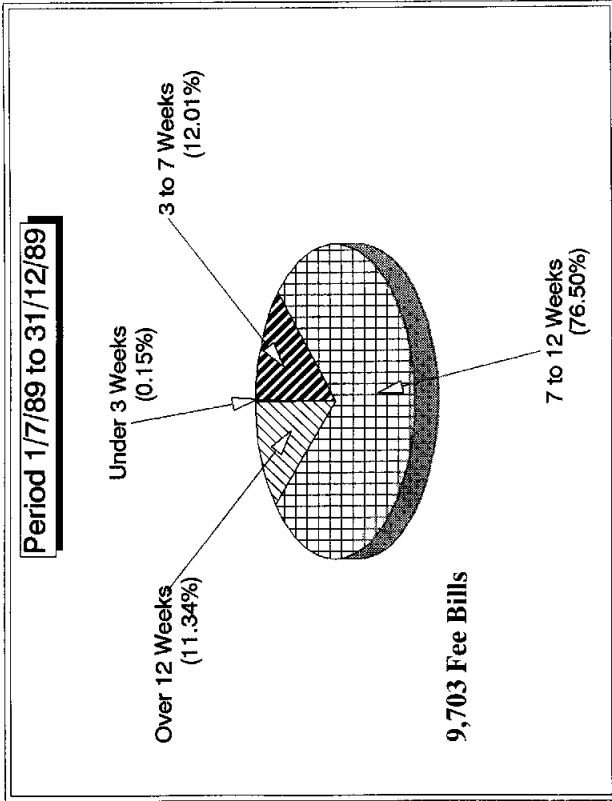
Civil Fees – Time to pay from date of receipt



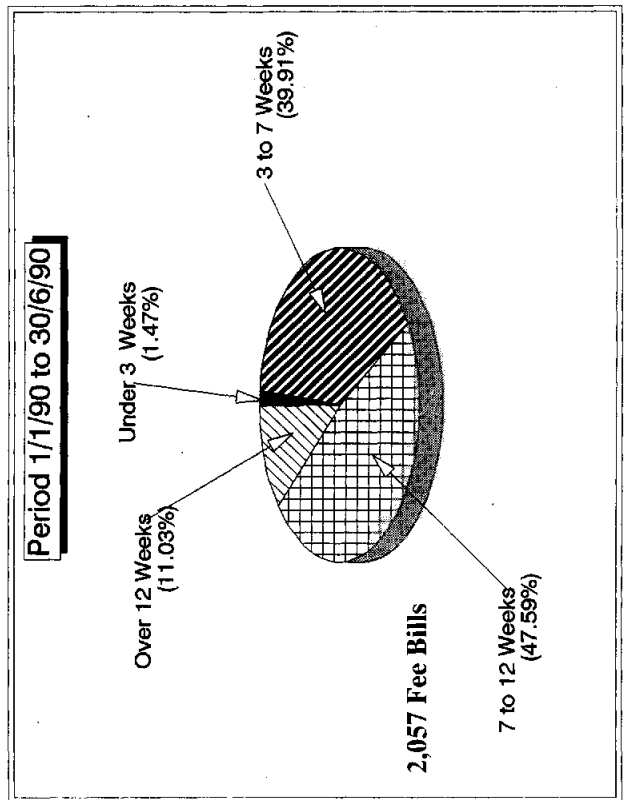
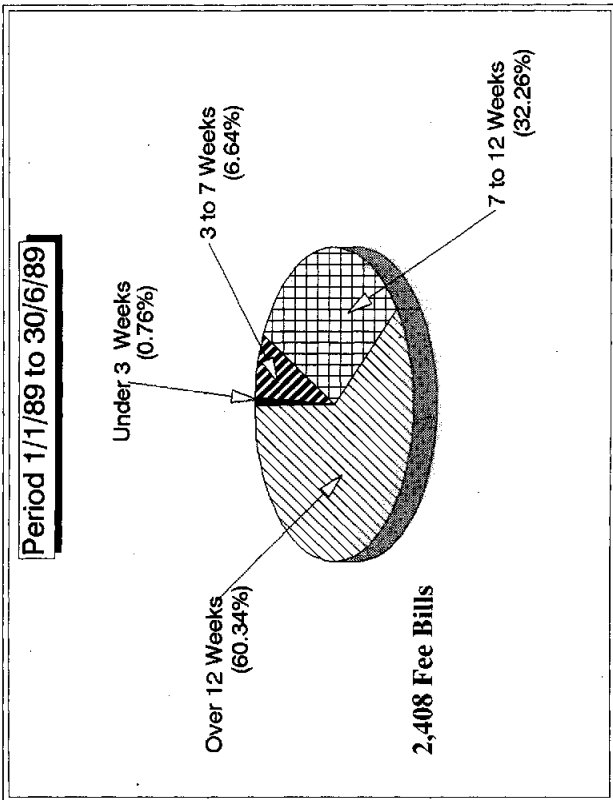
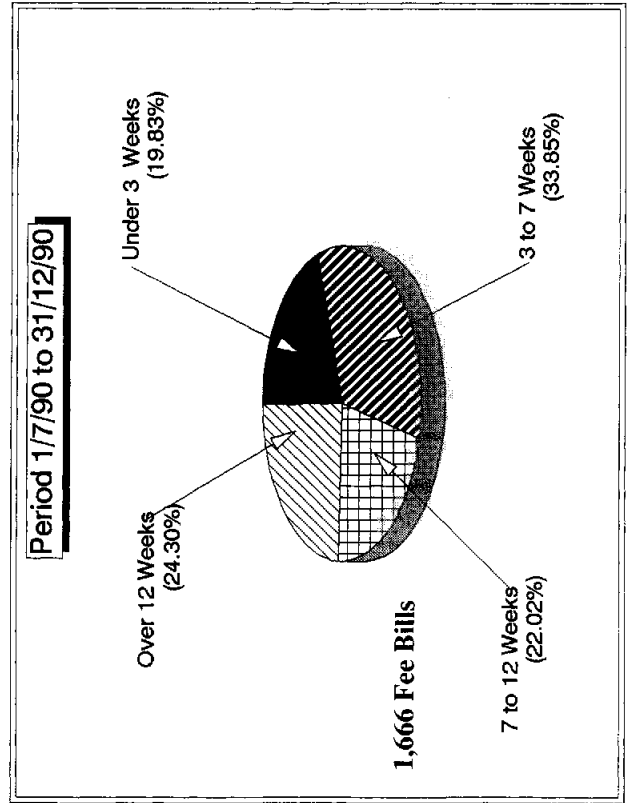
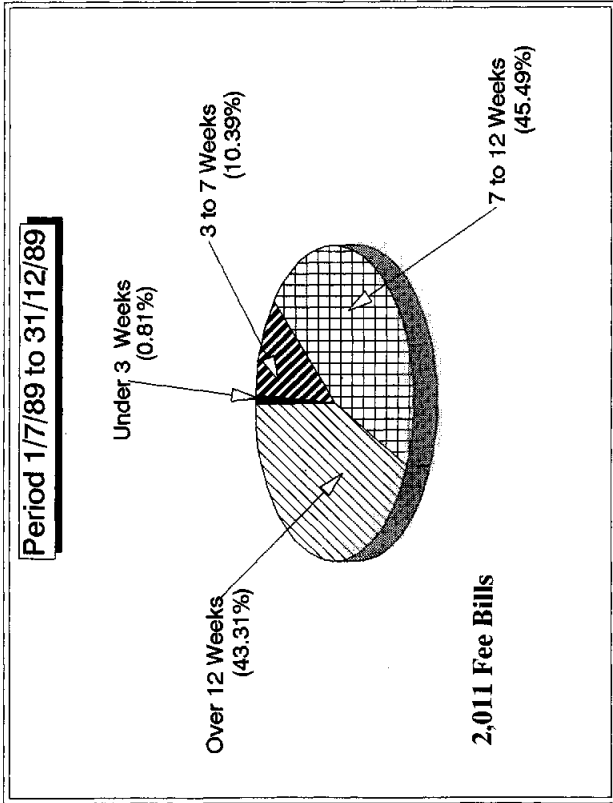
Civil Legal Aid Certificates (Non-Emergency) — Time to issue from application date.



Criminal Fees – Magistrates Courts – Time to pay from date of receipt



Criminal Fees – Crown Courts – Time to pay from date of receipt



9.8 *Conclusions drawn from an examination of the Costs of Legal Aid over the decade to 1990-91*

The graphs on pages 45 to 55 contain an analysis of the costs of legal aid over the decade 1981-82 to 1990-91. The Department felt that such an examination and the conclusions which could be drawn would likely throw some light on what is a topical subject at present.

Conclusions drawn—

1. Over the ten year period examined except for the year 1984-85 the average cost of legal advice and assistance (the Green Form Scheme) has been growing at a rate greater than inflation. However, when one examines the position vis-a-vis the Government grants actually received for each year in respect of legal advice and assistance it turns out from the analysis that except for the three years 1984-85, 1985-86 and 1986-87 the grants received were in excess of what actual growth and inflation (RPI) would have provided. Over the ten year period the amount of grant received was on average 7.3% greater which in real money terms means that allowing for actual growth the incremental cost to the Exchequer over the period grew by twice the average RPI for the decade.
2. The average cost of ABWOR has been growing at a rate higher than inflation between 1985-86 and 1988-89 but in the period 1989-90 and 1990-91 it has been growing at a rate lower than inflation.
3. Taking the Government grants actually received each year over the ten year period in respect of civil legal aid and ABWOR (and this has been done because over the ten year period ABWOR has virtually replaced summary jurisdiction civil cases) except for the years 1984-85, 1987-88 and 1989-90 the grants received were in excess of what actual growth and inflation (RPI) would have provided. Over the entire ten year period the amount of grant received was on average 5.27% greater which in real money terms allowing for actual growth means that the incremental cost to the Exchequer over the period grew less than twice the average RPI for the decade.
4. Since 1983-84 the average costs of criminal legal aid have year-in year-out been above and below the rate of inflation, the marked variation year by year probably being more significant because of the inclusion of a small number of high cost criminal cases. For example in 1988-89, 8 such cases cost £868,679, in 1989-90, 8 such cases cost £744,279 and in 1990-91, 11 such cases cost £828,024. The inclusion of these high cost cases in those years had the following impact on average costs—

	Average Cost <i>With Cases Included</i>	Average Cost <i>With Cases Excluded</i>
1988-89	£225.02	£197.56
1989-90	£288.12	£253.47
1990-91	£295.87	£253.76

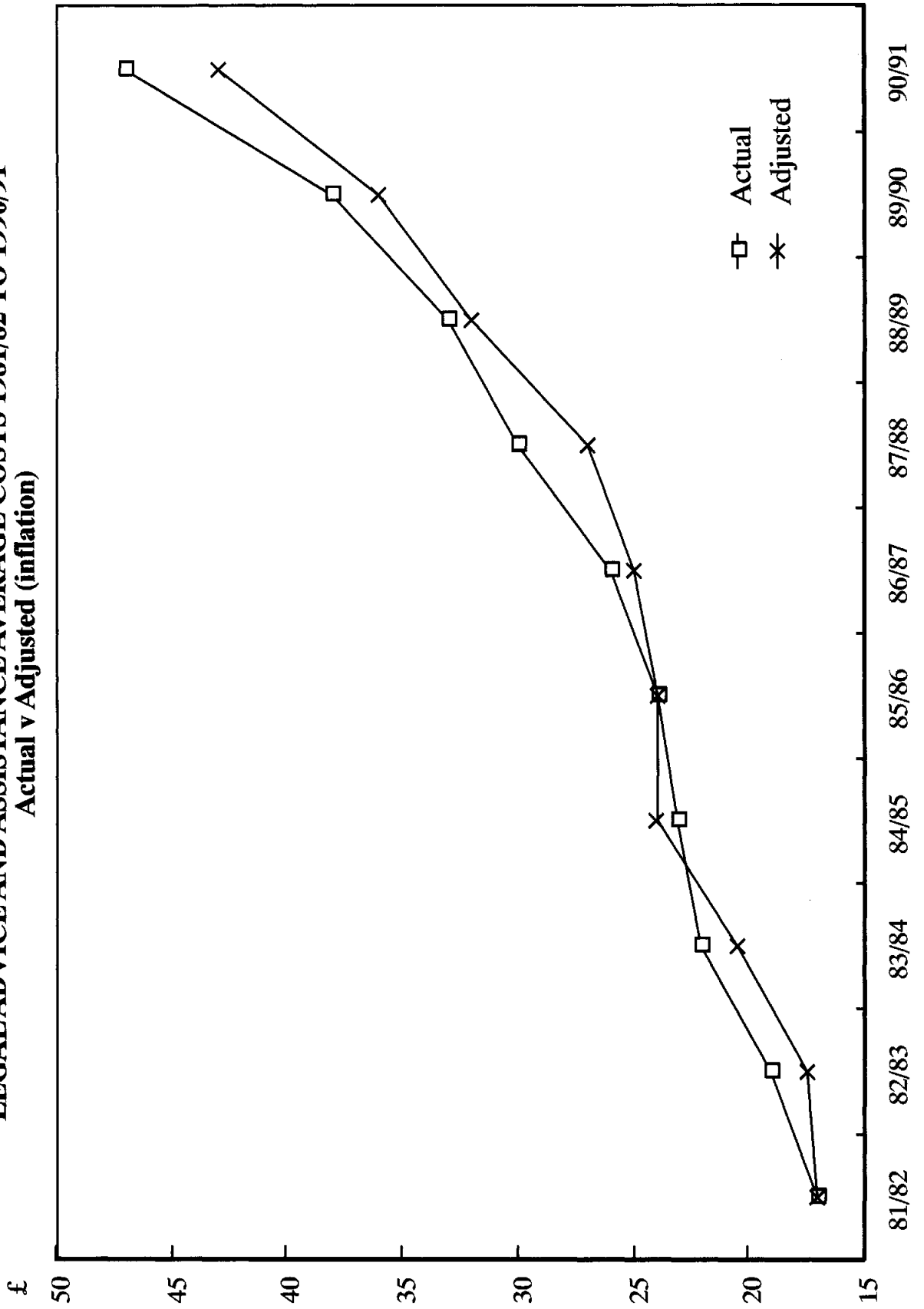
5. The graph analysing Government grant for criminal legal aid (which excludes administration costs) unlike the average cost graphs over the decade analysed has been adjusted not only for inflation but also for growth in the number of cases paid using a growth factor. As expected the comparison is similar to that for average cost in criminal cases during the same period. In each year the scale of over/under inflation can be gauged from the vertical scale. If the Government grants over the period examined had been provided merely by allowing for the actual growth that occurred over the years and also adjusted for inflation, the Department would have received just £242,000 less over the decade.
6. The two main cost areas of criminal legal aid are the Crown Court and Magistrates' Court cases, in that order. The former in 1990-91 accounted for roughly 60% of expenditure for approximately 7% of total caseload. The Magistrates' Court cases accounted for approximately 30% of expenditure for the bulk of the remaining caseload. Four further graphs have been included in order to examine separately in those two main areas average costs and Government grants received over the years as against those influenced by growth and inflation. Both graphs display the year by year degree of volatility shown in the two main criminal graphs but the degree of volatility is more marked in the Crown Court graphs. The average cost graphs and

grant graphs are as would be expected similar in many respects. The calculations on which the graphs were based show that the Crown Court cases were responsible for 85% of the excess grant received.

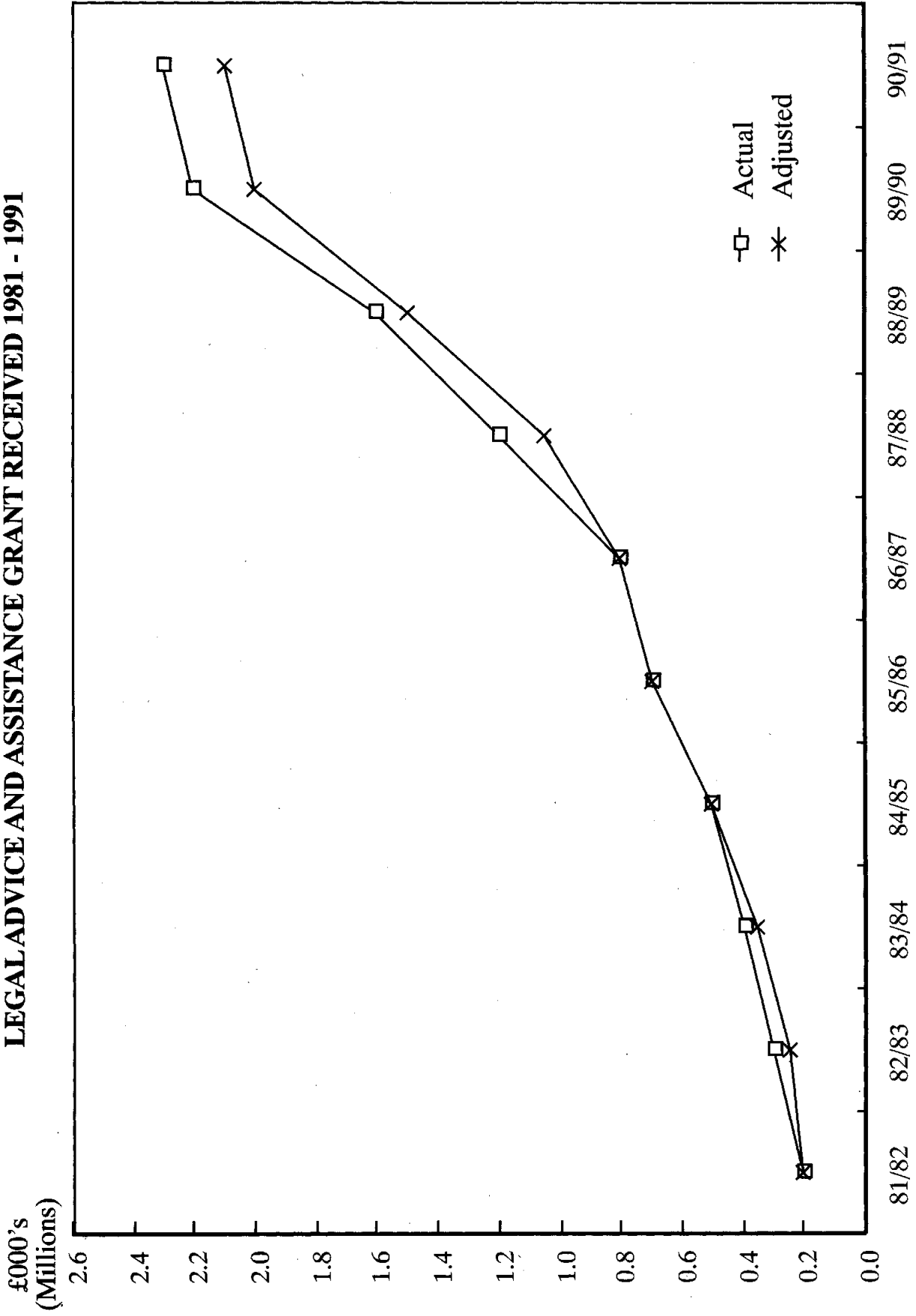
7. The graphs drawn show the comparison between average costs and Government grant each year as against those grants uplifted by growth and inflation. However, left out of account entirely is the amount of VAT included, in legal aid payments, the vast bulk of which returns to the Exchequer. For example, in each of the three years 1988-89, 1989-90 and 1990-91 almost £2m of legal aid payments represented VAT on fees and disbursements, a not inconsiderable sum. In addition, solicitors and counsel and those providers of services to them in respect of disbursements pay income tax on their fees which also returns to the Government purse. It is, therefore, impossible to reflect accurately the true net cost of legal aid to the Exchequer. Furthermore, included in the average cost figures and Government grants are payments in respect of disbursements. In the last three years, for example, these were in the region of 4 to 5 million pounds and it has not been possible in the time available to carry out an examination to investigate the extent if any to which the increasing cost of disbursements over the years influenced the growth in costs in excess of inflation more so than the actual fees received by solicitors and counsel in respect of legal services. The conclusions drawn from this exercise must therefore be subject to these qualifications.
8. The Society wishes to acknowledge the advice and assistance of Coopers and Lybrand Deloitte in carrying out this research and providing the commentary.

LEGAL AID DEPARTMENT

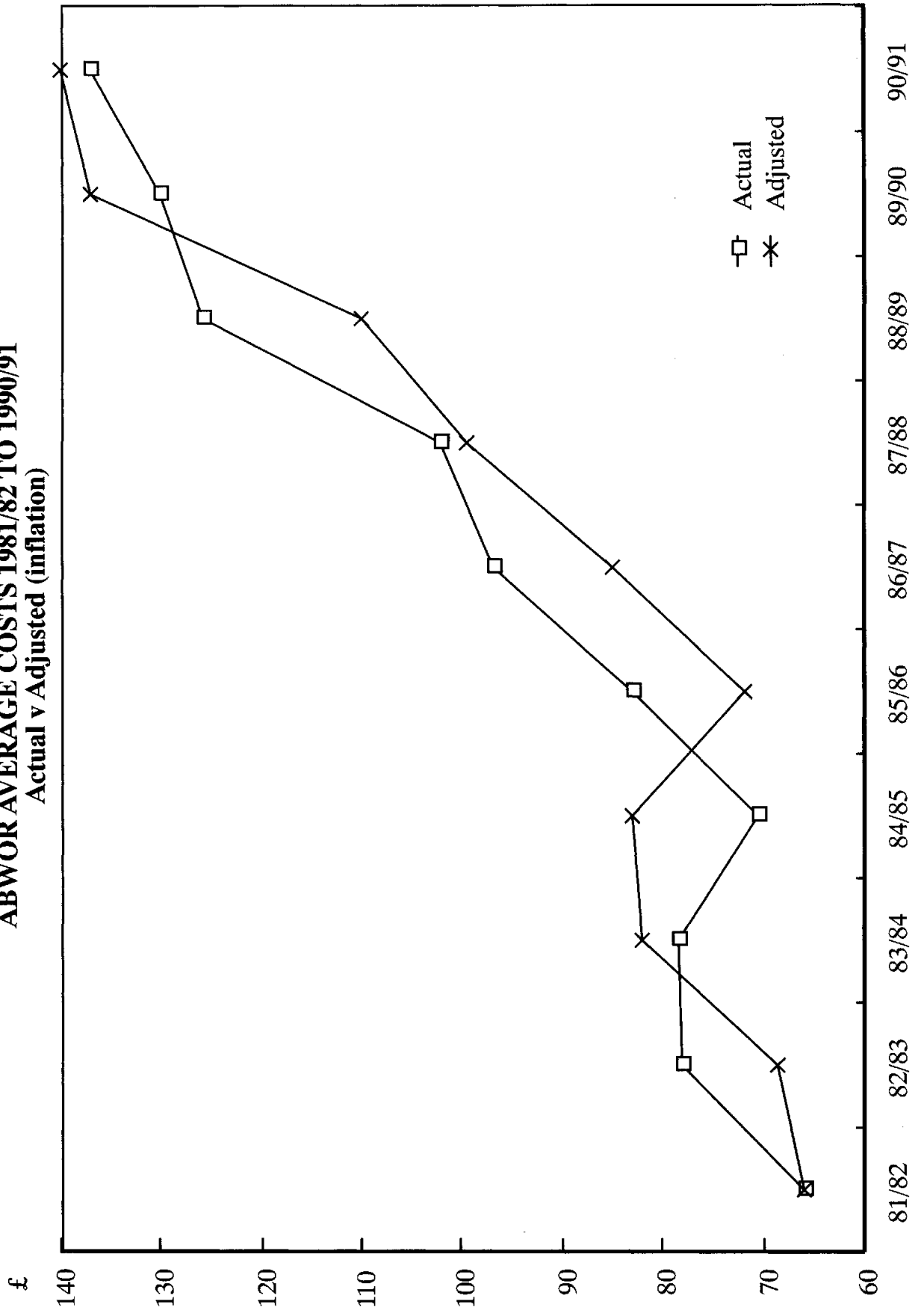
LEGAL ADVICE AND ASSISTANCE AVERAGE COSTS 1981/82 TO 1990/91
Actual v Adjusted (inflation)



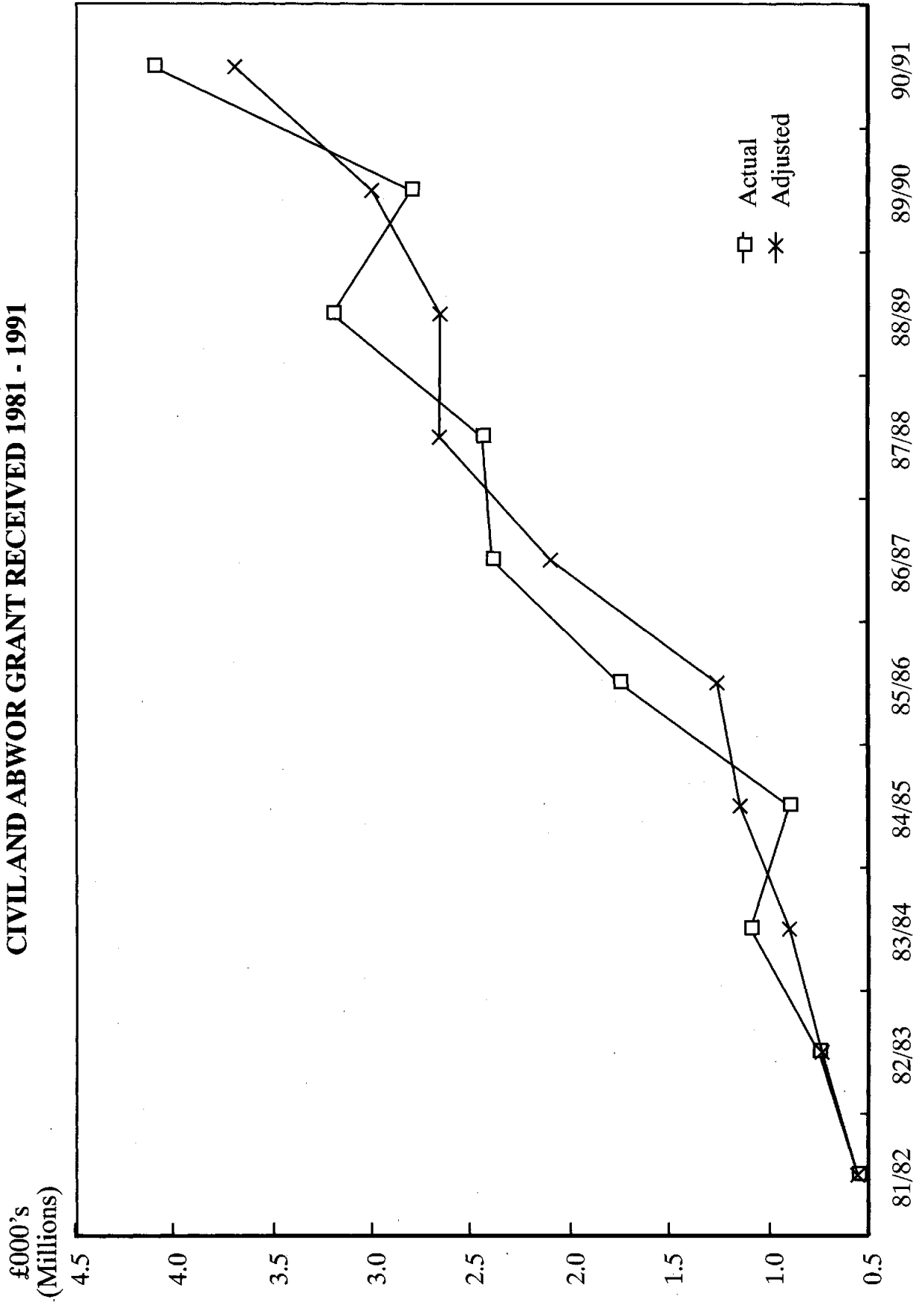
LEGAL ADVICE AND ASSISTANCE GRANT RECEIVED 1981 - 1991



LEGAL AID DEPARTMENT
ABWOR AVERAGE COSTS 1981/82 TO 1990/91
Actual v Adjusted (inflation)

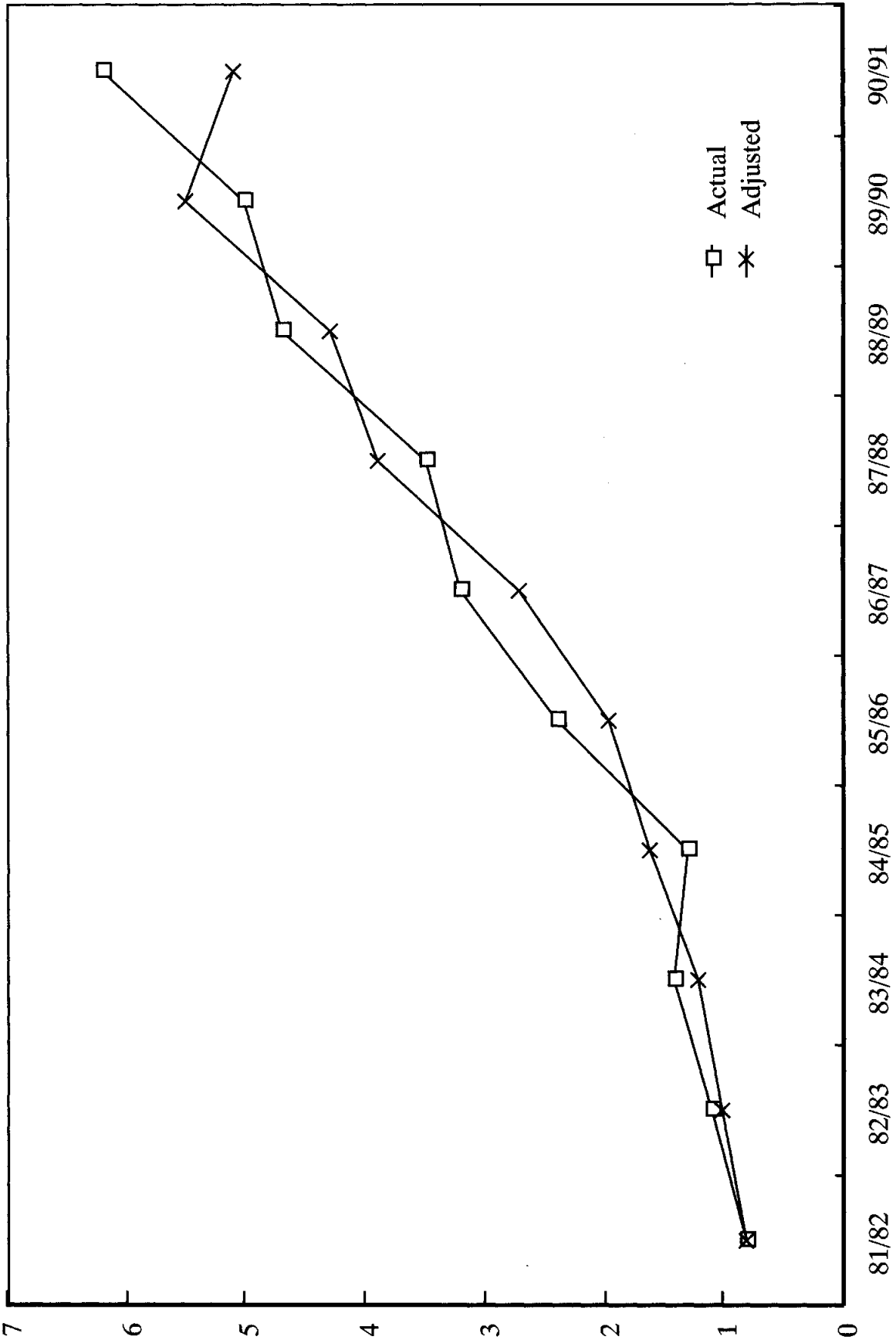


CIVIL AND ABWOR GRANT RECEIVED 1981 - 1991



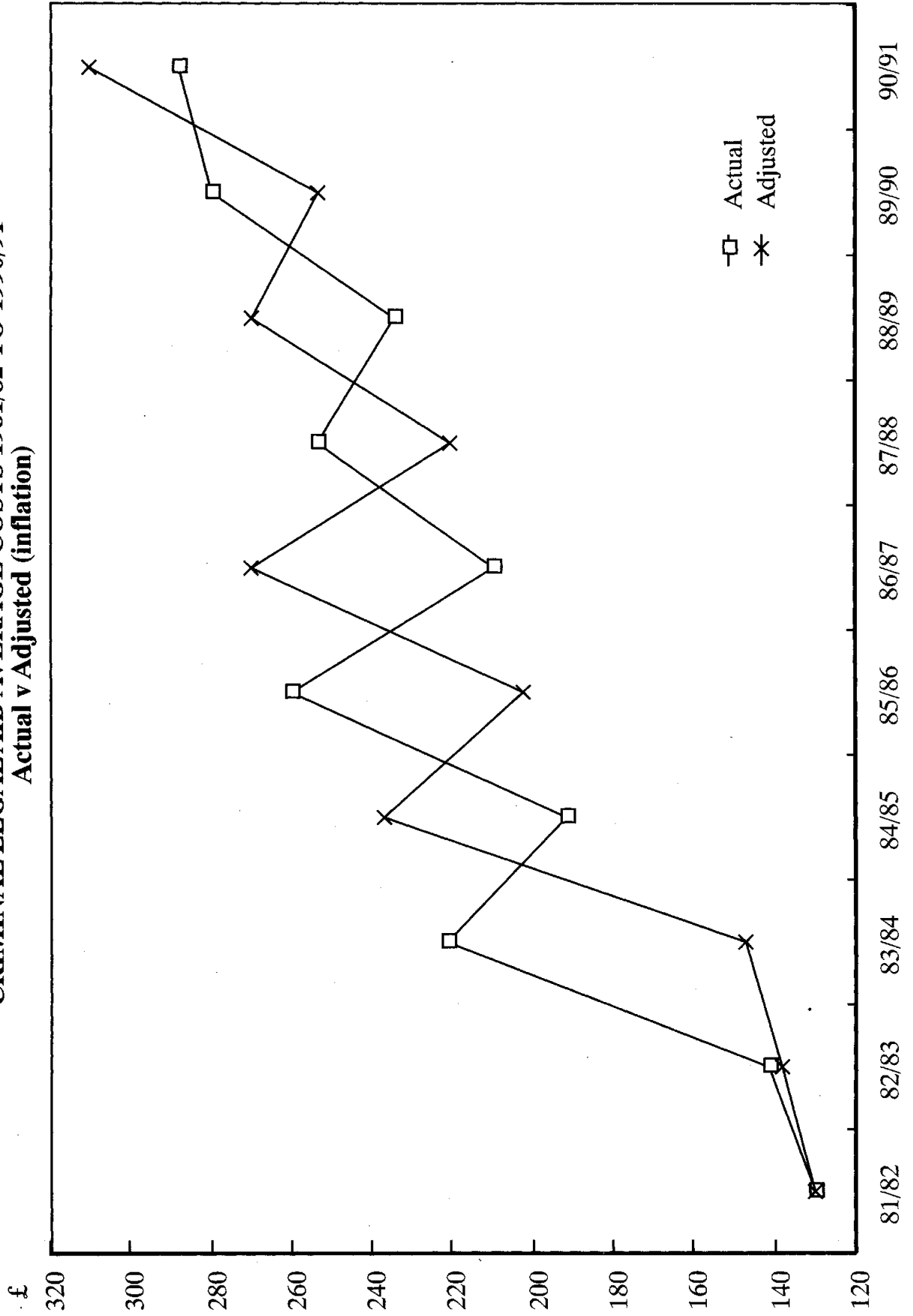
CIVIL LEGAL AID GRANT RECEIVED 1981 - 1991

£000's
(Millions)

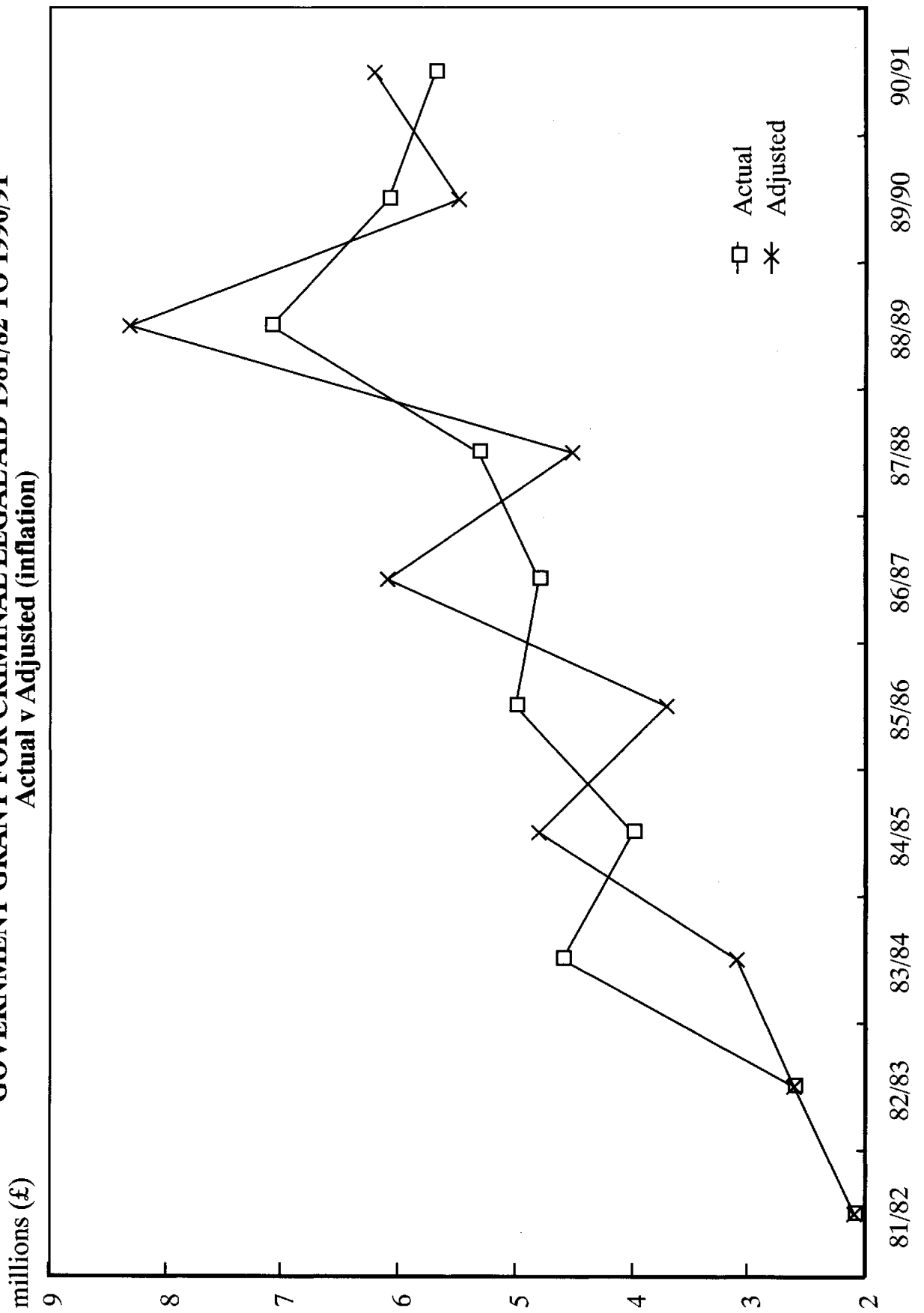


Note: In this graph 'Civil' includes civil, LAA and ABWOR

LEGAL AID DEPARTMENT
CRIMINAL LEGAL AID AVERAGE COSTS 1981/82 TO 1990/91
 Actual v Adjusted (inflation)

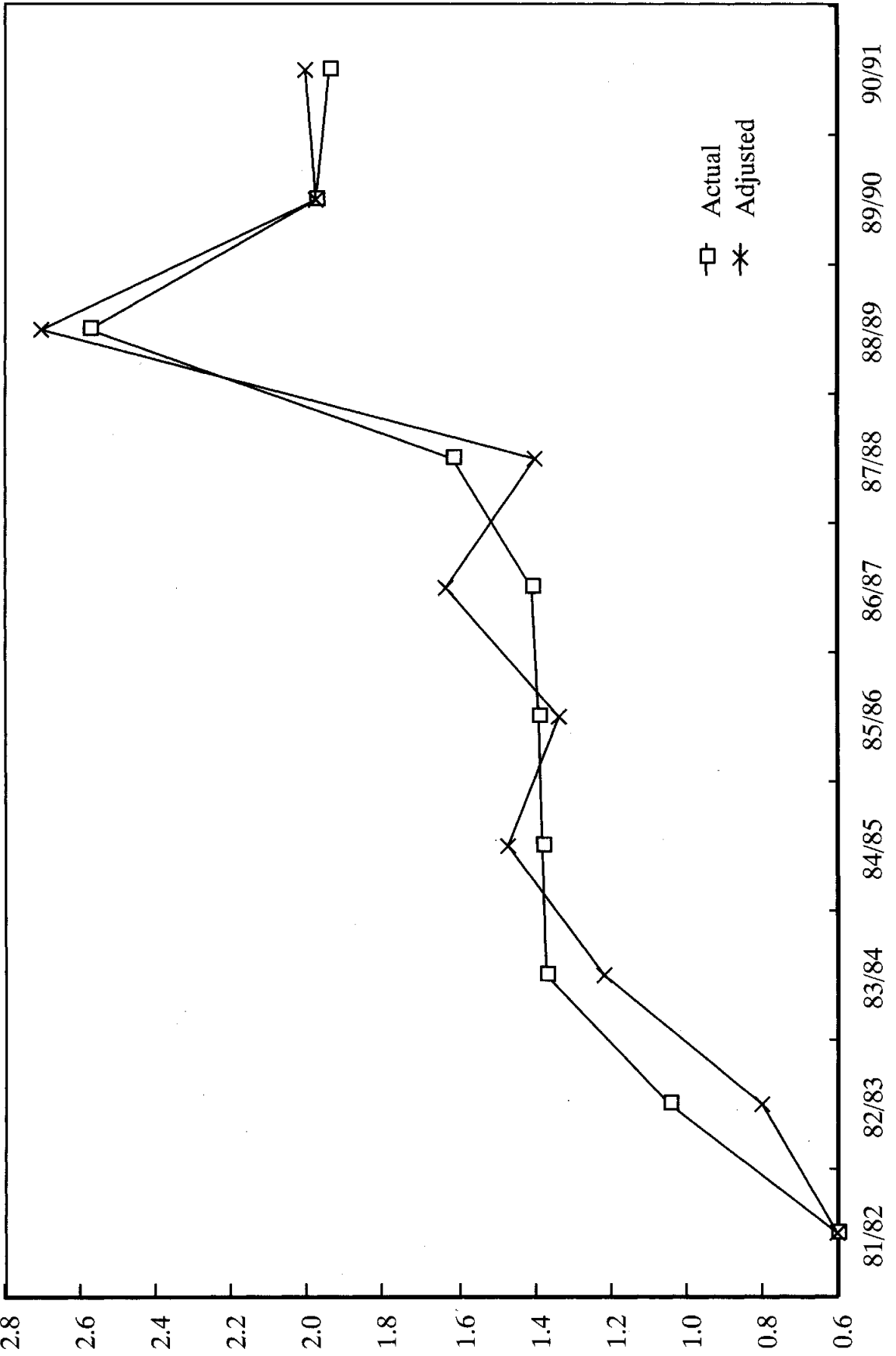


**LEGAL AID DEPARTMENT
GOVERNMENT GRANT FOR CRIMINAL LEGAL AID 1981/82 TO 1990/91
Actual v Adjusted (inflation)**

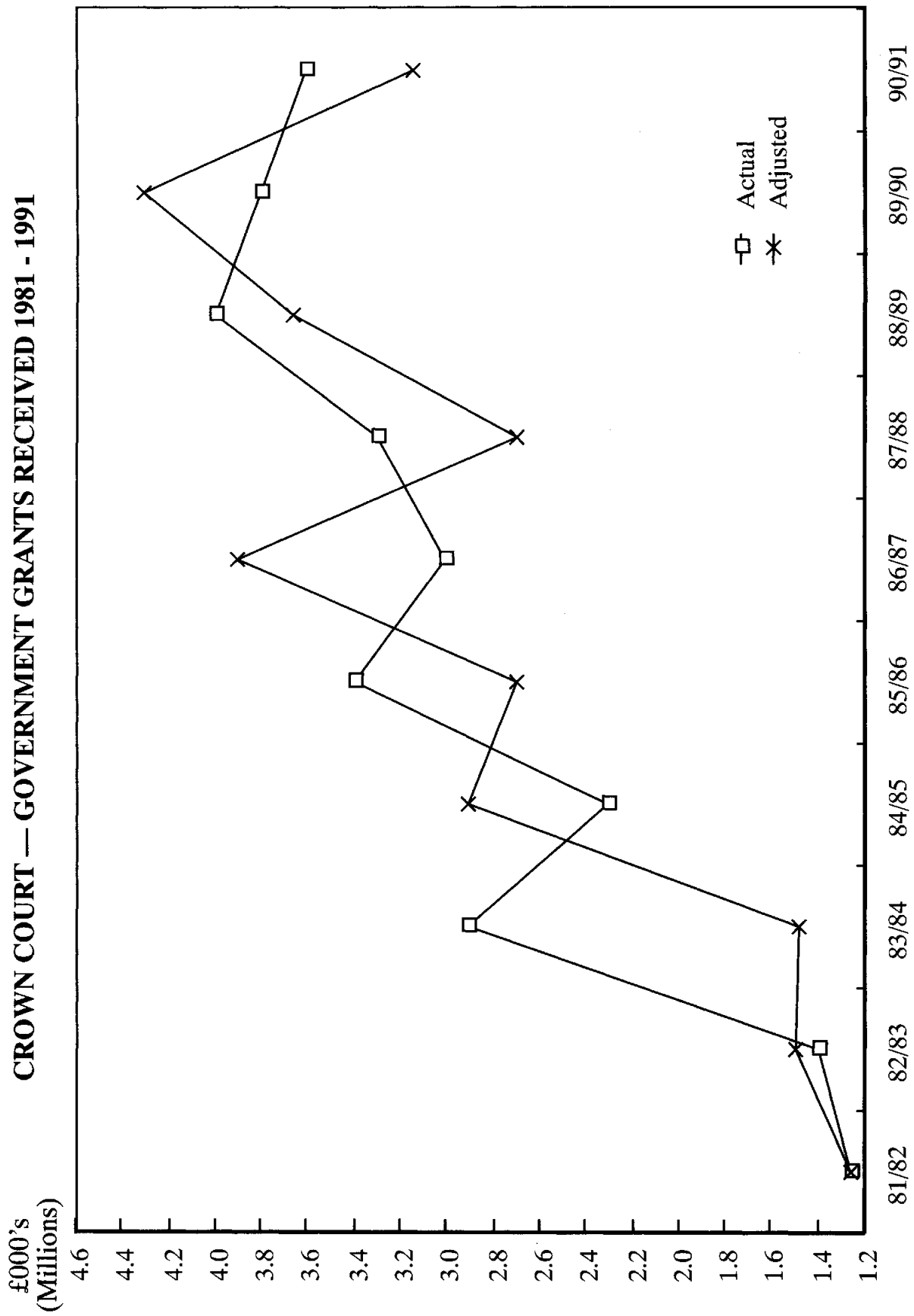


MAGISTRATES COURT — GOVERNMENT GRANTS RECEIVED 1981 - 1991

£000's
(Millions)

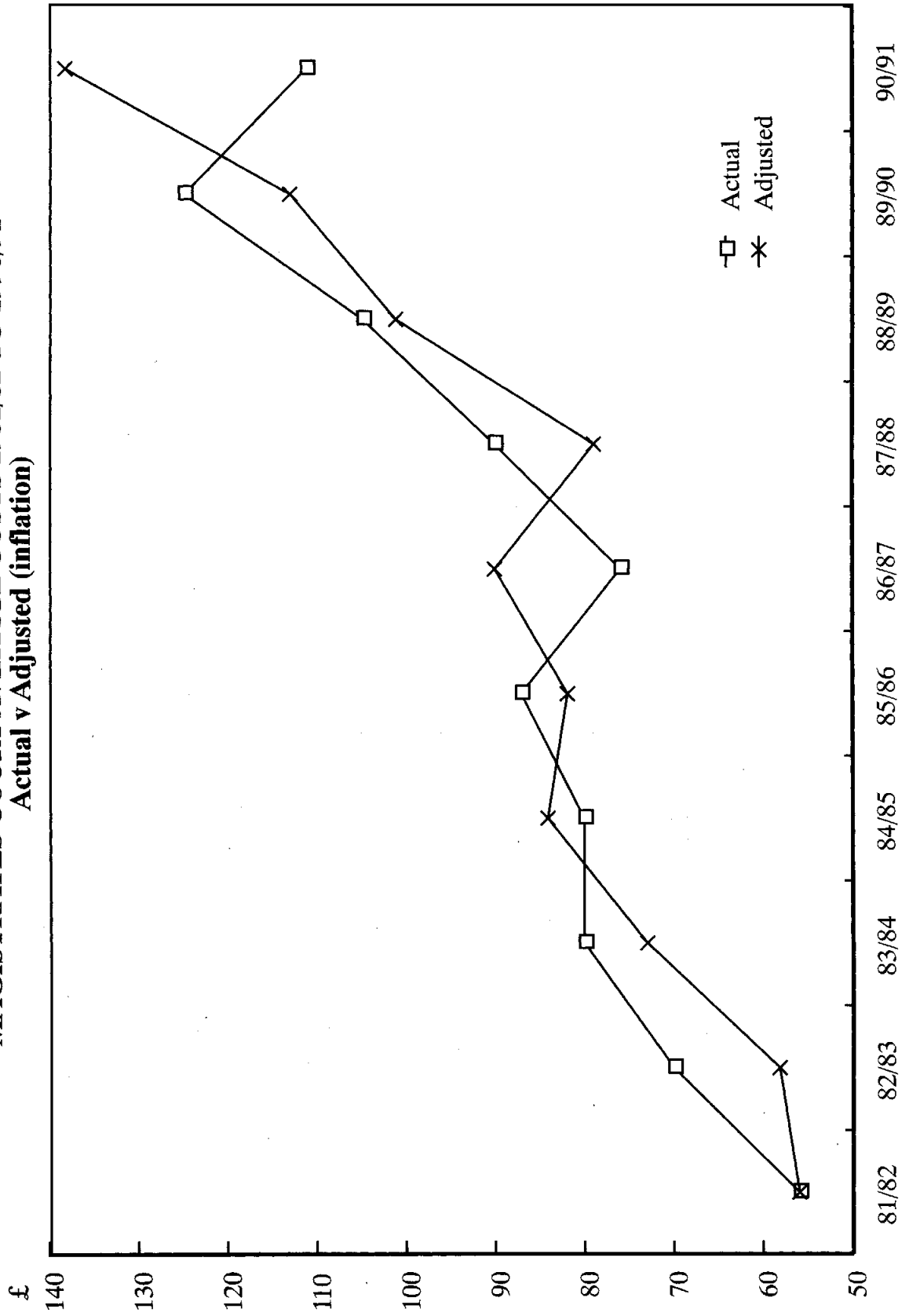


CROWN COURT — GOVERNMENT GRANTS RECEIVED 1981 - 1991

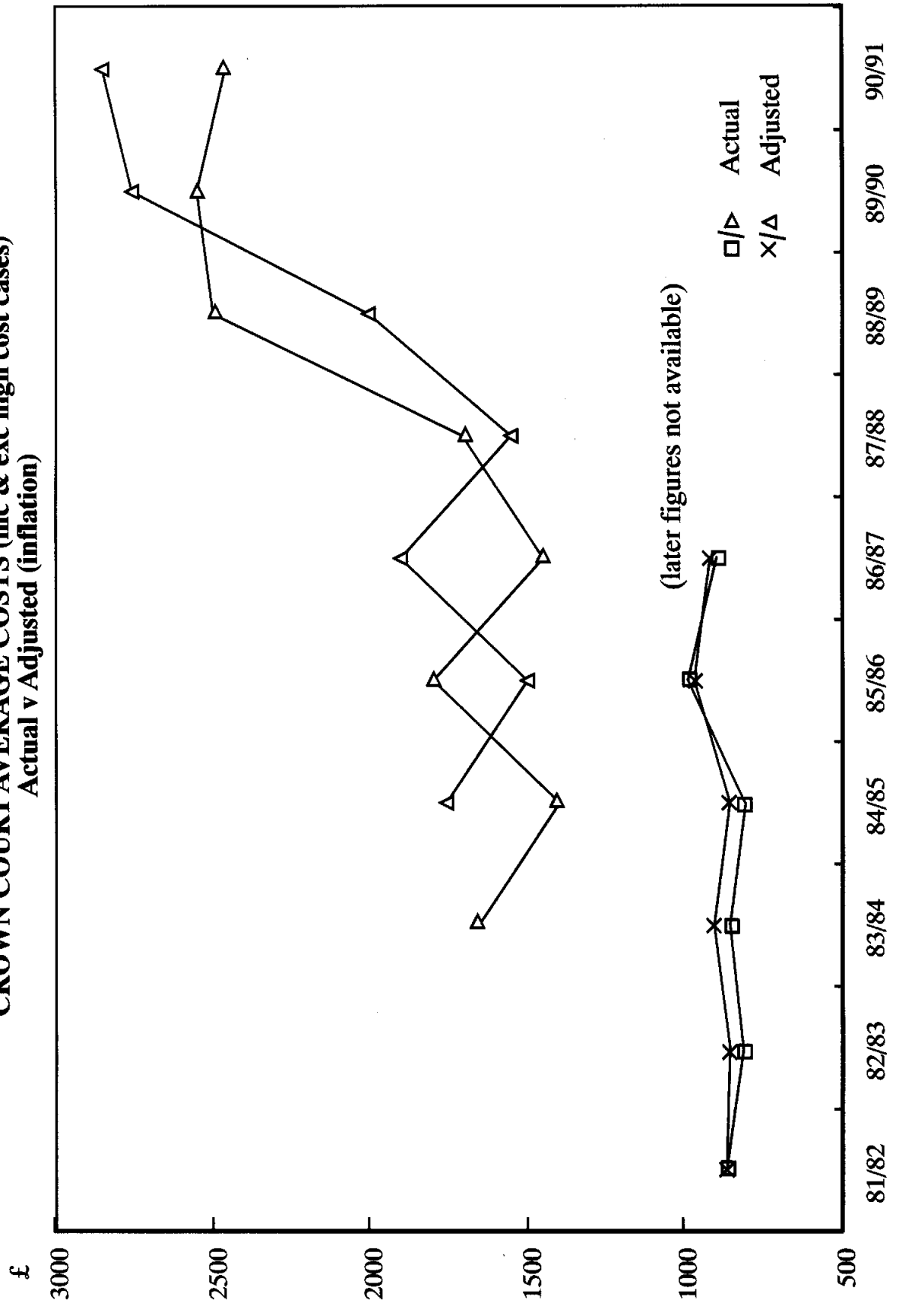


LEGAL AID DEPARTMENT

MAGISTRATES COURT AVERAGE COSTS 1981/82 TO 1990/91
Actual v Adjusted (inflation)



LEGAL AID DEPARTMENT
CROWN COURT AVERAGE COSTS (inc & exc high cost cases)
Actual v Adjusted (inflation)



10. Computerisation

1990/91 has been a year of implementation, improvement and consolidation rather than one which has seen the introduction of significant changes. However, Hardware and Software enhancements have been made in the following areas:—

— *New Draft Criminal Regulations.*

System Development work in this area has been completed, and all Hardware and Software has been installed and fully tested. The system is ready to commence work as soon as the scheme itself is given the final go-ahead, subject only to the set-up of the final versions of Fee Scales, etc. on the supporting Micro-computer system.

— *Direct Payment of Counsel for Criminal Cases*

This was implemented for payment of Barristers in April 1990 and has operated most successfully since then.

— *Statistics and Financial Control*

Enhanced facilities in this area have now been developed using the Borland Quattro Pro spread sheet package on the Amstrad 2386 micro-computers. These are being successfully used in the day-to-day management of Legal Aid Department. It is expected that additions and improvements to these systems will be made on a continuing basis.

— *Accounts Receivable*

Due to certain difficulties improvements in this area have been restricted to the introduction of more efficient Contributions Receipts posting facilities. These are now working fairly satisfactorily and will be improved upon in the coming months.

In 1991/92 it is anticipated that the following enhancements and improvements will be made.

— *Certificate Printing*

Improvement in the methods used for production of Civil Legal Aid Certificates is now long overdue. It is intended that, as a first step, the present dot-matrix printers will be replaced by Laser printers to improve presentation and efficiency. At a later stage it is hoped to move from the present "batch production" process to printing individual Certificates on an "on-demand" basis.

— *Accounts Receivable*

The re-design of the Accounts Receivable sections of the NICOLAS System will continue with facilities being provided to achieve the following:—

- *General.* To establish a set of effective and efficient procedures to manage and control all aspects of Accounts Receivable. This does not exist at the present time, nor does it form a part of the specifications prepared by PActel in 1984/85.
- *Contributions Cases.* To efficiently and easily cater for the complexities involved in accounting and producing certificates etc. for multiple cases for individual A.P.s, especially those which are Overlapped, Legally Linked or Financially Connected. Also to improve upon the efficiency of the processes involved in paying Contributions Refunds.
- *Damages, Costs, etc.* To provide effective automated facilities for recording, accounting and paying refunds.
- *Correspondence.* Various items of standard correspondence have changed over the last few years. In addition several items of correspondence which could be beneficially produced by computer are at present being typed. It is planned to review the production of all items of Correspondence and Legal Aid Certificates with a view to maximising the benefits to be obtained from automation. See also Word Processing below.
- *Word Processing.* The present AES Word Processor (which was installed six years ago and has been through three bombings) is now at the end of its effective working life. A new PC Based Word Processing is to be purchased shortly. This will cater for an additional Work Station and, in addition to providing a much

more efficient Word Processing facility, will allow the Legal Aid Department to realise the benefits to be obtained from facilities such as Desk Top Publishing, Presentation Graphics and Amalgamation of Text, Graphics and Data which are impossible with the present Hardware and Software.

- Management Reporting and Control and Statistics. The work commenced during 1990-91 using 3rd Generation Advanced Spread sheets and Amstrad 2386 Micro-Computers will continue. Further development of the management of Solicitors and Counsel Lists, Criminal Fee Tables, etc. will be carried out using the recently acquired Paradox 3.5 Database System. In addition, a small Laser Printer has been purchased for use in this area, which will improve the quality of graphics and other output. It is envisaged that more advanced facilities provided by the new Word Processor will be of use here in the formatting and presentation of Reports, Graphics and Statistics etc.

11. Publicity

During the year an analysis was carried out using the computer of the take-up of legal advice and assistance, ABWOR and civil legal aid in relation to Belfast and the six separate Counties in the Province. From the most up-to-date population statistics available the take-up in each of the seven areas for each of the three types of legal services was expressed as a population percentage. The purpose of this was to attempt to highlight areas in the province where take-up appeared to be significantly low. The areas highlighted by this sample survey were Antrim, Armagh, Down and Fermanagh for LAA, Tyrone for ABWOR and Antrim, Down and Fermanagh for civil legal aid. Following discussions with the Department's advertising agents the thirteen provincial newspapers with the best circulation in the highlighted areas were identified and arrangements were put in hand for legal aid advertising in those papers by five insertions in each over a five week period. The adverts were half-page size using the well known legal aid Logo and, as well as publicising legal aid generally, they also highlighted PACE and free legal aid for children. At the same time, solicitors associations in those areas were contacted and many solicitors practices advertised their services alongside the adverts, this being an attempt to link potential clients to the local providers of legal services. Separate similar adverts were placed in the three main Northern Ireland newspapers, with two insertions over two weeks and many solicitors also advertised alongside them. The total cost of this small but targeted publicity campaign was approximately £19,500. Next year it is hoped to return to TV advertising at a much higher cost.

12. Craigavon Duty Solicitor Scheme

As noted in the last Report the Craigavon Duty Solicitor Scheme has ceased to exist. Attempts to convene the Committee met with little success after a meeting held in Portadown to discuss PACE.

13. Belfast Duty Solicitor Scheme

The Belfast Duty Solicitor Scheme (The Belfast Scheme) continues to be the only duty solicitor scheme in Northern Ireland and the Liaison Officer continues to issue rotas and act as secretary to the Duty Solicitor Committee. The Scheme has not been working at all well during the year due to the duty solicitor desk in the court foyer not being manned and this has led to a decline in the number of persons seen by the duty solicitors. However, the society has been liaising with the Northern Ireland Court Service in an attempt to secure the services of a suitably experienced person to help resolve this problem.

14. The Voluntary Sector

The work of the Belfast Group of Citizens' Advice Bureaux was once again badly undermined by a funding crisis. The Whiterock Bureau and the Botanic Bureau have been closed. Although funding was announced for a new Bureau on the Springfield

Road near its junction with Falls Road, that Bureau will not be open to the public until September 1991 at the earliest. New premises for the Shankill and East Belfast Bureaux have been opened and funding secured for full time managers at these Bureaux. Both Bureaux have successful solicitors' rota schemes, and the new full time managers plan to increase their Bureau's outreach work using new portable micro-fische systems. However, these important new resources cannot replace the huge gap left in advice provision by the closure of the Botanic Bureau.

The Liaison Officer has had discussions with the Regional Office of NIACABX on the future of solicitors' rota schemes. As a result a new rota scheme was set up at Bangor Citizen's Advice Bureau.

Discussions have also been held with other voluntary advice groups and a new rota was started at the East Belfast Community Council. Other rotas at non-CAB advice agencies may follow negotiations with the North Belfast Development Centre.

The proliferation of development programmes from the major voluntary advice groups has given a renewed context to the Liaison Officer's attempt to develop a discussion within the sector on legal services and the relationship between the voluntary sector, the solicitor's profession and the legal aid schemes. Two new organisations have been established which will give a focus to the needs and aspirations of the voluntary advice giving sector.

These are—

1. A new Northern Ireland Poverty Network affiliated to the European Poverty Network, and committed to campaigning on issues such as access to advice on welfare issues.
2. The creation of a Northern Ireland extension of the Federation of Independent Advice Centres which will create the first formal structure for non-NIACAB advice agencies since the demise of the Association of Local Advice Centres.

The Advice Services Working Party set up by the Belfast Law Centre has played an important role in the slow reconstitution of the voluntary advice sector and in the coming year the possibility of a new Law Centre in Londonderry may open up the discussion begun by the Liaison Officer on the role of the solicitors profession in advice on Welfare Law and the future focus of public provision of funding for advice services in this area of unmet legal need.

15. The Welfare Lawyers Group

Due to pressure of work and lack of resources the Liaison Officer has not been able to contribute to the development of the Welfare Lawyers Group, despite lobbying for an assistant to allow him to develop this important area of work no resources were available and to the best of his knowledge the Group does not function. He has continued to direct members of the public requiring advice on Social Security issues such as Mobility Allowance to solicitor members of the Group.

16. Mental Health

The Law Society's Mental and Physical Disabilities Group has developed strongly with an active Committee. A sub-Committee has been set up to look into the operation of the Mental Health Review Tribunal (MHRT). This Sub-Committee comprising of a solicitor in private practice, the assistant director of the Northern Ireland Association for Mental Health, a member of the Mental Health Commission (in a private capacity) for Northern Ireland and the Liaison Officer, are investigating the possibility of getting the resources necessary to carry out a short research project on the operation of the MHRT. The progress of this project will be reported on.

17. Legislative Changes

In the year under review, the following amendments were made to the legislation governing Legal Aid and Legal Advice and Assistance in Northern Ireland.

Legal Aid The financial conditions for the grant of legal aid were amended during the year.

The Legal Aid (Financial Conditions) Regulations (Northern Ireland) 1989, (a), effective from 9 April 1990, increased the financial limits of eligibility for legal aid to make it available for those with disposable incomes of not more than £6,350 a year or, in connection with proceedings involving a personal injury, £7,000 a year (instead of £6,035). The upper limit for disposable capital (£6,000), above which legal aid may be refused it appears that the applicant could afford to proceed without legal aid, was increased to £6,310 or, in connection with cases involving a personal injury to £8,000. Legal Aid was also made available, without payment of a contribution, to those with disposable incomes of £2,645 a year or less (instead of £2,515).

The lower limit of disposable capital, below which no contribution in respect of capital may be required, remains at £3,000.

The Legal Aid (Assessment of Resources) Amendment (Regulations) (Northern Ireland) 1990, (b), effective from 1 April 1990, amended the Legal Aid (Assessment of Resources) Regulations (Northern Ireland) 1981 (S.R. 1981 No. 189), (as amended by S.R. 1983 No. 189, S.R. 1986 No. 46, S.R. 1988 No. 85, S.R. 1989 No. 89), so as to:

- (a) provide that the resources of persons living together as husband and wife are to be treated as if those persons were married;
- (b) that a child's resources will be computed on the same basis as those of a single adult;
- (c) allow account to be taken of resources which an applicant for a certificate has deprived himself of for whatever reason;
- (d) allow a disregard of capital on a sliding scale in respect of persons of pensionable age where their disposable income (excluding investment income) is below a specified limit;
- (e) allow a disregard in respect of capital payments made in relation to the incident which has led to the application for a certificate being made (e.g. disaster fund payments); and
- (f) make various transitional provisions.

The Legal Aid (General) (Amendment) Regulations (Northern Ireland) 1990, (c), provided:—

- (a) that the power of the Legal Aid Committee or a certifying committee to approve or refuse an application for a civil legal aid certificate may be exercised by the secretary to the committee, and
- (b) enabled the secretary to revoke a certificate where an assisted person has failed to attend for an interview, or to provide information, when required to do so in relation to an application for Legal Aid.

((b) above was implemented by the Legal Aid Committee on 5 October 1990 but Committee decided, on the same date, not to invoke the power in (a) until such time as a more satisfactory system of dealing with appeals to the Committee against the refusal of Legal Aid has been established, as mentioned in paragraph 9.1).

(a) S.R. 1990 No. 96
(b) S.R. 1990 No. 105
(c) S.R. 1990 No. 255

Legal Advice and Assistance The financial limits of eligibility for Legal Advice and Assistance were also amended during the year.

The Legal Advice and Assistance (Financial Conditions) Regulations (Northern Ireland) 1990, (d), increased, from 9 April 1990, the limits of disposable income and capital for the availability of Legal Aid Advice and Assistance Part II of the Legal Aid, Advice and Assistance (Northern Ireland) Order, 1981 to not more than £135.00 a week, (instead of £128.00) and from £890.00 to £935.00 respectively and available without payment of a contribution to those with disposable incomes of £64 a week or less (instead of £61). The capital limit in relation to assistance by way of representation remains at £3,000.

By the Legal Advice and Assistance (Prospective Cost) Regulations (Northern Ireland) 1990, (e), also effective from 9 April 1990, the limit on the cost of legal advice and assistance, under Articles 3 and 4 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, which a solicitor may incur without obtaining the approval of the appropriate authority, was increased from £73.00 to £78.50.

The Legal Advice and Assistance (Amendment) Regulations (Northern Ireland) 1990, (f), effective from 1 June 1990, amended the Legal Advice and Assistance Regulations (Northern Ireland) 1981 (S.R. 1981 No. 366), as amended, so as to:

- (a) provide that the resources of persons living together as husband and wife are to be treated as if those persons were married; and
- (b) allow account to be taken of resources of which the applicant has deprived himself for of whatever reason; and
- (c) substitute a new scale of contributions payable for advice and assistance under Article 7(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order, 1981 (Schedule 2).

(d) S.R. 1990 No. 94
(e) S.R. 1990 No. 95
(f) S.R. 1990 No. 104

18. The Legal Aid Committee 1990–91

Andrew Carnson *Chairman to November 1990*
Gerry Simpson *Elected Chairman November 1990*
John Bailie *Nominated by the Lord Chancellor*
Isobel Brownlie
Tony Caher
Harry Coll
Antoinette Curran
Donnell Deeny, Q.C. *Nominated March 1990*
James Doran
Margaret Elliott *Elected Vice-Chairman November 1990*
Colin Haddick
Ken Nixon

19. The Criminal Taxation Panel 1990–91

Counsel J Gillen, Q.C.*
H P Kennedy, Q.C.*
R McLaughlin, Q.C.*
M A Morrow, Q.C.*
P Coghlin, Q.C.†
T Mooney, Q.C.†
F E P O'Reilly†

Solicitors Laura A Gilbert*
J N S McCall*
E McEvoy*
H D Murray*
D O P Doris‡‡
R A S Merrick‡‡
P J McGrory‡‡
J P Toner‡‡

* Lord Chancellor's Appointments

† Nominated by the Bar Council

‡‡ Nominated by the Council of the Law Society

Appointed pursuant to Rule 9 of the Legal Aid Certificates Rules (Northern Ireland) 1966 as amended.

20. Legal Aid Management Staff 1990-91

Michael Davey *Secretary of the Society*

Oliver C Hayes *Chief Executive, Legal Aid Department*

William J J Wilson *Chief Legal Assistant, Legal Aid Department*

Angela Bannon *Senior Legal Assistant, Legal Aid Department*

Ruby McKee *Assistant Chief Executive, Legal Aid Department*

5 September 1991



Report of the
Lord Chancellor's Advisory
Committee on Legal Aid in
Northern Ireland
on the
26th Report of the Law Society
of Northern Ireland on the Legal
Aid Scheme 1990/91

Incorporating

The Report of the Law Society of Northern Ireland
on Legal Aid in Criminal Proceedings
1990/91

Laid before Parliament by the Lord Chief Cancellor pursuant to
Article 23(1) of the Legal Aid Act (Northern Ireland) 1981

MEMBERSHIP OF THE LEGAL AID ADVISORY COMMITTEE
FOR NORTHERN IRELAND

His Honour Judge Petrie Q.C. (*Chairman*)
V. Chambers B.Sc., C.B.E.
B. G. Finegan F.C.A.
Mrs. L. A. Gilbert LL.B.
*Miss B. Hadfield LL.B. LL.M.
A. W. Jack LL.B. M.A. R.M.
J. P. McGrath
J. I. Meehan LL.B.
Master J. C. Napier
Mrs. A. P. O'Donoghue
N. Searight

M. J. McMullan B.A. (Hons.) Dip.B.A. (*Secretary*)
Miss M. E. Ayre (*Assistant Secretary*)

*Resigned December 1991

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To the Right Honourable the Lord Mackay of Clashfern, Lord High Chancellor of Great Britain.

Introduction

1. The Annual Report of the Law Society of Northern Ireland ("the Society") on the operation and finance of the Legal Aid Scheme including legal aid, advice and assistance for the year ending 31 March 1991 has been referred to your Committee for our comments and recommendations, in accordance with the provisions of Article 23(3) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.

2. The Society's 26th Annual Report ("the Report") includes a non-statutory report on Criminal Legal Aid which has also been referred to the Committee for consideration and comment.

3. We have discussed the Report with representatives of the Society, the Society's Legal Aid Committee and the Legal Aid Department ("the Department").

PART I

THE LEGAL AID SCHEME

4. The Society's Report

4.1 We would again invite the Society to reconsider the format of the Annual Report in the light of their new word processing facilities.

4.2 In our report last year¹ we invited the Society to detail in its future Reports, actual performance as set against formulated targets and objectives. We have been informed by the Society's representatives that such information will be provided in the future.

4.2.1 The new pie charts at pages 37 to 42 of the Report provide a useful illustration of actual performance. In future Reports we would welcome the inclusion of data covering these aspects of the Department's work based on the reporting year.

4.3 In its last Report² the Society outlined new arrangements under Green Form which authorised solicitors to take certain steps at specific cost levels without having to seek an extension of the Green Form statutory cost limit. These have been in effect since 1 March 1990. We shared the Society's hope, if the arrangements were used fully by the profession, that the time taken to grant or refuse legal aid would be reduced. We are disappointed to note from paragraph 2.3 of the Society's current Report that they have not been used fully by the profession. As a further consequence a significant reduction in the issue of limited certificates was expected but has not occurred. We comment further at paragraph 6.4.

5. Green Form and ABWOR

5.1 Table A: Green Form Caseload³

CASE RECEIPTS			
<i>Year</i>	<i>Outstanding at 1 April</i>	<i>New Applications</i>	<i>Total to be dealt with</i>
1988/89	14,620	48,824	63,444
1989/90	14,489 ⁴	50,671	65,160
1990/91	4,170	58,332	62,502

1. HC 491 (1990/91) — Paragraphs 4.2 and 4.3

2. HC 491 (1990/91) — Paragraphs 2.3 and 5.4

3. Figures are taken or derived from Appendix 1(a) of the Society's Report for 1988/89, from paragraph 3.1 of the Society's Report for 1989/90 and from paragraph 3.1 of the Society's current Report.

4. This figure differs from the 10,721 given for the end of year backlog in the Society's Report for 1988/89. An explanation was provided at paragraph 3.1 of the Society's Report for 1989/90.

CASE DISPOSALS

<i>Year</i>	<i>Returned/ Refused</i>	<i>Payments</i>	<i>Total dealt with</i>	<i>Not disposed of at 31 March</i>
1988/89	4,219	48,504	52,723	10,721
1989/90	3,566	57,424	60,990	4,170
1990/91	2,155	50,448	52,603	9,899

5.2 Case disposals expressed as a percentage of case receipts are as follows:

1988/89 — 83%, 1989/90 — 94%, 1990/91 — 84%.

5.3 There were 6,789 authorisations to exceed the prospective cost limit under Green Form in 1990/91 as against 12,751 in 1989/90 (paragraph 3.3). The reason for this reduction is not apparent from the Society's Report. We would again suggest to the Society that details of these applications are recorded in the format illustrated in Table A.

5.4 It was stated in the Society's Report for 1989/90¹: "The overall average claim costs have thus risen by almost 16.5% over last year which is well in excess of inflation and the yearly hourly rate percentage increase approved". We calculate the equivalent figure for 1990/91 to be 21.26%, a considerable increase. The Society attributes this increase in average costs to a greater number of cases being paid in excess of the £78.50 statutory limit. Whilst we do not dispute that the number of cases actually paid in excess of the statutory limit in 1990/91 (7,267) was greater than in 1989/90 (5,618) we would be interested in the reason for this continuing trend (1988/89 3,300, 1987/88 2,239). In paragraph 3.5 the Society, through a process of deduction, concludes that "the overall increase in average cost must be due to solicitors having to spend more time giving advice to clients". There is however no explanation of why this should be so and these substantial increases in average costs clearly need to be investigated.

5.5 Table B: ABWOR Caseload²

	<i>1988/89</i>	<i>1989/90</i>	<i>1990/91</i>
Applications received	10,728	11,426	11,536

5.5.1 The number of payments under ABWOR for the three periods was respectively 10,605, 8,806 and 9,710 though these figures are not necessarily related to those in Table B.

5.5.2 Paragraph 4.1 of the Report does not provide turnaround times for these applications and we suggest that information of this kind would be useful both for management and the reader.

6. Civil Legal Aid — Volume

Table C: Civil Aid Applications Received and Civil Aid Certificates Issued³

<i>Year</i>	<i>Applications Received</i>	<i>Applications Registered</i>	<i>Certificates Issued</i>
1988/89	18,983	18,034	14,099
1989/90	20,461	16,979	24,332
1990/91	19,078	15,188	15,655

1. HC 491 (1990/91) — Paragraph 5.2.

2. From Paragraph 4.1 of the Report.

3. From Paragraphs 5.1 and 5.4 of the Report.

6.1 An examination of the pie charts on page 40 of the Society's Report indicates progressive reductions in the time taken to issue certificates over the two-year period 1/1/89-21/12/90. At the beginning of this period approximately 30% of certificates were issued within 12 weeks and approximately 70% in excess of 12 weeks. By the end of this period these percentages had been reversed.

6.1.2 The Report does not provide a clear picture about backlogs in the processing of civil aid applications. We have referred to this matter previously¹.

6.2 We have already referred to the pie charts on page 40 of the Report which provide an overview of performance regarding the time taken to issue certificates. This information could be complemented by the inclusion of a time analysis table. A useful analysis of the average time taken to complete the various stages in the processing of applications was given in the Society's 24th Annual Report². Unfortunately this has not since been repeated and we hope that this omission will be rectified.

6.3 Table D: Civil Legal Aid — Applications Returned³

<i>Year</i>	<i>(a) Applications Received</i>	<i>(b) Applications Returned</i>	<i>(c) (b) as a % of (a)</i>
1988/89	18,983	949	5
1989/90	20,461	3,482	17
1990/91	19,078	3,890	20

Table D depicts a deteriorating situation with regard to applications for Civil Legal Aid returned for various reasons.

We support fully the efforts made by the Society to bring this matter to the attention of the profession. It is clear that a lack of adequate care and attention in this regard can only delay matters for the solicitor and his client and add to the costs of administration.

6.4 In its 25th Annual Report⁴ the Society noted that it expected a significant reduction in the issue of limited certificates if the new policy of preliminary investigation under Green Form was fully utilised.

6.4.1 In paragraph 2.3 of the Report it is stated that this use of the Green Form Scheme "is not gathering momentum with anything like the speed that it should". We have some difficulty with this point as we understand the revised supplementary application forms for legal aid are intended to ensure that practitioners have completed the various investigatory measures beforehand.

6.4.2 The proportion of limited certificates issued by the Department has remained much the same, indeed has increased marginally. The Department issued 3,923 limited certificates in 1990/91 (paragraph 5.4 of the Report) which equates to 44% of full certificates. The equivalent figure for the previous year was 38%.

6.4.3 We still hold the view expressed in our last Report⁵ that the issue of limited certificates causes additional delay and expense to the Department and in the conduct of legal proceedings. Furthermore we would suggest to the Society, as we did last year⁶, that the whole basis upon which limited certificates are issued should be

1. HC 491 (1990/91) Paragraph 6.2.
 HC 417 (1989/90) — Paragraph 6.2.
 2. HC 417 (1989/90) — Appendix 2(i)
 3. From Paragraph 5.1 of the Report.
 4. HC 491 (1990/91) — Paragraph 5.4.
 5. HC 491 (1990/91) — Paragraph 6.4.2.
 6. HC 491 (1990/91) — Paragraph 6.4.4.

reviewed in consultation with the profession and in the light of the Society's efforts to encourage the use of the investigative arrangements under Green Form. Such a review may reveal that these certificates are being issued increasingly to obtain Counsel's opinion, discovery etc and to limit progress to specified stages of pleadings which may be more appropriate to High Court proceedings than to County Court cases.

7. Table E(i): Civil Legal Aid — Applications by Courts¹

	1988/89	%	1989/90	%	1990/91	%
Magistrates' Courts	12	0	3	0	9	0
County Courts	10,330	57	8,990	53	7,204	47
High Court	6,969	39	7,230	43	7,201	47
Others (mainly appellate courts)	723	4	759	4	774	5
Total	18,034		16,982		15,188	

Table E(ii): Judicial Statistics²

	1988	1989	1990
County Court			
— Civil Bills entered	34,111	40,006	42,322
High Court			
— Divorce Petitions filed	2,224	2,407	2,281
— Queen's Bench Writs issued	8,773	9,797	11,156
Total	45,108	52,210	55,759

7.1 These Tables illustrate the continuing marked contrast between the decrease (particularly in the County Court) or stabilisation of legal aid applications on the one hand and, on the other, increases in the number of County Court Civil Bills and Queen's Bench Writs. High Court Divorce Petitions have decreased marginally. These trends which have been evident for a number of years may, as we have suggested previously, reflect the increasing extent to which financial tests are reducing the proportion of the population eligible for legal aid. We received your Lordship's Review of the Financial Conditions for Legal Aid³. Our response to the first part of this review is contained in Appendix A. We await the outcome of this consultative exercise with considerable interest.

8. Civil Legal Aid — Applications by Case Type

Table F: Divorce, and other Matrimonial⁴

Year	(a) Total Applications	(b) Divorce, Nullity, etc.	(c) Maintenance and other Matrimonial	(d) Total (b) + (c)	(e) (d) as % of (a)
1988/89	18,034	1,993	285	2,278	13
1989/90	16,982	2,005	319	2,324	14
1990/91	15,188	2,205	354	2,559	17

1. From Paragraph 5.1 of the Report. Figures less than 0.5% are rounded down.
2. Figures derived from Judicial Statistics for Northern Ireland 1990. Although they are expressed in calendar years it is felt that comments are justified.
3. "Eligibility for Civil Legal Aid — A Consultation Paper" — Lord Chancellor's Department, June 1991.
4. From Paragraph 5.3 of the Report.

8.1 There has been a marginal increase in the percentage of applications for divorce and maintenance etc, although numbers of Decrees Nisi seem to have stabilised as shown in Table G.

Table G: Divorce Statistics — General¹

Decrees Nisi granted in:

<i>Year</i>	<i>High Court</i>	<i>County Court</i>	<i>Total</i>
1988	1,145	606	1,751
1989	1,339	737	2,076
1990	1,340	675	2,015

These figures exclude Orders for Judicial Separation.

8.2 The tendency to use the County Court as a forum for divorce proceedings appears to be levelling off. However, it would still be of interest to have recorded the number of legally aided petitions dealt with in the High Court and in the County Court respectively.

8.3 Table H: Negligence²

	<i>1988/89</i>	<i>1989/90</i>	<i>1990/91</i>
Employer's liability	1,997	1,973	1,615
Road accident	1,581	1,524	1,274
Tripping	2,782	2,313	1,233
Medical	217	229	214
Other negligence	3,026	2,733	2,574
Totals	9,603	8,772	6,910

8.4 Table H shows a reduction in the grant of laid aid certificates in all categories of negligence cases. We note the substantial decline in the number of legally aided "tripping cases". The number of people killed or injured in traffic accidents increased marginally, (1989 — 11,611, 1990 — 11,761)³, whilst the number of legal aid applications for road accident cases decreased (1989/90 — 1,524, 1990/91 — 1,274). However, legal aid is not the only source of funding for such proceedings.

8.5 Negligence cases accounted for approximately 45% of all civil legal aid applications as compared with approximately 50% for 1989/90.

8.6 Other Categories

8.6.1 We would encourage the Society to introduce a separate category of applications in Judicial Review cases which are increasing. We have commented upon this in previous Reports⁴.

8.6.2 We would repeat⁵ our suggestion that landlord/tenant cases also warrant a separate category.

8.6.3 We note the comments made in paragraph 5.3 of the Report in relation to the increase in bankruptcy cases.

9. Table I: Civil Legal Aid — Results of Reported Cases⁶

<i>Year</i>	<i>Total Cases</i>	<i>Judgment for assisted persons</i>		<i>Settled</i>		<i>Judgment against assisted persons</i>		<i>Discharged or withdrawn</i>	
			<i>%</i>		<i>%</i>		<i>%</i>		<i>%</i>
1988/89	10,686	3,668	34	3,442	32	1,752	16	1,843	17
1989/90	13,667	4,449	33	3,962	29	2,249	17	2,924	21
1990/91	20,051	4,435	22	4,707	23	2,787	9	8,801	44

1. Source: Judicial Statistics for Northern Ireland 1990.
2. From Paragraph 5.3 of the Report.
3. Chief Constable's Annual Report 1990 — Appendix 4.
4. HC 417 (1989/90) — Paragraph 8.6.
HC 491 (1990/91) — Paragraph 8.6.1.
5. HC 491 (1990/91) — Paragraph 8.6.2.
6. From Paragraph 5.6 of the Report.

9.1 The explanation given for the substantial increases for 1990/91 in the first and last columns of Table I is that a number of cases which had lain dormant in the system were brought into the reckoning and deemed to be “discharged or withdrawn” without formal report (paragraph 5.6 of the Report). It occurs to us that cases should not be treated as ‘discharged’ without final reports. We would ask again¹ that the Society distinguish between certificates discharged, revoked or withdrawn.

9.1.1. The position is clarified somewhat by disregarding the high number of discharged or withdrawn cases detailed in Table I. Comparing 1990/91 with 1989/90 reveals an increasing proportion of settled cases. The figure of 4,707 for 1990/91 was in fact the highest ever recorded.

Table J: Cases Settled²

Year	<i>All Courts (%)</i>		<i>County Court (%)</i>	
1988/89	3,422	(38.70)	2,331	(48.22)
1989/90	3,962	(36.88)	2,600	(43.65)
1990/91	4,707	(41.80)	2,997	(52.10)

9.1.2 In broad terms the overall pattern during the last three years has been, 40% of cases have been successful, 40% have been settled and 20% have been unsuccessful.

9.2 We welcome the inclusion, at page 39 of the Report, of pie charts illustrating the time taken to pay fees from date of receipt of bills. These show that about 50% of bills received 1/1/89-30/6/89 were paid within 12 weeks whereas during the period 1/7/90-31/12/90 this figure had increased to about 80%. This is a welcome improvement.

10. Table K: Costs of the Legal Aid Scheme³

<i>Year</i>	<i>Payments to Solicitor and Counsel including disbursements</i>		<i>Costs of Administration</i>	<i>Total</i>
	<i>Civil Legal Aid</i> £	<i>Advice & Assistance</i> £	£	£
1988/89	8,205,285	2,918,319	970,738	12,094,342
1989/90	7,719,974	3,346,300	1,081,694	12,147,968
1990/91	10,880,959	3,691,213	1,215,779	15,787,951

10.1 The total figure for 1990/91 was considerably higher than the corresponding figure for 1989/90, particularly for civil legal aid. In paragraph 5.8 of the Report the Society attributes the bulk of the increase in civil legal aid fees to significantly higher numbers of cases in the higher cost bands over £500. We note that most of this increase was covered by costs won in court or obtained in settlement.

10.2 The level of nil contributions for Green Form, ABWOR and Civil Legal Aid in 1990/91 was very similar to the previous year.

10.3 We feel the data contained in Table L is of interest even though comparisons between the figures for Northern Ireland and those for Scotland and England and Wales may not be totally accurate because of differences in the systems of administering civil legal aid.

1. HC 417 (1989/90) — Paragraph 9.1.

2. From Paragraph 5.6 of the current and previous Reports.

3. From Paragraph 7.1 and Notes 4 and 5 of the Report.

Table L: Civil Legal Aid — Cost per head of population

	<i>Northern Ireland</i>		<i>Scotland</i>		<i>England & Wales</i>	
	<i>90/91</i>	<i>89/90</i>	<i>90/91</i>	<i>89/90</i>	<i>90/91</i>	<i>89/90</i>
(A) Estimated Population 1988 ¹ (millions)	1.6	1.6	5.1	5.1	50.4	50.4
(B) Advice and Assistance Payments ² (£ million)	3.7	3.3	12.4	10.2	95.2	82.8
(C) Legal Aid Fees and Disbursements ² (£ million)	10.8	7.7	16.2	15.0	380.0	308.3
(D) Total (B) + (C)	14.5	11.0	28.6	25.2	475.2	391.1
(E) Expenditure per head of Population (£) ((D) ÷ (A))	9.1	6.9	5.6	4.9	9.4	7.7
(F) HM Government Grant ³ (£ million)	6.3	5.0	24.9	21.4	301.1	249.0
(G) Allocation of Grant per head of Population (£) ((F) ÷ (A))	3.9	3.1	4.9	4.2	6.0	4.9

Sources

1. "Regional Trends" — Central Statistics Office (HMSO) 1990
2. Northern Ireland — from paragraph 7.1 of the Report
Scotland — Annual Report of the Scottish Legal Aid Board
1990/91 — Statement of Accounts
England & Wales — Legal Aid Board Annual Reports (1990/91) —
Section 5: Accounts
3. Northern Ireland — from paragraph 7.1 of the Report
Scotland — Annual Report of the Scottish Legal Aid Board
1990/91 — Statement of Accounts
England & Wales — Legal Aid Board Annual Reports (1990/91) —
Section 5: Accounts
Chapter 1: Legal Aid Facts

11. Table M: Grants from Public Funds¹

Year	<i>Legal Aid Schemes</i>	<i>Administration</i>	<i>Total</i>
	£	£	£
1988/89	4,728,002	902,885	5,630,887
1989/90	5,006,344	1,033,203	6,039,547
1990/91	6,345,525	1,063,116	7,408,641

11.1 Comparing these figures with the overall costs in Table K indicates a level of public funding of almost 50%.

1. From Paragraph 7.1. Note 2 of the current and previous Reports

PART II

CRIMINAL LEGAL AID

12. The Society's Report

12.1 It is appreciated that the Society does not have a statutory duty to report on criminal legal aid. We welcome the fact that it chooses to do so, as clearly this is an important aspect of the work of the Society.

12.2 New pie charts and graphs have been provided which help illustrate developments. For instance the pie charts on pages 41 and 42 of the Report show improvements in performance in the time taken to pay criminal fees from the date of receipt of bills in both the Magistrates' and County Courts.

12.3 As to the processing of Criminal Legal Aid, we think it would be of assistance if the Society were to provide a table detailing cases outstanding at the beginning of the period, cases received, cases paid and cases outstanding at the end of the period. We return to this point in paragraph 16.4.

12.4 In our Report last year¹ we commented on the possible resource implications of trials being foreshortened as a result of the defendant electing to plead guilty at the last moment. We have been informed that the Northern Ireland Court Service will now be collating statistics on such trials and we welcome this.

13. Assessment of Costs

13.1 We first recorded our concern in 1981/82² about the lack of proper accountability for expenditure on criminal legal aid.

13.2 We appreciate that it was intended to make new legal aid Rules in 1991 governing costs in criminal proceedings. We understand that these have not yet been made and our concern about lack of proper accountability persists.

14. Volume of Business

Table N(i): Criminal Legal Aid Certificates Granted³

<i>Certificates granted for:</i>	<i>1988/89</i>	<i>1989/90</i>	<i>1990/91</i>
Magistrates' Courts	18,769 (-13%)	19,521 (+ 4%)	18,454 (- 5%)
Crown Courts	1,604 (-17%)	1,663 (+ 4%)	1,487 (-11%)
County Courts	988 (-12%)	981 (- 1%)	993 (+1%)
High Court (Bail)	1,159 (- 9%)	1,085 (- 6%)	953 (- 6%)
Totals	22,520 (-13%)	23,250 (+ 3%)	21,887 (-6%)

14.1 Table N(i) details the number of Criminal Legal Aid Certificates granted together with percentage differentials. The downward trend in the issue of these certificates is noted.

1. HC 491 (1990/91) Paragraph 11.4
2. HC 80 (1983/84) — Paragraph 10.5.
3. From Paragraph 6.1 of the Report.

Table N(ii): Legal Aid Related to all Criminal Proceedings

	1988		1989		1990 ¹	
	Mags' Courts	Crown Courts	Mags' Courts	Crown Courts	Mags' Courts	Crown Courts
Persons proceeded against (Motoring) (Non-motoring)	47,225	1,486	43,221	1,367	44,106	1,422
	29,855		27,320		28,611	
	17,370		15,901		15,495	
	1988/89		1989/90		1990/91 ²	
	Mags' Courts	Crown Courts	Mags' Courts	Crown Courts	Mags' Courts	Crown Courts
Criminal Aid Cases Concluded	25,970	1,839	17,963	1,829	16,832	1,384
Criminal Aid Certificates Granted	18,769	1,604	19,521	1,663	18,454	1,487

14.2 In Table N(ii) criminal legal aid is related to criminal proceedings and although the two sets of statistics have a slightly different time base we believe broad comparisons are of interest.

15. Types of Offences

We note from paragraph 6.2 of the Report the distribution of Criminal Aid Certificates by way of type of offence and we welcome the Society's substantive comments.

16. Table O: Criminal Reports for Payment³

	1988/89	1989/90	1990/91
Awaiting assessment	2,202	1,194	237
Under query awaiting approval etc	3,153	1,421	1,318
Total	5,355	2,615	1,555

16.1 Table O highlights recent improvements in productivity in this important area.

16.2 We note also the improved performance in the time taken to pay fees as illustrated by the new pie charts on pages 41 and 42 of the Report.

16.3 Paragraph 6.5 of the Report tabulates the results of cases reported as finished and paid. There were 20,029 cases paid in 1990/91 as compared with 21,783 the previous year, a reduction of 8%.

1. From "Commentary on Northern Ireland Crime Statistics 1990" — Northern Ireland Office, Statistics Branch.
2. From Appendix 5(a) and 5(d) of the Report for 1988/89 and from paragraphs 6.1 and 6.5 of the Report for 1989/90 and the current Report.
3. From paragraph 6.4 of the Society's current and previous Reports.

16.4 As we mentioned in paragraph 12.3, we consider that it would be better if the information in paragraph 6.4 of the Report was presented in a table detailing, per category, cases outstanding at the beginning of the period, incoming cases received, cases dealt with and cases outstanding at the end of the period.

17. Costs of Criminal Aid

Table P: Costs of Criminal Aid

<i>Year</i>	<i>(a) Professional fees</i>	<i>(b) Disbursements</i>	<i>(c) Administration</i>	<i>(d) Totals (a) + (b) + (c)</i>
	£	£	£	£
1988/89 ¹	6,090,739	1,030,120	254,860	7,375,719
1989/90 ²	5,227,940	943,990	291,280	6,463,210
1990/91 ³	4,924,488	873,864	326,438	6,124,790

17.1 Apart from administration costs, it can be seen from Table P that fees and disbursements amounted to £5.8 million in 1990/91 as compared with £6.2 million in 1989/90. It would appear from paragraph 2.6 of the Report that certain difficulties were experienced in the payment of Criminal Legal Aid fees. We have investigated this matter with the Society's representatives and are satisfied with the explanation given.

17.2. The £5.8 million expenditure on fees and disbursements referred to in paragraph 17.1 above is tabulated in cost bands in a table in paragraph 6.6 of the Report and the distribution of cases is similar to that reported for last year. It is of note however that there were 349 certificates included in the £2,000 plus categories in 1990/91. This represented 1.6% of the total and accounted for 44% of payments. The equivalent figures for 1990/91 were 298 cases — 1.5% of total certificates, 45% of payments.

17.3 The average cost per case in 1990/91 is given as £295.87 (£5,798,487 ÷ 19,598) in paragraph 6.6 of the Report. This represents a marginal increase (£7.75 or 2.7%) on the equivalent figure for last year. However, in the light of our comments in paragraph 17.2 these average figures are distorted by a small number of high cost cases.

1. HC 417 (1989/90) — Appendix 5(g), Appendix 3(c)
 2. HC 491 (1990/91) — Paragraphs 7.2 and 7.3.
 3. From paragraphs 7.2 and 7.3 of the Report.

Table Q: Criminal Legal Aid — Cost per head of population

		<i>Northern Ireland</i>		<i>Scotland</i>		<i>England & Wales</i>	
		<i>90/91</i>	<i>89/90</i>	<i>90/91</i>	<i>89/90</i>	<i>90/91</i>	<i>89/90</i>
(A)	Estimated Population 1988 ¹ (millions)	1.6	1.6	5.1	5.1	50.4	50.4
(B)	Legal Aid Fees and Disbursements ² (£ million)	5.8	6.2	39.1	33.6	375.0	324.0
(C)	Expenditure per head of Population (£) ((B) ÷ (A))	3.6	3.9	7.7	6.6	7.4	6.4
(D)	HM Government Grant ³ (£ million)	5.8	6.2	39.1	33.6	387.3	321.3
(E)	Allocation of Grant per head of Population (£) ((D) ÷ (A))	3.6	3.9	7.7	6.6	7.7	6.4

Sources

1. "Regional Trends" — Central Statistics Office (HMSO) 1990
2. Northern Ireland — from paragraph 7.2 of the Report
Scotland — Annual Report of the Scottish Legal Aid Board 1990/91 — Statement of Accounts
England & Wales — Legal Aid Board Annual Reports (1990/91) — Section 5: Accounts Note 3
Appropriation Accounts 1990/91 Volume 7 (HMSO) — Class X, Vote 2, Section B2
3. Northern Ireland — Paragraph 7.2 of the Report
Scotland — Annual Report of the Scottish Legal Aid Board 1990/91 — Statement of Accounts
England & Wales — Legal Aid Board Annual Reports (1990/91) Chapter 1: Legal Aid Facts, paragraph 1.3
Appropriation Accounts 1990/91 Volume 7 (HMSO) — Class X, Vote 2, Section B2

17.4 The data in Table Q is of interest, however comparisons between jurisdictions may not be totally accurate because of the different methods of administering criminal legal aid.

PART III

ADMINISTRATION OF THE LEGAL AID SCHEME AND CRIMINAL LEGAL AID

18. Administration and Staffing

Table R: Staff Costs and Output Measures¹

	1988/89	1989/90	1990/91
<i>Civil Legal Aid</i>			
Salaries and Wages (£k)			
— Actual	£634	£741	£813
— At 1990/91 prices using the GDP deflator	£732	£804	£813
Green Form — Claims Paid	48,504	57,424	50,448
ABWOR — Cases Paid	10,605	8,806	9,710
Certificates issued	14,099	24,332	15,655
Claims Paid	11,753	10,872	14,587
All Civil Transactions	84,961	102,979	90,400
<i>Criminal Legal Aid</i>			
Staff Salaries and Overhead Expenses (£k)			
— Actual	£240	£262	£297
— At 1990/91 prices using the GDP deflator	£277	£284	£297
Criminal Transactions	30,204	21,783	20,029
<i>Total Staff Costs (£k)</i>			
— Actual	£874	£1,003	£1,110
— At 1990/91 prices	£1,009	£1,088	£1,110
All Transactions	115,165	123,217	110,429

1. Figures extracted or derived from the 24th, 25th and 26th Legal Aid Annual Reports.

18.1 Table R sets out actual and adjusted staff costs alongside figures of work output levels in the period 1988/1991. The Table gives rise to the following comparisons for that period.

Civil Legal Aid:

Real Costs	+11%
Volume of Transactions	+6%

Criminal Legal Aid:

Real Costs	+7%
Volume of Transactions	-34%

These comparisons treat the different types of transaction as of equal weight in terms of the work required for their execution and to that extent they may need to be qualified. The Table does however provide prima facie evidence of a deteriorating cost/output ratio. We also note in paragraph 2.6 of the Report the 12.33% annual increase in administration costs against a general pay increase of 7.8%. These are matters that need to be further explored by the Legal Aid management and the Court Service. It is relevant in the context of such further investigation to mention some of the modern management practices we have advocated in previous reports as being conducive to greater efficiency.

18.2 In our last Report¹ we urged the Court Service and the Department to review, periodically, staffing and productivity levels. We considered that such action would help minimise the possibility of any recurrence of substantial backlogs of work within the Department. The graphs at pages 26-32 of the Report illustrate the intake and output of work in the period November 1990 - April 1991 for the various categories of case. A substantial deterioration in the backlog position on the Green Form Side is evident from the graph at page 26, and paragraph 9.5 of the Report indicates that measures were being taken to rectify matters. We hope that the continuing availability of figures of the kind shown in these graphs will in future alert the Department to problems at an earlier stage and thus provide a basis for timely corrective action; we see this as part of a necessary monitoring and planning process.

18.3 Also in our last Report² we stressed the importance of the establishment and achievement of output objectives.

18.3.1 In referring to the pie charts on pages 37 to 42 of the Report, it is stated at paragraph 9.7 — “It is the Department’s objective to attempt to retain the improvements already achieved and to try to improve even further”. In discussions with representatives of the Society the importance of quantifying reasonable, predetermined, departmental targets and objectives was accepted. Furthermore we were informed that it is the intention of the Society to include such targets and objectives alongside actual performance in its future Reports.

19. Management Information

19.1 Last year³ we expressed the hope that the Society would detail the results of implementing the recommendations of the consultant who reported on this matter in December 1989.

19.2 It would seem from paragraphs 9.4, 9.5 and 9.6 that the Department and the Court Service have made some progress. However we would like to see a clearer picture of the extent to which the recommendations have been accepted and implemented and of the resultant improvements.

19.3 We note from paragraph 9.6 of the Report the difficulties experienced in relation to financial forecasting and in-year financial monitoring. It is important that every effort is made to refine the forecasting techniques used by the Department.

1. HC 491 (1990/91) Paragraph 17.1.

2. HC 491 (1990/91) Paragraph 17.1.

1. HC 491 (1990/91) Paragraph 18.2

20. Average Case Costs of Legal Aid 1981/82-1990/91

20.1 Table S: Average Case Costs¹

	YEAR											% Differential
	1981/82	1982/83	1983/84	1984/85	1985/86	1986/87	1987/88	1988/89	1989/90	1990/91		1981/82-1990/91
(GDP Deflator at Market Prices) ²	(59.716)	(63.970)	(66.934)	(70.283)	(74.161)	(76.600)	(80.765)	(86.565)	(92.179)	(100.00)		
LAA Claims, gross												
Current (£)	16.95	19.59	21.90	22.74	23.86	26.17	29.57	32.98	38.44	46.61		+175
Real (£)	28.38	30.62	32.72	32.35	32.17	34.16	36.61	39.94	41.70	46.61		+ 64
ABWOR Cases, gross												
Current (£)	66.27	78.03	78.88	70.92	82.87	96.81	102.73	126.02	129.35	137.99		+108
Real (£)	110.97	121.98	117.85	100.91	111.74	126.38	127.19	145.58	140.32	137.99		+ 24
High Court Matrimonial Cases, net												
Current (£)	176.41*	184.92	202.86	224.18	216.45	221.03	203.92	276.30	260.52	228.63		+ 30
Real (£)	295.41	289.07	303.07	318.97	291.86	288.55	252.48	319.18	282.62	228.63		- 23
High Court Non-Matrimonial Cases, net												
Current (£)	29.64*	34.77	43.76	117.30	92.49	159.43	68.17	163.40	205.08	185.05		+524
Real (£)	44 9.63	54.35	65.38	166.90	124.71	208.13	84.40	188.76	222.48	185.05		+273
County Court Cases, net												
Current (£)	48.14*	49.33	57.96	91.71	42.52	129.35	85.16	131.66	160.56	90.60		+ 88
Real (£)	80.61	92.75	86.59	130.49	57.33	168.86	105.44	152.09	174.18	90.60		+ 12
Crown Court Bills												
Current (£)	858.27	808.75	1,663.25	1,850.78	1,412.37	1,482.39	1,854.03	2,586.83	2,634.06	2,518.06		+193
Real (£)	1,437.25	1,264.26	2,484.91	2,633.32	1,904.46	1,935.23	2,295.58	2,988.31	2,857.55	2,518.06		+ 75
Magistrates' Court Bills												
Current (£)	56.09	70.06	79.89	80.08	86.35	76.80	95.76	105.55	127.10	111.76		+ 99
Real (£)	93.93	109.52	119.36	113.94	116.44	100.26	118.57	121.94	137.88	111.76		+ 19

* Estimated figures — 1981/82 gross fees reduced by 1982/83 % differential between gross and net fees.

1. Average case costs have been extracted from the table at paragraph 8 of the current Report and its equivalent in earlier Reports.
2. HM Treasury: "GDP and the GDP Deflator at Market Prices" (6/11/91).

20.2 We have examined the conclusions drawn in 9.8 of the Society's Report from an examination of the costs of legal aid over the last 10 years. The exercise involved uplifting a single year's average cost to the subsequent years' prices and then assessing whether or not the subsequent year was above or below inflation. Trends were then extrapolated from these separate comparisons.

20.3 We also have examined average costs over the period using a different methodology; we have adjusted costs in terms of 1990/91 prices to reveal the underlying trend rather than a series of 'snap shots'. The results are contained in Table S. It can be seen from the real costs data that there have been some substantial variations from the rate of inflation when comparing 1990/91 with 1981/82.

20.4 Several factors need to be borne in mind in interpreting these figures. Where possible net costs have been used which represent the costs borne by the fund, contributions and statutory charges having been deducted. Net figures are not available for LAA and ABWOR cases though contributions in such cases would be marginal. Average costs are distorted by particularly expensive trials. There have been a number of such trials in the Crown Court over the period. Extraneous factors have to be taken into account. For instance, criminal legal aid fees were increased by 40% for Crown Court work with effect from 1 November 1987 and for Magistrates' Court work with effect from 1 April 1988.

20.5 However, even when these limitations have been taken into consideration, there have been continuing increases in real costs — the only exception being in the area of High Court matrimonial work.

21. Computerisation

21.1 We note that the system has now been developed in readiness for the proposed Legal Aid in Criminal Proceedings (Costs) Rules. As we stated last year¹ this should result in the provision of more detailed information in this area without any loss of continuity with data already provided.

21.2 We welcome the planned developments for 1991/92 and in particular we hope that more refined statistics can be made available and that maximum use will be made of the facilities afforded by the new word processor in the production of future Annual Reports by the Society.

PART IV

LEGAL SERVICES

22. Belfast Duty Solicitor Scheme

The Society does not report upon this matter in any detail at paragraph 13, however, we note that the decline of the Scheme has continued. We await with interest the outcome of attempts to provide the necessary resources to ensure the survival of the scheme.

23. Police and Criminal Evidence (Northern Ireland) Order 1989

23.1 We have commented in the past² on the importance of speedy access to solicitors by persons detained under this Order.

23.2 A voluntary scheme was established by the Society on the introduction of this legislation in January 1990 whereby the police were provided with lists of solicitors willing to attend upon stations designated under the Order. In its last Report³ the Society indicated that these arrangements were working well

1. HC 491 (1990/91) Paragraph 12.2.

2. HC 417 (1989/90) Paragraph 21.2.

3. HC 491 (1990/91) Paragraph 2.2.

23.3 Procedures governing access to legal representation under this Order were reviewed at a symposium organised by this Committee in March 1991. The unanimous view expressed by the various bodies represented was that these arrangements continued to work satisfactorily.

24. Voluntary Sector

24.1 We note from paragraph 14 of the Report the mixed fortunes of the Belfast Group of Citizens Advice Bureaux throughout the year.

24.1.1 In our Report last year¹ we repeated our plea for a more satisfactory system of providing public financial support for the Northern Ireland CAB movement. Whilst we welcome the assistance given recently by way of capital grants we continue to be concerned about running cost difficulties experienced by individual bureaux.

24.1.2 In response to our representations we have been informed by the Secretary of State for Northern Ireland that the whole question of funding of this service has been under discussion and we await developments with interest.

24.2 In October 1990 the Belfast Law Centre produced a Development Plan which proposed the extension of its advice and case work services across the Province.

24.2.1 This matter has been given more detailed consideration in a Report entitled 'Law Centre (NI) — A Development Proposal for the Extension of Law Centre Services across Northern Ireland' which we received in December 1991.

24.2.2 The Belfast Law Centre performs an essential function and we support the proposed increase in the availability of its services. We are hopeful that the necessary resources will be made available to the Centre to achieve this aim.

25. Rota Schemes

We note from paragraph 14 of the Report that there have been some developments in relation to these schemes. In our Report last year² we sought the results of the Liaison Officer's review of these schemes and we renew our request.

26. Legal Aid Advisory Committee

26.1 We have welcomed Mr. V. Chambers who has been appointed to the Committee with effect from April 1991.

26.2 We greatly regret the resignation of Miss B. Hadfield from the Committee in December 1991. Her contribution to our deliberations over the last eight years was invaluable.

26.3 During the year our Chairman was reappointed for a further period.

27. Acknowledgements

27.1 During the year we met officers of the Society; the Society's Legal Aid Committee and the Legal Aid Department to consider the Society's Report. Such meetings are helpful and are conducted in a very co-operative spirit.

27.2 Since last reporting we have also met representatives of various bodies involved in those matters of legal aid and legal services in which we expressed our interest. These contacts are well worthwhile and we are grateful to those concerned.

1. HC 491 (1990/91) Paragraph 21.

2. HC 491 (1990/91) Paragraph 22.

Signed: J. Petrie (Chairman)
V. Chambers
B. G. Finegan
L. A. Gilbert
A. W. Jack
J. P. McGrath
J. I. Meehan
J. C. Napier
A. P. O'Donoghue
N. Searight
M. J. McMullan (Secretary)
M. E. Ayre (Assistant Secretary)

28 February 1992

ELIGIBILITY FOR CIVIL LEGAL AID

This Committee welcomes the Lord Chancellor's Review of the Financial Conditions for Legal Aid and has considered, with interest, the Consultation Paper on Eligibility for Civil Legal Aid ("the Paper").

There are certain assumptions made within the Paper with which we do not necessarily agree. We feel they are unwarranted when legal aid as it pertains to Northern Ireland is considered. Although the determination of eligibility is similar to England and Wales some factors distinctive to Northern Ireland must be borne in mind.

Firstly, the percentage of the population qualifying for free legal aid tends to be higher than in England and Wales. In addition the level of contributory legal aid is lower.

Secondly, our average costs of High Court (non-matrimonial) and County Court cases are considerably lower than in England and Wales and any suggestion that such costs would outweigh awards is simply without foundation. In addition legal aid fees paid to counsel and solicitors in respect of proceedings in the House of Lords, Court of Appeal and High Court are 95% of the amount allowed on taxation. In England and Wales this deduction was abandoned in 1988 and this Committee would favour similar action being taken with regard to Northern Ireland.

Thirdly, the majority of the province's 400 or so firms of solicitors are "family" solicitors. The solicitor/client relationship tends to be more personal than in England and Wales and there is less disparity of treatment between legally-aided and non legally-aided clients. We feel this militates against the absence of "private client realism" associated with legal aid cases in England and Wales and the possibility of "franchising" of legal aid in Northern Ireland which would restrict the freedom of choice of lawyers.

Turning to legal aid within the United Kingdom context, the Paper concludes, provisionally, that "the safety net proposal is the one which best targets legal aid to need" (page 80). Accordingly, our response, realistically, concentrates upon this seemingly favoured option.

As a general point this Committee would welcome the extension of eligibility for civil legal aid. Within that context we do not object to the introduction of the "safety net" scheme but would urge that eligibility for the "safety net" be extended above the existing upper limit for contributory legal aid.

Although it is not clear from the Paper just exactly how the "safety net" scheme would operate we would make the following observations:

1. We feel that the element of uncertainty associated with the "safety net" scheme necessitates a complementary system of initial applications as set out in Chapter 9 paragraph 7.
2. Having considered Chapter 8, we would welcome some clarification as to the position regarding defendants' costs, particularly the apportionment between privately funded and legally-aided stages of proceedings, should the legally-aided plaintiff be unsuccessful. In addition what of a defendant's eligibility for legal aid under the "safety net" scheme?
3. With regard to the methodology of determining contribution levels and means assessment we have discussed the proposals outlined in Paragraph 7. Some were of particular interest and it is our view that these should be considered further:—
 - (a) the application of a higher fraction of disposable income, preferably on a sliding scale;

- (b) contributions continuing throughout the life of a case but not more than a period of two years; and
 - (c) allowances being restricted to unavoidable expenditure.
4. Turning to the merits of a case, we think it is important that the applicable criteria for both the provisional and subsequent tests be clearly set out. In addition it is necessary to stipulate by whom these tests would be applied.
 5. We appreciate that the "safety net" scheme together with the observations made above would add significantly to the workload in Northern Ireland of both the Legal Aid Department of the Law Society and the Legal Aid Assessment Office of the Department of Health and Social Services and we assume that similar effects would be experienced in England and Wales. Care therefore would have to be taken to ensure that the resources of these bodies were supplemented to enable the scheme to be administered effectively.
 6. Rules of Court would have to be made in relation to applications to Masters to stay proceedings during the course of an action while the Legal Aid Department considers applications for legal aid under the "safety net" scheme.

LEGAL AID ADVISORY COMMITTEE

31 October 1991



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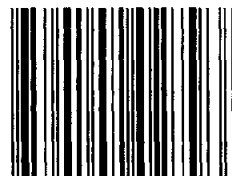
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