

Legal Aid Board

ANNUAL REPORT 1993-94

*Report to the
Lord Chancellor
on the operation and
finance of the
Legal Aid Act 1988*





Legal Aid Board

REPORT ON THE OPERATION AND FINANCE OF THE LEGAL AID ACT 1988 FOR THE YEAR 1993–94

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

The Legal Aid Board in accordance with the provisions of
Section 5 of the Legal Aid Act 1988 respectfully presents its
report for the period 1 April 1993 to 31 March 1994.

Laid before Parliament by the Lord High Chancellor
pursuant to Section 37 of the Legal Aid Act 1988.

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1991-92 HC 50 (1992-93)
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1988-89 HC 154 (1989-90)
1987-88 HC 134 (1988-89)
1986-87 HC 233 (1987-88)
1985-86 HC 87 (1986-87)
1984-85 HC 156 (1985-86)
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To the Right Honourable the Lord Mackay of Clashfern, Lord High Chancellor of Great Britain.



JOHN PITTS

CHAIRMAN

We describe in this report our strategic planning process and how our strategic plan developed by that process fits the Lord Chancellor's objectives for legal aid. The Lord Chancellor's "Management Statement for the Legal Aid Board" which was published in January 1994 provides an essential basis for planning our own activities. By publicly stating his objectives for legal aid in the document he enables us to set a clear direction for the Board's strategy which can be understood by all.

During the year the Board has continued to improve its performance. Nearly all the significantly enhanced performance targets were achieved and in the course of the year accreditation under the quality assurance standard BS5750 was received. Since this is the last report that will be published under my chairmanship, I would like to take the opportunity to express my great thanks to all the employees of the Board. Many changes have taken place in the five years since the Board took statutory responsibility for the administration of legal aid in April 1989. At the end of 1988, before the change of administration, it took six weeks to process 50% and 20 weeks to process 93% of civil applications; last year we dealt with 77% of civil applications in two weeks and 93% in six weeks. Without the enthusiasm and high morale of all concerned such an improved performance would not have been possible.

We describe in this report our investigation into the issues arising for the Board and the Lord Chancellor's Department from large multi-party actions and our recommendations for reform. The role played by legal aid in these actions is important but it would be wrong to regard the problems that have arisen in a number of high profile actions solely as "legal aid" problems. The problems are more fundamental than that and arise both from the very large numbers of potential litigants involved and from the complex nature of these cases with which neither the current court procedures nor legal aid arrangements appear to be capable of dealing. These problems manifest themselves in the frustration caused in not

being able to resolve these issues speedily and the very high cost of attempting to do so. Clearly, this high cost is more readily apparent when there is, largely, a single funder for the action such as the Legal Aid Board.

Three Board members have retired on completing their terms of office, Martin Acland, Diana Beale and John Smith. I would like to thank them for their great contribution to the Board since its original formation. I would also like to take the opportunity to welcome four new members who have been appointed to the Board, John Crosby, Jean Dunkley, Colin George and Diana Payne.

A handwritten signature in black ink, reading "John Pitts". The signature is written in a cursive, flowing style. The first name "John" is written in a larger, more prominent script, and "Pitts" follows in a similar but slightly smaller script.

J. K. Pitts

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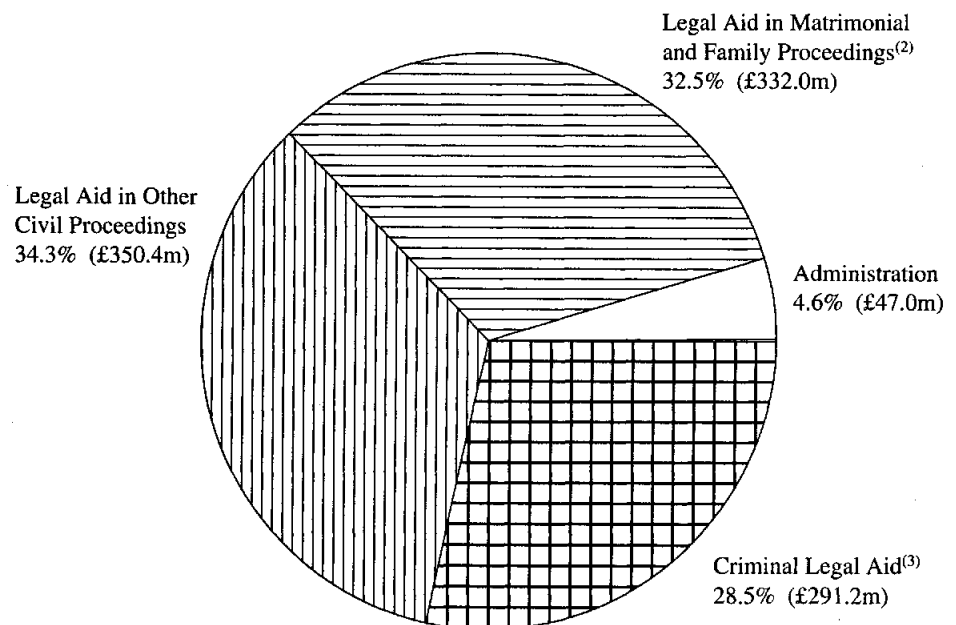
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Chapter One: Legal Aid Facts

1993-94

- 1.1 The total amount paid out by the Legal Aid Board in 1993-94, including administration costs, was £1,278M, an increase of 14.4% over 1992-93. Recoveries through contributions, the statutory charge and costs also increased by 28.3% to £257M. These figures do not include criminal cases in the Crown Court and higher courts, which are outside the responsibility of the Board.
- 1.2 The net cost to the taxpayer of legal aid in 1993-94 was £1,021M. This was an increase of £104M or 11.4% over 1992-93. During the same period the average rate of retail price inflation was 1.7%.

Allocation of Net Legal Aid Expenditure 1993-94⁽¹⁾
Net Total £1,020.7M



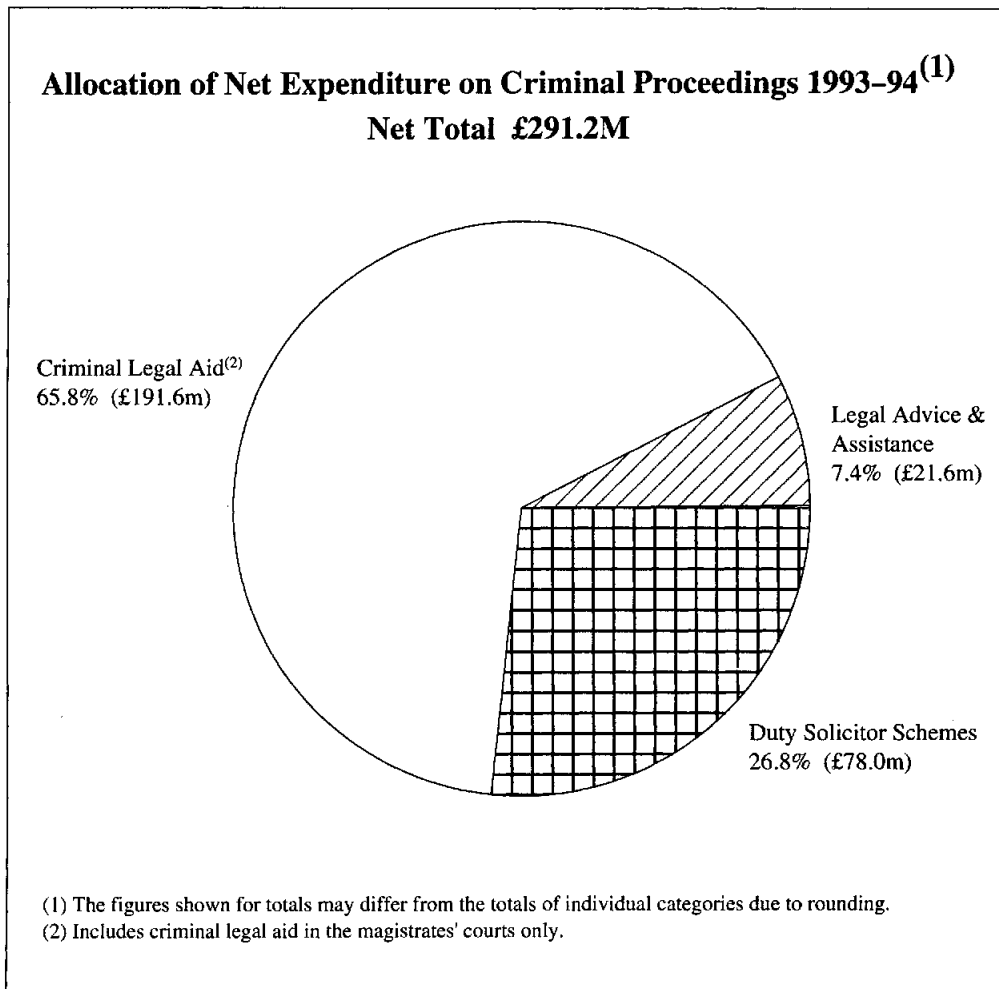
(1) The figures shown for totals may differ from the totals of individual categories due to rounding.

(2) Includes matrimonial proceedings, and proceedings under the Married Women's Property Act, the Domestic Violence and Matrimonial Proceedings Act 1976 and the Children Act 1989.

(3) Includes magistrates' courts only.

1.3 Payments out of the Legal Aid Fund for legal aid, advice and assistance amounted to £974M, an increase of £101M or 11.6% over 1992-93. The Board's own administration costs amounted to £47M, an increase of £3M or 7.1%. The Board's expenditure on its own administration costs was reduced from 4.8% of total expenditure in 1992-93 to 4.6% in 1993-94.

1.4 The proportion of expenditure devoted to civil proceedings other than matrimonial and family matters remained stable at 34.3%, but there was a continuation of the switch in emphasis from the criminal payments regime to the civil sphere which was noted last year. As increasing numbers of the Children Act certificates issued since 1991 began to reach a conclusion, this resulted in an increase in the proportion of expenditure explicitly devoted to matrimonial and family matters from 29.7% in 1992-93 to 32.5% in 1993-94 and a parallel decline in the proportion devoted to purely criminal matters from 31.3% to 28.5%. Expenditure on matrimonial and family proceedings increased by £60M or 21.9%, expenditure on other civil proceedings by £37M or 11.7% and expenditure on criminal proceedings by £5M or 1.6%.



1.5 In 1993-94 the Board paid for 3.37 million acts of assistance, an increase of 9.7% over last year. The number of acts of assistance differs from the number of persons assisted. Some acts of assistance help more than one person. Equally, one

person may have received a number of acts of assistance on the same case, particularly where advice given under green form or by a duty solicitor is followed by a civil certificate or criminal legal aid order.

The Last Five Years 1989–90 to 1993–94

1.6 The pattern of expenditure on legal aid and the Board’s administration costs over the last five years is as follows:–

Table 1

	1989–90	1990–91	1991–92	1992–93	1993–94
	£M	£M	£M	£M	£M
Gross expenditure	583	697	920	1,117	1,278
Recoveries	122	138	159	200	257
Net payments	461	559	760	917	1,021
of which:					
In matrimonial and family proceedings	133	159	211	272	332
In other civil proceedings	102	140	223	314	350
In criminal proceedings	196	227	286	287	291

1.7 Gross expenditure has risen from £583M in 1989–90 to £1,278M in 1993–94, an increase of 21.6% per annum. Recoveries through contributions, the statutory charge and costs have increased from £122M to £257M, an increase of 20.4% per annum. Net payments increased by an average of 22.0%. Over four years the net cost of legal aid for matrimonial and family proceedings has grown by 25.8% per annum, for other civil proceedings by 36.3% per annum and for criminal proceedings by 10.3% per annum.

1.8 The numbers of acts of assistance paid for over the last five years are as follows:—

Table 2

	1989–90	1990–91	1991–92	1992–93	1993–94
	'000	'000	'000	'000	'000
Civil legal aid	201	213	256	308	359
ABWOR	61	63	66	49	37
Green Form	1,029	1,041	1,230	1,435	1,641
Criminal	435	441	477	440	432
Sub-total	1,727	1,758	2,029	2,231	2,469
Court Duty Solicitor	226	229	233	227	239
Advice at Police Stations	345	397	549	612	658
TOTAL	2,298	2,385	2,811	3,070	3,366
of which:					
In matrimonial and family proceedings	576	572	627	676	719
In other civil proceedings	490	519	671	825	962
In criminal proceedings	1,232	1,295	1,513	1,569	1,685

- 1.9 The principal source of the increase in acts of assistance over the last four years remains the expansion of legal advice and assistance under the green form and advice at police stations schemes. Over the last two years the most rapid growth has been in acts of assistance paid for under the civil legal aid scheme, largely due to the implementation of the Children Act in October 1991. Over the period as a whole total acts of assistance have grown at the rate of 10.0% per annum.

The Last Ten Years

- 1.10 Over the last ten years individual acts of assistance excluding the duty solicitor schemes, which had not been introduced in 1983–84, have increased by 5.9% per annum, while on the same basis the net cost of those acts of assistance has increased at an annual rate of 17.2%. If the duty solicitor schemes are included the number of acts of assistance has increased at a rate of 9.3% per annum against an annual increase of 18.1% in the net cost of the scheme. Table 3 provides a comparison between growth in legal aid volumes and costs and national economic indicators between 1983–84 and 1993–94.

Table 3

Indicator	1983–84	1993–94	Annual Growth
R.P.I.-September	86.1	141.9	5.1%
G.D.P. 1983, 1993, £ × 10 ⁶	304,456	627,149	7.5%
Net cost of scheme, £ × 10 ⁶	193	1,021	18.1%
Acts of assistance, No. × 10 ³ (Excluding duty solicitor schemes)	1,388	2,469	5.9%
Cost per act of assistance (Excluding duty solicitor schemes)	£139	£382	10.6%

Outstanding Liabilities

- 1.11 The Board is not able to compile an exact account of work carried out but not yet paid for, as it is not responsible for the issue of criminal legal aid orders and no prior authority is required to incur costs under the court duty solicitor scheme or initially under the green form or advice at police stations schemes. However, it is estimated that the net liability of the Board for legal aid certificates, orders and authorities already issued and for work already carried out under the green form and duty solicitor schemes rose from £892M as at 31 March 1993 to £996M as at 31 March 1994.

Chapter Two: Legal Aid Board Management Strategy

The Lord Chancellor's Management Statement for the Board

- 2.1 In 1993 we had detailed discussions with the Lord Chancellor's Department to define more clearly our relationship with the Department and our role within the Lord Chancellor's overall objectives for the legal aid scheme. These discussions resulted in the development and publication, in January 1994, of the Lord Chancellor's "Management Statement for the Legal Aid Board".
- 2.2 The Management Statement sets out the agreed aims, objectives and functions of the Legal Aid Board; our relationship to the Lord Chancellor's Department and our accountability to the Lord Chancellor and to Parliament. There are two annexes to the Statement. First, a statement of the Lord Chancellor's objectives for legal aid and the Legal Aid Board. Second, a Financial Memorandum which sets out in detail the conditions attaching to the provision of public monies to the Board.
- 2.3 We greatly welcome the publication of this Statement. It provides a firm basis for our work in administering the legal aid scheme and for our strategic planning processes. Importantly it contains a public statement of the Lord Chancellor's objectives for legal aid, towards which we will be working.

The Lord Chancellor's Objectives for Legal Aid

- 2.4 The Lord Chancellor has the following main objectives for legal services and legal aid.
- People should have access to legal services, including those paid out of the legal aid fund, where recourse to the law is the best solution.
 - The overall cost of legal aid has to be affordable and controllable.
 - Legal aid should be targeted towards those whose need is greatest.
 - Legally aided services should be provided by means which demonstrate defined levels of quality and efficiency.
 - People should pay towards the cost of legal aid what they can reasonably afford.
 - Payment systems should encourage the achievement of defined levels of quality, efficiency and availability.
- 2.5 In addition to setting objectives for the legal aid scheme as a whole the Lord Chancellor has set a series of objectives for the Board.

Objectives for the Board

- 2.6 The Lord Chancellor has set the following objectives for the Board.
- The Board should act in ways which generally support and further the Lord Chancellor's objectives for legal aid.
 - Operating within the framework laid down by the Legal Aid Act and the regulations, directions and guidance made under it, the Board's overall aim should be to ensure that legal advice, assistance and representation are made available to those who need them.
 - The Board should ensure that the aspects of the scheme for which it is directly responsible are efficiently and effectively managed.
 - The Board should also advise the Lord Chancellor from time to time on whether the scheme as a whole is meeting the Lord Chancellor's objectives, and whether the way in which it is presently structured leads to the most effective and efficient use of the resources which the Government has allocated to legal aid.
 - The Board should consider whether any structural change, including the acquisition by it of functions related to legal aid which are currently carried out elsewhere in the administration of justice system, would improve the efficiency and effectiveness of the scheme. The programme for such reviews should be agreed with the Lord Chancellor's Department. As changes in payment systems take effect in the light of the development of a Court Service Agency, the Department will wish to discuss with the Board whether the Board should take over greater responsibility for the remaining taxation of bills.
 - The Board should keep under review, not least as new payment systems are developed, its arrangements for ensuring that those who receive legal aid are provided with a service which meets defined levels of quality at a value for money price.
 - The Board should advise the Lord Chancellor as necessary on any particular problems relating to access to legal advice and undertake such monitoring as he may request.
 - The Board should establish what changes, if any, are necessary to ensure that proper systems exist to assess the applicant's means and the merits of the case.

The Board's Strategic Plans

- 2.7 The Management Statement requires us to submit annually for the approval of the Lord Chancellor our Corporate and Business Plans. Our Corporate Plan outlines the direction in which we will be going during the three years of the Plan in fulfilment of our and the Lord Chancellor's aims. We published our first Corporate Plan, for the period 1994-95 to 1996-97, in January 1994 and we will be publishing updated plans annually from now on. Our Business Plan sets out in detail how, in the first year of the Corporate Plan period, we will achieve the strategic aims we set ourselves in the Corporate Plan. The Business Plan is an

internal management document and will not be published but much of the information appearing in it, for example our performance targets, will be published in our newsletter, "Focus", or in our annual report.

Corporate Plan 1994–95

- 2.8 In our Corporate Plan for 1994–95 to 1996–97 we set out our Guiding Principles – which underpin our approach to all our work – and our strategic priority and key challenges for the period of the Plan.

Guiding Principles

- 2.9 We have identified four major stakeholders in legal aid: the assisted person and potential assisted person; the judicial system; the legal profession; and the taxpayer through the Government.
- 2.10 The interests of those stakeholders differ and sometimes compete. We recognise all our stakeholders' legitimate interests and we aim:
- (a) to improve our efficiency and effectiveness continuously to all our stakeholders;
 - (b) to ensure that decisions on individual cases are reached in a way that is free from external pressures;
 - (c) to be open about our processes of making decisions on individual cases and on policy, subject only to exceptions necessary to protect individuals and the public interest;
 - (d) to promote improvements in the quality of legal aid services purchased on behalf of the public and in the aspects of the performance of our stakeholders which reflect on the legal aid services we purchase; and
 - (e) to promote access to legal services where recourse to the law is the best solution.

Strategic Priority

- 2.11 During the period of the Corporate Plan, in order to be consistent with the Government's objective of controlling public expenditure, we will give priority to examining ways of controlling legal aid costs while maintaining a continuously improving service in our operations.

Key Challenges

- 2.12 Our key challenges for the period of the Corporate Plan are formulated on the basis of the Lord Chancellor's objectives for legal aid and the Board. We will seek to promote these objectives while adhering to the guiding principles we have adopted.
- 2.13 Our key challenges are:
- (a) to sustain continuous improvement and greater efficiency in the delivery of our own services;
 - (b) within our areas of responsibility, to contribute towards gaining control of the overall cost of legal aid while ensuring that there is value for money from the services we purchase;

- (c) within our areas of responsibility, to ensure that the legal aid scheme meets the Lord Chancellor's remaining objectives and to advise him on how to ensure that the scheme as a whole moves towards meeting them; and
- (d) to develop structures to enable us to meet the above key challenges.

The Planning Process

- 2.14 We regard successful strategic planning as an important factor in the overall success of the Board. Within it we are able to bring together the views of the Lord Chancellor and his Department, Legal Aid Board members, our Management Board and, importantly, the individuals who work for the Board. It allows for a coherent and co-ordinated translation of the Lord Chancellor's overall objectives for the scheme and for the Board throughout the organisation into decisions on how we approach work in our area offices. However, we do not approach our planning solely from a "top down" perspective. The contribution of ideas and input from staff at all levels in the organisation upwards into the planning process is equally important.
- 2.15 At the commencement of the planning process which led to the settling of our Corporate Plan for 1994-95 to 1996-97 we considered in detail the Lord Chancellor's objectives for the legal aid scheme and for the Board and, in that context, were able to plan our own programme within the future development of legal aid. The details of that programme over the next three years are set out in full in our Corporate Plan.

Board Structures

- 2.16 We operate through a series of committees as well as through meetings of the full Board. We have reviewed our committee structure in the light of the important challenges that we have identified and the programme of work that we have set ourselves to meet those challenges. The organisation as a whole has two separate, but linked, functions. First, we are responsible for the administration of the legal aid scheme. Second, we are responsible for contributing to the development and shaping of the future of the scheme either directly, as with the development of franchising, or more indirectly by using experience, gained through administering the current arrangements, to advise the Lord Chancellor on the practical implications of any new policy he may propose. We have settled a new structure of Board committees which mirrors these two responsibilities and which will enable us to meet our challenges successfully.
- 2.17 With regard to the first function, we needed to make little change in the existing committee structure. With regard to the second function, we have reorganised our structure to form three main policy oversight committees. These are the Criminal Legal Aid, Civil Legal Aid and Supply and Delivery of Legal Services Committees. The Criminal Legal Aid Committee has existed for some years. The other two committees are new. The Civil Legal Aid Committee has subsumed work previously taken forward by the Multi-Party Actions (Policy) Committee. The Supply and Delivery of Legal Services Committee is taking forward work previously carried out by the Access Committee. Details of the work that these committees have been undertaking are set out in chapters five, seven and eight of this report.

- 2.18 In addition to these three main policy committees we have established an ad hoc framework of committees and bodies to enable us to take forward our work on franchising. Details of this work are set out in chapter six of this report.

Summary

- 2.19 We have now had responsibility for administering the legal aid scheme for five years. We believe that the major programme of work that we have undertaken in the past year to more clearly define our role, review our strategic planning processes, examine afresh the future direction of the scheme in the light of the Lord Chancellor's objectives, and restructure our committees has set the foundations for us successfully to address the major challenges that will face us in the next three years.

Chapter Three: Operational Strategy and Performance

Performance

- 3.1 Last year we extended the scope of our targets from four to five areas to include the major categories of correspondence set out in (e) below. The areas were:
- (a) time taken to process legal aid applications from receipt in the area office to refusal, issue or offer of a certificate;
 - (b) time taken to process bills from receipt in the area office to payment;
 - (c) quality of decision making;
 - (d) unit costs of administration; and
 - (e) time taken to deal with applications:
 - (i) to amend civil legal aid certificates;
 - (ii) for prior authority in civil legal aid matters; and
 - (iii) to amend or seek prior authority in ABWOR proceedings.
- 3.2 We achieved our national targets in all the categories of work for which we published formal objectives for speed of response except for criminal bills in the last three months of the year. In that area of work, for standard fee claims for magistrates' courts' cases, five area offices achieved our target at the end of March 1994. The performance of the individual area offices for the last three months of the year as a whole is reported in table General 2.
- 3.3 Our method of setting and publishing our performance targets for 1994-95 reflects our commitment to the Citizen's Charter. Before deciding our targets we sought the views of the Law Society, the General Council of the Bar and the National Consumer Council. The targets set out below reflect both our own desire to extend still further the types of work targeted and suggestions arising from the consultation. We have also brought forward by several months the publication date for our new targets using the April edition of Focus, our newsletter to the profession, rather than announcing them for the first time in this report.
- 3.4 For each type of work we have set targets for dealing with the great majority of business. The proportion of work included within the targets varies from a low of 90% to a high of 97.5%. It is in the nature of the work that we do that there will always be a small proportion of cases that require a longer period of time to deal with. Although we do not publish targets for dealing with 100% of cases our internal monitoring does not stop at the point when formal targets are met. We use management information to ensure that all cases, whether they fall inside or outside the targets, are dealt with as expeditiously as possible.

- 3.5 To try and give a clearer picture to our stakeholders of the time it will take to process their case, we have brought forward the target time for dealing with the great majority of civil legal aid applications and civil bills. Overall the targets for 1994–95 provide a stiffer challenge for the organisation than those for 1993–94 and, also, a stiffer challenge than the actual performance that was achieved in that year. The main reasons for this, in addition to the fact that existing individual targets have been raised and additional targets set in new areas, are that:
- (a) the volume of work predicted to come into the Board in 1994–95 is 2.2% higher than was processed in 1993–94;
 - (b) the Board is also committed to reduce its unit costs by 4% in 1994–95 from 1993–94 levels (See paragraph 3.15 below), and
 - (c) the Board has requested that its civil legal aid bill assessment limit be raised by the Lord Chancellor in 1994–95 which, if he agrees to this proposal, will result in the Board assessing a larger proportion of the higher value civil legal aid bills which are currently dealt with by the courts (see paragraph 3.52 below).

Certificates

- 3.6 This year we achieved our national targets at both two weeks and six weeks. For 1994–95 we have increased the percentage of cases to be processed in two weeks and brought forward by two weeks to four weeks the processing time for 90% of cases.
- 3.7 The table below shows our performance against targets for 1993–94 and the new targets for 1994–95.

Legal Aid Applications Processed: Performance and Targets

1993–94	1993–94	1993–94	1994–1995	1994–95
Time Taken	Targets	Performance	Time Taken	New Targets
2 weeks	70%	77%	2 weeks	75%
6 weeks	90%	93.5%	4 weeks	90%

Bills

- 3.8 Performance for the payment of bills has again generally been high throughout the year with the targets being met for civil, and non-civil bills.

Bills for Magistrates' Courts' Proceedings

- 3.9 We set and exceeded targets for paying all criminal bills for the first nine months of the year, April to December 1993. The table below sets out the performance achieved against targets in magistrates' courts' proceedings during the nine month period and records the volume change over the first nine months of 1992–93.

All Criminal Bills: 1 April 1993 – 31 December 1993			
Time Taken	Target	Performance	Volume Decrease
6 weeks	90%	94.5%	7.8%

- 3.10 The Lord Chancellor introduced standard fees with effect from 1 June 1993. From modest beginnings the volume of new style bills paid in each month increased steadily. By end of March 1994 the number of old style claims had fallen to 8% of the total. By the same date some 77% of bills were lower standard fee claims, 9% higher standard fee claims and 6% non standard. (See paragraph 7.7 for an account of the impact of the introduction of standard fees).
- 3.11 We did not set a formal objective for the first six months of implementation of standard fees because we needed experience of the standard fee system and to introduce our new computer assisted system for bill assessment (CABA) for magistrates' courts' bills.
- 3.12 From January to March 1994 we set targets split between standard and non-standard fee cases. For non-standard fee cases the target was set at 90% in six weeks, a more demanding target than the 90% for all criminal bill cases in the preceding months because the non-standard fee cases would, by definition, be the more complex and technical bills to assess. We said we hoped to pay 97.5% of standard fee claims within four weeks over the period 1 January to 31 March 1994. We did not achieve the standard and non-standard fee targets set for the last three months of the year nationally. We experienced some delays in implementing CABA for criminal bills throughout the area offices for the reasons set out in paragraph 3.59 below. There were particular problems in our Bristol area office in accommodating training requirements and implementation of the new system which coincided with office restructuring. However over the year as a whole we paid 95% of all criminal bills within six weeks. The table below sets out our performance and records the volume change over the last three months of 1992-93:

1 January 1994 – 31 March 1994						
All Standard Fee Claims			All Other Claims			
Time Taken	Target	Performance	Target	Performance	Volume Increase	
4 weeks	97.5%	83%	—	—		
6 weeks	—	—	90%	84%	17.8%	

- 3.13 In March 1994 we paid 90.8% of standard fee claims within four weeks which demonstrates a significant improvement over January 1994 and gives us more confidence, now that CABA for criminal bills is fully effective that we can meet the very demanding target of 97.5% of all standard fees claims within four weeks. We will aim to pay 90% of other claims within six weeks, although this itself is a very demanding target.

Civil and Other Bills

- 3.14 The following tables show the targets we have set for 1994-95 as well as the volume increases in bills paid over 1992-93 with performance against targets. We are setting an earlier target of five weeks for paying the majority of civil bills. They have grown more slowly than forecast which will offset the postponement of improvements to time taken caused by rescheduling our new computer system for other bills. We have also agreed to a Law Society proposal to set an additional target at eight weeks.

Civil Bills: Taxed and Assessed

1993-94 Time Taken	1993-94 Target	1993-94 Performance	1993-94 Volume Increase	1994-95 Time Taken	1994-95 New Target
6 weeks	75%	83%	16.1%	5 weeks	75%
				8 weeks	90%

Other Bills

Time Taken	1993-94 Target	1993-94 Performance	1993-94 Volume Increase	1994-95 New Target
6 weeks	92%	94%	11.4%	93%

Unit Costs

- 3.15 Since we took over legal aid we have made continuous reductions in administrative unit costs. In our last report we said we expected to achieve a reduction of 2% in the unit costs of administration and that we would review our methods of measuring unit costs in the light of the substantial changes we have made to legal aid administration over recent years. We did not meet our objective of making a further 2% improvement in unit costs in 1993-94. There was an adverse increment of 4% in 1993-94 over 1992-93 largely due to manning the organisation for a higher level of demand than materialised. Action has been taken by the introduction of a Voluntary Early Retirement and Voluntary Redundancy Scheme to bring manpower resources into line with the now predicted level of demand, which provided it is realised, will enable us to recover the 1992-93 position in 1994-95.
- 3.16 Despite the adverse movement of 4% last year unit costs have improved cumulatively by 16% since the Board took over legal aid in April 1989 which significantly exceeds the minimum 2% per annum improvement target set by the Treasury. With the recovery of the adverse movement of 1993-94 in 1994-95 our cumulative improvement will be in the order of 20% over the six years which will still be significantly in advance of the 2% per annum minimum Treasury requirement.
- 3.17 Franchising and other new work is excluded from the current unit cost calculation but it is intended to determine work units for these activities and incorporate them in the calculation with their associated costs in 1994-95.
- 3.18 For unit costs purposes our primary work units are determining applications and assessing bills. We have made considerable changes in our working methods over the past five years which have led to improvements in unit costs because the need for double handling and support activities such as filing and typing have been reduced. The time taken for the primary work units has remained unchanged.

The introduction of a higher proportion of more complex work and more sophisticated control procedures in the future will require the primary work units time standards to be reviewed and possibly increased. To offset this, the progressive introduction of improved procedures and new computer systems will further reduce the need for double handling and support activities. We will be considering the appropriate timing for complete revision of time standards. Such a revision will provide a new baseline from which to measure unit cost improvements in the future.

Correspondence

3.19 In our last report we said that we would increasingly be able to identify important categories of correspondence and measure effectively the time taken to deal with them. They were applications:

- (a) to amend civil legal aid certificates;
- (b) for prior authority under civil legal aid certificates; and
- (c) to amend or seek prior authority in ABWOR proceedings.

We now feel able to extend our system of targeting and for 1994–95 we include criminal legal aid matters in the targets for dealing with applications to amend and for prior authority.

3.20 The table below sets out the performance achieved against targets for 1993–94 and the new extended targets for 1994–95.

Correspondence: all applications to amend or for prior authority in Civil Legal Aid or ABWOR matters			
Time Taken	1993–94 Targets	1993–94 Performance	1994–95 New Targets <i>Including criminal legal aid matters</i>
2 weeks	70%	84%	80%
4 weeks	95%	95%	95%

New Target Areas

3.21 In accordance with our commitment to the Citizen’s Charter and our policy of continuous improvement we have carefully reviewed our targets, taking into account views expressed during the consultation process. We have come to the following conclusions.

Other Correspondence

3.22 General correspondence not covered by the specific targets above will be dealt with within four weeks of receipt. This will be measured by reference to the date of post held awaiting attention in area offices. It is not practical to measure time taken from date of receipt in our area offices to the date of our sending a reply because of the considerable volume involved and because dates of receipt and dates of posting of responses are not recorded electronically. Experience has shown that manual monitoring is impracticable and unreliable.

Area Committee Appeals

- 3.23 All appellants, assisted or potentially assisted persons, will be offered an area committee hearing of their appeal on a date within eight weeks of the receipt of their appeal. Appeals are heard at a number of different locations in some areas and it may not always be possible to offer an appellant a hearing at the location closest to where they live within the target time. However, we feel that in these circumstances it is appropriate for the appellant to have the choice between having their appeal dealt with speedily (especially having regard to the fact that they may not wish to attend) or dealt with close to their home.
- 3.24 We will monitor:
- (a) time taken between date appeal received and date of the hearing first offered; and
 - (b) time taken between date appeal received and date actually dealt with.

Emergency Certificates

- 3.25 We have maintained our exceptionally high standard of performance on emergency certificates. Almost all written emergency applications are dealt with within 24 hours of receipt and most decisions are being faxed out to solicitors by the end of the working day following receipt. We will maintain our existing commitment to give emergency applications a high priority so that only in exceptional cases will it take up to 48 hours to reach a decision.

Repayments to Assisted Persons

- 3.26 We recognise that it is important to set a target for the period that assisted persons wait between our identifying that a repayment is due to them and that payment being despatched. However, the current processes necessary to make a repayment are complex and often dependent on obtaining additional information from third parties which makes the time periods involved difficult to measure. Therefore, we are not in a position to set an overall target in this area for 1994–95. With our current procedures we have estimated on a sample basis that 80% of refunds are being made within six weeks of the final bill being processed. Our objective is to implement new computer based procedures in 1995–96 which will enable us to improve on that performance.

Complaints

- 3.27 In April 1993 we implemented our new complaints system. It covers all our area offices and central functions and is part of our quality management system. Its main aim is to ensure that individual complaints are processed quickly and effectively. It allows people to complain in writing, by telephone or in person. It requires complaints to be treated as urgent and to be acknowledged within five days. When we conclude a complaint investigation, we undertake to provide an explanation of what occurred and, if appropriate, apologise to the person who complained. In order to publicise the complaints procedure we have recently issued our complaints leaflet. It outlines the system and includes a form which may be used to make a complaint (see Appendix 3).

- 3.28 The complaints system has three stages. Each new complaint is treated as urgent and action is taken at an appropriate staff level; in most cases, this will be by one of our caseworkers but, if the complaint is particularly important or sensitive, action may be taken at a more senior level. However, if the person complaining is unhappy at the way the complaint was (or is being) dealt with, the complaint will then be passed to the manager in charge of the office. The manager also deals with all correspondence, including complaints, from M.Ps. If the person complaining is still unhappy, the complaint will be referred to our Head Office which will review the complaint afresh. The Chief Executive responds personally to all M.Ps who write to Head Office. The great majority of our complaints are satisfactorily dealt with locally. At any time a person may complain to the Parliamentary Commissioner for Administration (Parliamentary Ombudsman) through an M.P. The Parliamentary Commissioner for Administration took up nine complaints for investigation during 1993–94. We deal with such complaints at Head Office.
- 3.29 Our system provides management information which we use to identify causes for complaint so that they can be rectified. We record complaints by category and note the proportions of what we consider to be justified and unjustified complaints. Consideration of complaints is a regular item at local and national management meetings and the Legal Aid Board considers a report on complaints every six months.
- 3.30 A manual system for collecting statistics for management information was tested and implemented during 1993–94. We have also been developing software to enable us to record complaints information more easily and obtain more detailed information. This computer based system is currently being piloted and will be fully implemented during 1994–95. The table below shows figures for complaints received from the month of August 1993 when the manual system for collecting statistical information had been set up in all our offices.

Complaints Received from 1 August 1993 – 31 March 1994			
Level of handling complaint (see paragraph 3.28 above)	Stage 1 Case Worker	Stage 2 Office Manager	Stage 3 Head Office
Complaints received relating to:			
Telephone response times	340	5	0
Delay in processing:			
Applications & amendments	916	106	4
Payment	1,003	108	9
Correspondence	1,659	120	24
Unfavourable decisions	723	235	34
Miscellaneous	1,212	255	12
Total Complaints Received	5,853	829	83
Percentage considered justified	64%	50%	32%

- 3.31 We will refine and use the statistical information gathered to monitor complaints received during 1994–95. We would like to consider setting a target for a reduction in the proportion of justified complaints during 1995–96. In paragraph

3.27 above we have committed ourselves to respond to all complaints within five days and we will publish our performance against that target in our report next year.

Telephone Calls

- 3.32 We recognise that our performance in dealing with telephone calls is important to our customers. Therefore we are committed to providing a high quality telephone service. We have recently invested in the technical equipment necessary to monitor our performance in dealing with telephone calls and monitoring has now commenced. At present we do not have sufficient information from this process to set targets but during the course of the year, on the basis of the information provided by the monitoring, we will review the handling of telephone calls within our offices and make any changes necessary to be in a position by April 1995 to set targets for the time taken within which:
- (a) all telephone calls will be answered at our switchboards; and
 - (b) calls passed to an extension will be answered.
- 3.33 We have extended the switchboard hours for our central departments to 8.30am to 5.30pm. Extending our current switchboard opening hours in area offices would require a number of systems changes. We are looking at how we may provide extended hours there too.

BS5750 and Quality and Consistency of Decision-Making

- 3.34 In our last report we said we had decided to move away from the original plan of phased accreditation for individual offices and opt for organisational accreditation by the end of 1993. The accreditation programme of auditing each area office and the Board's central functions ran from 21 September to 5 November, 1993.
- 3.35 The Legal Aid Board was granted unconditional corporate accreditation to BS5750 Part 2/IS09002/EN29002 by Lloyds Register Quality Assurance Ltd on 20 November, 1993, more than a month ahead of our target.
- 3.36 We congratulate all members of the staff for their positive contribution to the process of accreditation.
- 3.37 Our overriding objective in achieving registration under BS5750 is to provide greater consistency for the benefit of our customers both to ensure similar treatment in terms of decisions made and the time taken to deliver them.
- 3.38 We are using the internal quality audit requirements of BS5750 to identify better operating practices for the processing of work. We will ensure these are adopted throughout the organisation to enhance our quality management system. This process of continuous quality improvement in all area offices will be robustly maintained during 1994-95.
- 3.39 In addition to our existing quality control systems, by July 1994 our Quality Department will carry out consistency checks between area offices on legal decisions including decisions on green form extensions by comparing decisions made. In the light of the results we will extend guidance and, if necessary, introduce a regular programme of consistency checks across area offices.

Forms Revision

- 3.40 We have pressed ahead with our programme of forms revision. We have issued revised forms for making an application for legal aid. The forms now follow the same style and are aimed at ensuring that all the information needed to make a decision straightaway is collected.
- 3.41 To take account of the arrangements for the payment of contributions for the lifetime of a case introduced in April 1993 we have revised the forms used in making an assessment of means. These forms will be issued, a little later than originally planned. They are being discussed, together with revised legal aid application forms, with Plain English Campaign.
- 3.42 We have revised a number of our forms in line with the implementation of franchising. Some of the new forms have already been issued. Others will be issued by August 1994.
- 3.43 Work is continuing on revising the civil claim for costs form. We are consulting the Lord Chancellor's Department and the Law Society. Subject to that consultation we plan to issue the new forms during the second half of 1994.
- 3.44 We will be issuing revised criminal cost claims later in the year. These revised forms will reflect the implementation of computer assisted bill assessment for criminal cases in our area offices and the experience of the standard fees system.
- 3.45 We are revising the application forms for amendment (CLA 30) and for prior authority (CLA 31) and we are consulting on a new application form "Request for Discharge". We would like to introduce these forms in mid 1994.
- 3.46 During 1994-95 we will review:
- (a) duty solicitor claim forms in the light of franchising requirements, the introduction of the register of representatives (see paragraph 7.16 below) and growing management information needs,
 - (b) whether it would be helpful to us and our stakeholders to introduce standard "Faxed Emergency Decision" forms; and
 - (c) as a continuing exercise, standard letters.

The help and advice we continue to receive from the Law Society's consultative group of practising solicitors is appreciated and we are grateful to them for their contribution in balancing practitioners' interests with the Board's requirements.

Debt Recovery

- 3.47 Our debt recovery unit is now fully operational. Since 20 June 1993 we have recovered in excess of £1.7M against a planned recovery of £600,000 contribution debts.
- 3.48 We took over recovery of costs and damages on 5 April 1993 in respect of new debts. By the end of March 1994 we had achieved our aim of taking over recovery of costs and damages cases previously handled by solicitors. This proved to be a major task. More than 18,000 files were examined and solicitors were requested to report in more than 16,000 cases. There was an excellent response increasing

substantially the intake of correspondence into the Debt Recovery Unit particularly in the last six months of 1993–94. There were a number of cases where enforcement proceedings were in progress and hearing dates had been obtained by solicitors. It was felt prudent to allow solicitors to attend Court and report the outcome prior to taking over these cases.

- 3.49 Various factors contributed to a continued and accelerated catching up effect in debt recovery as shown in appendices Civil 17 and 18 below. The process of taking over all recovery cases described above, enabled us to review a considerable amount of debt where solicitors, having pursued the debtor, advised there was little chance of recovery. Where we agreed with that view the debt was written off to minimise loss. Where debts exceeded the Board's delegated authority to write off, the cases were referred to the Lord Chancellor's Department for consideration. During the year we substantially improved the efficiency of our review and referral procedures for these debts. As a result a larger amount was written off than in 1992–93. The total was also affected by the costs written off due to bankruptcies which had occurred some 18–24 months ago. It is our practice to await declaration of a final dividend by the liquidator. We are also trying generally to complete the recovery process more quickly. The opportunity to recover a debt is greatest soon after it becomes due. This speeding of our processes has caused a higher level of recovery and a concentration of resources on debts which can be most cost effectively recovered.
- 3.50 Before fully computerising our debt recovery process we decided to await the outcome of the review of the Board's information systems strategy described in paragraph 3.57 below. We plan to create a revised system for debt recovery by September 1994. The replacement land charge system will now come into operation in 1995–96. Despite this rescheduling, our Accounts Department maintained its response times on vacations and redemptions of land charges. During 1994–95 we will build on the current rate of recovery. We also intend to enhance our staff training programme which will increase their ability to recover debt.

New Functions

Means Assessment

- 3.51 In order to bring about maximum improvements in both efficiency and performance, we are considering whether we should propose to the Lord Chancellor that we should take over the assessment of means in civil legal aid cases from the Benefits Agency. The Benefits Agency and the Board have agreed to commission an independent report on the cost benefit of transfer of the function with a view to making a recommendation to Ministers by 31 March 1995.

Civil Bill Assessment

- 3.52 At present we assess all civil legal aid bills up to a limit of £500 and can assess those up to £1,000 in certain circumstances on the application of the solicitor. Higher value civil bills are taxed by the court. We have recommended to the Lord Chancellor that from 1 August 1994 we should assume responsibility for the assessment of all civil legal aid bills up to a limit of £2,500 and, on the application

of the solicitor up to £5,000. We estimate this would involve us in dealing with an additional 38,000 bills in 1994–95. It should result in a speedier service to solicitors. We await the Lord Chancellor's decision. In addition we will begin to take the steps necessary to ensure that we can assume responsibility for assessing all civil legal aid bills (without financial limit) from 1 April 1996.

Citizen's Charter

- 3.53 Our objective is to raise the quality of our service and make it answer better to the needs of our users. We described earlier in this chapter how we have developed a revised complaints procedure and extended the scope of our targeting, consulting outside organisations and setting shorter response times wherever possible.
- 3.54 We published our first statement of national customer service standards in Focus, our newsletter to the profession, in December 1993. In the April 1994 edition of Focus we updated and developed it. We are publishing the revised version in the form of a leaflet aimed at assisted persons and potentially assisted persons. Copies will be available from our Head Office and area offices shortly.
- 3.55 During the year many of our area offices, whilst restructuring to accommodate improved work procedures, have taken the opportunity to introduce customer service sections and published direct dial telephone numbers to solicitors and assisted persons. They will produce customer care leaflets and information sheets relevant to their local operations in the coming year.
- 3.56 We are anxious to collect more direct feedback from assisted persons and potentially assisted persons. In order to ascertain their views about our performance we will conduct a survey of assisted persons and applicants for legal aid by the end of 1994. This survey will build on that carried out for the National Audit Office's report on the administration of legal aid published in 1992.

Information Systems

- 3.57 This year has seen a significant increase in terms of the proportion of the Board's activities which are supported by computers. A number of new products have been developed as well as major enhancements to existing systems. The developments have been driven as a response to statutory change, to improve efficiency or to support Board initiatives such as franchising.
- 3.58 The franchising programme has brought with it a number of requirements where the need for computer support has been essential. Several systems have already been developed and are in widespread use:
- (a) franchise application support – the logging and tracking of applications for franchises under one or more categories across one or more office locations;
 - (b) pre-contract monitoring – the collection and reporting of individual firms' performances;
 - (c) audit support – a system for use by quality auditors on portable p.c.'s as they carry out audits on solicitors' premises, printing off audit results on site and the subsequent transfer of audit results to a central database for national collation and consistency checking;

- (d) management information systems – providing up-to-date progress reports and supporting decision making.

Our payment systems are being updated to handle the preferential arrangements which will be available to successful franchise applicants from August 1994. Additional software is being progressed which manages the administration of franchise contracts and post-contract performance monitoring.

- 3.59 We began implementation of a system to assist bill processing (CABA – computer assisted bill assessment) for criminal bills in late 1993, slightly later than planned due to technical problems which emerged during field testing. All area offices were operational with the new system by February 1994. All lower, higher and non-standard fee bills can now be input in area offices, cutting out batching and mailing of bills to London. Plans to extend the CABA system have now been superseded by the franchise payments system development which incorporates many of the CABA benefits such as direct input in area offices of green form bills.
- 3.60 Statutory changes have been incorporated into our existing systems, most notably standard fee processing and contributions for the lifetime of a case.
- 3.61 Alongside our current systems development projects we have initiated an IT strategy review. We decided this was essential before committing significant resources to the development of a civil CABA system. The results of the strategic analysis phase conducted across the breadth of the Board's activity produced a corporate model of the data and functions the Board requires to carry out its work. The resultant Information Systems Plan indicated a number of application modules representing the key functions of the Board working with a single corporate database. The system will be capable of capturing more of the data that we and the Lord Chancellor's Department will need for future policy developments and initiatives.
- 3.62 The current phase of work, detailed analysis, will be completed in July 1994 and provide not only a fully detailed model of the Board's data and functions, but also the ability to prioritise future systems developments. The integration of all systems achieved by taking this approach will ultimately allow the Board to meet its processing and information needs and provide a firm base to assess the impact of subsequent changes on our computer systems. Following the detailed analysis phase, plans will be drawn up that map future developments through 1994-95 and beyond.
- 3.63 An independent IT security report commissioned in early 1993 indicated a number of areas where we could safeguard our recently installed networks and make contingency plans for potential system failures. Whilst a considerable amount of work remains, significant steps have already been taken including the control of access to systems, virus protection, computer security awareness, hardware and software audit and the setting up of a security and contingency team to carry forward initiatives.
- 3.64 Plans for 1994-5 include the further work on the development of the IT strategy review as well as a focus on more immediate needs such as franchising. A review of the organisational benefits of the implementation of electronic mail will also

be carried out. Results gathered from a series of telephone call monitoring systems installed in 1993–94 will be refined and will go towards the development of establishing the telephone response targets for 1995–6 we outlined in paragraph 3.32 above.

Personnel Policy

Staffing

- 3.65 Towards the end of 1993 it became clear that the introduction of new, more effective work procedures had created a surplus of staff in area offices. We had expected the surplus would be absorbed by further increases in demand and the transfer to the Board of new work such as means assessment and criminal legal aid. In the event this could not happen to any significant degree within the time frame that the staff savings needed to be made.
- 3.66 We introduced from January to March 1994, and then extended to the end of May, a Voluntary Early Retirement and Voluntary Redundancy Scheme with the aim of achieving a reduction of 120 permanent employees in area offices. This was in addition to an estimated reduction of a further 30 employees by normal staff turnover, giving a total reduction of 150 posts, approximately 13% of the area office workforce. The reduction in numbers required varied by grade and numbers from office to office depending on how much natural wastage had taken place to date, and excluded all those staff appointed in franchising posts. The scheme achieved a reduction of 103 posts. We hope to be able to achieve the balance by further natural wastage.
- 3.67 We remain committed to our policy of recruiting people able to enhance performance in all our areas of operation and developing through training and experience the skills of staff in order to improve efficiency and effectiveness. Equal opportunity and personal development of staff remain central principles of this policy.
- 3.68 We are continuing to increase investment in training and development to facilitate and encourage the maximum involvement of staff in enhancing the quality of service to our customers.

Implementing Franchising

- 3.69 A very significant part of the Personnel and Training Department's resources have been directed at securing and developing the people needed to implement the franchising initiative.
- 3.70 By the end of April 1993, an advertising campaign had been completed and ten assessment centres had been run. Decisions to appoint over twenty Franchise and Liaison Managers and Quality Auditors quickly followed. The whole recruitment and selection process proved extremely successful and was awarded a Certificate of Merit at the IPA and IPM Recruitment Industry Awards.
- 3.71 The training programme for all those appointed to these new posts began in June 1993 and concluded in March 1994 by which time over 50 workshops and conferences had been organised and run. The activities covered ranged from

training in law and legal procedure to the skills of auditing and the use of the transaction criteria. The project was the largest yet undertaken by the Personnel and Training Department.

Health and Safety

- 3.72 Ultimate responsibility for health and safety is held by the Director of Finance and Personnel.
- 3.73 During the last year, in line with the requirements of new legislation as it affected the Board, offices and departments have carried out risk assessments for their premises and working practices. Assessments have been carried out in line with both existing policy and the requirements of the regulations arising from EU Directives of which the two most relevant were Manual Handling and Display Screen Equipment Work.
- 3.74 There were two reportable accidents during the year.

Chapter Four: Finance

Fund Expenditure 1993–1994

- 4.1 In our Corporate Plan we committed ourselves to contribute within our areas of responsibility towards gaining control of the overall cost of legal aid while ensuring that there is value for money from the services we purchase. We have taken various steps to meet that key challenge. The franchising initiative, non-solicitor agencies project and our research into alternative methods of delivery, described in the following chapters of the report, will play a significant role in trying to achieve high quality, wider access and increased value for money from the services we purchase. It is also a recurrent theme in the work we do on criminal legal aid.
- 4.2 For the financial year 1993–94 the provision allocated for the Legal Aid Fund in the public expenditure White Paper was £1,026,907,000. Actual expenditure for the year was £973,979,000. In last year's report we noted that our own baseline forecast was that expenditure could rise as high as £1,091M, but we qualified this by saying that the eventual outcome would depend upon the response of prospective litigants to the requirement to pay increased and continuing contributions for civil legal aid and ABWOR cases and upon how long the reduced level of activity in the magistrates' courts continued. In the event expenditure was £53M below provision.
- 4.3 In qualifying our estimate we had correctly identified the key areas where reduced growth would result in lower than forecast expenditure. In addition, however, there were other contributory factors. There was an unexpected shift to a higher proportion of civil cases settling instead of proceeding to trial, a better recovery of costs orders and the two main schemes which fuel demand for legal aid certificates and criminal legal aid orders grew more slowly than forecast:
- (a) civil bill volumes by 16.1% against our own estimate of 18%;
 - (b) criminal bill volumes declined by 1.6% against forecast growth of 1%;
 - (c) green form volumes grew by 14.4% compared with our estimate of 18%;
and
 - (d) the number of people assisted at police stations grew by 7.6% when we had expected 12%.
- 4.4 The growth in average costs for several of the major schemes was lower than forecast:
- (a) the average cost of green form advice grew by 3.4% when we had forecast 5.4%;

- (b) the cost of advice at police stations per suspect assisted increased by 1.0% when we had forecast 2.2%;
- (c) the average claim under the court duty solicitor scheme increased by 3.3%, half the expected rate of 6.6%; and
- (d) the average cost of criminal bills declined against forecast growth of 2.6% (but see paragraph 7.7 below on the impact of the introduction of standard fees).

There were exceptions, namely civil legal aid and ABWOR. For civil legal aid, the rate of growth in average costs showed only a small reduction from 8.8% in 1992–93 to 8.2% in 1993–94 against a forecast reduction to 5.9%. ABWOR was a special case: as numbers of bills paid declined rapidly due to the implementation of the Children Act 1989, the bills which remained to be paid were increasingly for older cases or more specialised fora such as Mental Health Review Tribunals. This change in the mix of bills paid produced an increase of 17.5% in average costs on a reduction in volume of 24%.

- 4.5 The factors which contributed to lower than forecast growth included:
- (a) a more rapid reduction than anticipated in the number of applications submitted for civil legal aid;
 - (b) as a result of (a) above, an earlier reduction than anticipated in civil bills paid;
 - (c) the reduction in criminal bill volumes continuing for longer than expected. This is a complex issue in the light of the introduction of standard fees (see paragraph 7.7 below);
 - (d) reduced demand for green form advice in matrimonial proceedings; and
 - (e) a reduction in demand for advice on employment matters (–8.4%), and sharply reduced growth in personal injuries (+3.5%), hire purchase and debt (+3.9%), and consumer questions generally (+4.1%) against an overall growth rate of 14.4%.
- 4.6 With the exception of criminal legal aid, average case costs rose in 1993–94 for all major types of work although less than we had forecast. The rise in the average cost of most types of case when measured against the rate of inflation over recent years is a major concern to us.
- 4.7 The eligibility changes in April 1993 did not have a uniform effect on the pattern of demand for green form advice. Some advice areas continued to show the high growth of the previous two years:
- (a) advice on welfare benefits increased by 56%; and
 - (b) advice on immigration and nationality increased by 49%.
- 4.8 In addition, claims for green form advice on criminal matters increased by 22%. (See our discussion of the impact on criminal costs of the introduction of the standard fee system in paragraph 7.7 below).
- 4.9 The establishment of the Child Support Agency produced fewer new claims than might have been expected, with only 3,512 bills for advice on this topic being paid during the year out of a total of 1.6M green form claims.

4.10 Together with the Lord Chancellor's Department we have continued to give high priority to work on improvements to our modelling and forecasting of legal aid expenditure. The first phase of development of a new model is now complete and, in tests conducted so far, the model has proved more accurate than its predecessors. By making use of a wider range of forecasting techniques, the model provides greater flexibility in adapting to trends and circumstances, enabling the effects of some policy changes to be incorporated in the base forecast. The model is being used to prepare estimates for the Public Expenditure Survey which will be published this Autumn. Further development and improvement of the model will continue to accommodate more of the external factors which drive demand for legal aid. It remains our view, however, that no model which relies on purely historical observations can ever predict fluctuations in demand on the scale which has been experienced over the past three years, and that human judgment, however fallible, will always remain an integral part of the forecasting process.

Fund Estimate 1994-95

4.11 The Board's current estimate of likely expenditure in 1994-95 is £1,057M. The main assumptions on which we base it are:

- (a) a reduction to 5% in the rate of growth in the number of civil bills paid;
- (b) renewed growth of 8% in criminal bill volumes;
- (c) growth of 16% in green form volumes following the increase in eligibility announced by the Lord Chancellor from April 1994;
- (d) a continuation of the 1993-94 growth in use of the duty solicitor schemes; and
- (e) an overall increase in average costs of 3.3%.

The provision allocated in public expenditure for legal aid is £1,135M.

Review of Administration Expenditure 1993-94

4.12 Expenditure for the year of £46.7M was in line with the original budget. The increase in expenditure over 1992-93 was due principally to the cost of the franchising initiative (£3.4M), and extra staff taken on to cover the anticipated increase in work volumes. Franchise costs included the salaries of the additional staff needed along with the cost of recruitment and training. We also obtained a supplementary provision of £350,000 to fund part of the voluntary redundancy and voluntary early retirement programme reported in chapter three.

4.13 Investment in our computer strategy has continued with the introduction of our computer assisted bill assessment system (CABA). We also accelerated the computer strategy to bring forward the introduction of much needed developments especially those relating to the franchising initiative and to meet the pace at which staff operating new systems required increased computer facilities.

4.14 In our report last year we anticipated the need to refit London central departments. For some time we had been concerned that the spread of our central functions across three separate sites was impeding internal

communications. We needed to bring our main central functions together in one place while maintaining maximum flexibility for action as the leases on the various properties expired. In March 1994 we took advantage of a break clause in the lease on part of one of our offices to move most of our central functions to new premises which have been fitted out to comply with modern working practices and EU directives. The move attracted some critical comment on grounds of expense. In fact, through competitive tendering we have achieved value for money and a reduction in our square footage rent liability. We have negotiated lease arrangements which leave us in a better position to achieve maximum flexibility for future decisions on our property needs in central London. The relocation of the Manchester area office was deferred.

Administration Budget 1994–95

- 4.15 Our aim for our administration budget is to deliver our services to the targets set out in chapter three, take forward the individual projects described elsewhere in this report and, not only stay within our cash limits but ensure that our financial and other business controls are operated effectively so as to ensure that the target we have set for unit cost reduction in paragraph 3.15 above is met. In order to achieve this we will need to reap the benefit of the substantial efficiency gains that we have made, and those that we will be seeking during the year, leading to a reduction in the number of staff employed in the delivery of our core functions through the programme of voluntary early retirement and voluntary redundancy which commenced in January 1994. We have also investigated new functions which we might recommend should be managed by us in order to bring about maximum improvements in both our efficiency and quality in the delivery of legal aid services. Our programme of devolved budgeting will continue to improve the control of resources within the organisation.
- 4.16 The main initiatives impacting on 1994–95 expenditure are:
- (a) the voluntary early retirement and redundancy programme;
 - (b) expansion of franchising;
 - (c) development of the computer strategy.

Fraud – Investigation Section

- 4.17 We continue to be committed to discouraging fraud and abuse of the legal aid system by a minority of solicitors, barristers and/or their employees and by assisted persons. We have increased the Investigation Section's resources as planned. We have pressed ahead with our programme of forms revision, one aim of which is to achieve better control of costs, including deterring fraud and excessive claims. The Investigation Section now consists of a manager, five investigators and three administrative support staff. Additionally the section is undertaking all status enquiries of franchise applicants.
- 4.18 The case load of the section continued to increase mainly as the result of the ongoing liaison between members of the section and area office staff who have been helped by training in awareness of identifying methods of abuse of the system. The increase can also be attributed to the section's close liaison with

outside agencies. Regular meetings now take place with the Solicitors' Complaints Bureau and the Law Society's Monitoring Unit to exchange information on matters of mutual interest.

- 4.19 The number of preliminary enquiries undertaken by the section again rose from 642 in 1992–93 to 1,035 in 1993–94. The number of cases under investigation also rose from 362 in 1992–93 to 957 in 1993–94. The large increase is due to the number of “Letters for Explanation” investigations undertaken, involving firms of solicitors found to be submitting questionable costs claims in breach of Legal Aid Regulations. Of the 957 investigations 836 fall into this category. Such investigations have resulted in 363 firms being referred to the Solicitors' Complaints Bureau for its information and a further 21 being reported to the Solicitors' Complaints Bureau requesting disciplinary action. Of the letters for explanation cases 420 were completed during the year.
- 4.20 The remaining 121 cases related to more detailed investigations. Six cases have resulted in court appearances. Four of them involved solicitors and their employees. Two solicitors and a clerk were convicted and one solicitor acquitted. The two other cases involved assisted persons making false declarations to obtain legal aid. During the year, 20 detailed investigations were completed.
- 4.21 At the end of 1993–94, 517 investigations were on-going, of which 416 involved letters for explanation. Of the remaining 101, 30 have been reported to the police of which five are at present awaiting trial. Ten have been reported to the Solicitors' Complaints Bureau for disciplinary action and we are awaiting the outcome.
- 4.22 In addition to its investigative role, the section has dealt with firms of solicitors which were, during the course of enquiries, found to have been over-claiming costs on the Legal Aid Fund. A total of £143,000 has either been reimbursed, recouped or saved.

Control of Green Form Claims

- 4.23 We have become seriously concerned that developments in the direction of “mass marketing” of green form advice and assistance have increased the vulnerability of the scheme to fraud and abuse.
- 4.24 Flexibility has always been a key feature of the green form scheme. It has enabled clients to continue to benefit in spite of changes in the law and methods of delivering advice. Unfortunately, the flexibility which in so many circumstances is crucial to ensuring benefit to the client, may in others lead to problems in defining the scope of the scheme and even expose it to fraud and abuse while giving the client little or no benefit.
- 4.25 Our primary duty is to identify fraud but we also ought to try and identify situations where the client receives little or no benefit but the solicitor benefits within the law. We also have a duty to pay no more than is reasonable in individual claims in all the circumstances.

- 4.26 The issues here are complex including considerations of what may be claimed for on a separate green form under Regulation 17 of the Legal Advice and Assistance Regulations 1989 and whether or not in the particular circumstances the solicitor is providing sufficient supervision for other persons giving advice, to fall within Regulation 20 of the Legal Advice and Assistance Regulations 1989.
- 4.27 Regulations are an important tool to remove the flexibility that leaves scope for abuse, and to preserve the essential flexibility which promotes benefit for the client. It is difficult to get the balance right.
- 4.28 As the next stage in our work to reduce the problem of potential fraud we are reviewing our internal systems particularly those aimed at intelligence gathering which should provide a trigger for action.
- 4.29 The options for action might include:
- (a) inviting the firm to set out in writing its method of operating the green form scheme;
 - (b) visiting the firm to confirm its method of operation is legal;
 - (c) seeking advice from our Legal and Investigations staff on more drastic action;
 - (d) commissioning a visit to a sample of clients by the Investigations Section;
 - (e) disallowing payments of individual green forms;
 - (f) reducing the costs claimed on individual green forms;
 - (g) postponing payment of all green forms; and
 - (h) referring the firm to the Investigations Section for a detailed analysis of green forms; or
 - (i) a combination of any of the above.
- 4.30 We are concerned that even such action might not be sufficient to minimise the risk of fraud. The risk inevitably calls into question the current structure of the advice and assistance scheme. If the scheme is to retain its current high degree of flexibility and ready accessibility some serious decisions will have to be made over the next 12 months about achieving a far greater and more effective degree of control to reduce the difficulty in policing the boundary between fraud, dubious but legal methods of working and legitimate use of the scheme.

Chapter Five: Supply and Delivery of Legal Services

- 5.1. Last year we included a chapter called "Access to Legal Services". We have already explained in chapter two the changes we made during the year to provide us with the best committee structure for taking forward the Lord Chancellor's objectives for legal aid which resulted in our setting up the Supply and Delivery of Legal Services Committee. The Lord Chancellor has said that operating within the framework laid down by the Legal Aid Act 1988 and the regulations, directions and guidance made under it, the Board's overall aim should be to ensure that legal advice, assistance and representation are made available to those who need them. Access is therefore a key objective and we felt that it should be seen as integral to the work of all the Board's committees rather than appearing to be the sole responsibility of a single "Access" committee. We have cast all our work in the context of the Lord Chancellor's objectives, and have identified as one of our guiding principles the promotion of access to legal services where recourse to the law is the best solution.
- 5.2. The new committee now has responsibility for developing means of measuring and monitoring access, which we first defined in our report for the year 1990-91:
- "access is achieved where individuals are aware of their need for legal services and can select and actually obtain legal services of an appropriate quality, at a price within reach."
- 5.3. This definition fits well with the Lord Chancellor's objectives: there should be access where recourse to the law is the best solution; services should be at a defined level of quality and efficiency; and cost must be affordable and controllable. The Lord Chancellor also requires that legal aid should be targeted towards those whose need is greatest. Information about the extent to which there is access is more important than ever to us in considering how best to meet our objectives and so our work in this area continues.
- 5.4. Our objectives are reflected in the committee's terms of reference:
- To develop the Board's policy on the supply and delivery of legal aid services to ensure that the objectives of affordable cost, access and quality are maximised by:
- (a) developing a means of measuring and monitoring access to legal services to inform the Board's strategic decision-making on the supply and delivery of legal services;
 - (b) advising as required on the Board's relationship with its suppliers both current and prospective;
 - (c) advising on whether the current methods of supply and delivery are the most effective means of meeting the Lord Chancellor's objectives;

- (d) advising on the development of alternative methods of supply and delivery to address the priorities which the Board identifies.

In the rest of this chapter we describe continuing tasks for which the new committee has taken over responsibility to the Board, and in Chapter Six: Franchising, matters in which it has an interest.

Need for Legal Services and the North Western Legal Services Committee

- 5.5 Our models for predicting likely need for legal services in housing and debt, about which we reported in detail in our report for 1991–92, have been updated using the information from the 1991 census. Maps and reports from these models have been widely discussed at our North Western Legal Services Committee County Conferences.
- 5.6 The NWLSC has become an important part of our work. It has held four county conferences during the year (the fifth, Cumbria, was held in May) looking at the predictions of our access models for their region and considering priority tasks for the Committee. Once the series of conferences is completed we will be reviewing the predictive models to incorporate feedback from the conferences. Reports on the county conferences are in NWLSC's annual report and available separately from Carolyn Schofield, Secretary, NWLSC, 2nd floor, Elisabeth House, St Peter's Square, Manchester M2 3DA.
- 5.7 One of NWLSC's tasks is to facilitate the provision of legal services. During the year it has embarked on a pilot referral scheme based in Oldham. We have believed for some time that stronger referral links between providers will improve access but these links have been lacking in many places. We were encouraged to see that a key priority task emerging from the NWLSC conferences was establishing referral schemes. We believe that these are likely to provide cost effective means of improving access. Appendix 4 contains more details on the Oldham referral scheme which is currently under evaluation. We hope to have more information on its effectiveness as a model next year.
- 5.8 Delays with the production of the 1991 census figures in the form required for our work has slowed the development of the further models in immigration/nationality and welfare benefits but we will be testing these over the next year.

Suppliers of Quality Services

- 5.9 We are now beginning to look at the other side of the access equation, namely information on suppliers of legal services. We had deferred work on this aspect of access until we began to gather information on franchisees. Quality is an important part of our definition of access – we believe there must be access to quality services. However, historically our information has been held by account number, which may cover several offices, and as we have had no information on the quality of services offered, we have been unable until now to make significant progress on this aspect of access.

- 5.10 Now that franchising is being implemented we will be using the improved information on franchisees to help us to monitor access to franchised suppliers. We have set up a Franchising Advisory Committee with external membership which will be able increasingly to use information from our access work to assess the effect of franchising on access and monitor the coverage, both geographically and by category of law, provided by franchisees. We have always seen franchising and access as being closely linked. We are now able to make that link concrete by providing information about access through which we will be able to provide a context for our strategic decision-making.

Block Funding and Alternative Methods of Delivery

- 5.11 In our last report we said that we were establishing a working party to make proposals for block-funding high volumes of work done by agencies employing solicitors. We were also interested in exploring the value of work done using different methods of delivery and particularly interested in looking at provision to individuals eligible for legal aid but by methods which may be currently outside the scope of the Legal Aid Act. Group work, telephone advice services, and education and training were examples of the methods of delivery we thought we could explore.
- 5.12 Although our original discussions proposed looking at alternative methods of funding this work, we concluded that considering methods of payment and methods of delivery within the same project would be too complex. After further discussions with the relevant bodies, we decided to concentrate on exploring different methods of delivery before looking at alternative methods of payment. We have therefore selected several projects to be monitored and evaluated by independent researchers during 1994–95. We expect to report in 1996 on the outcome of this work.
- 5.13 This is an important project for us because we hope that it will give us information about methods of delivery which would best maximise objectives of quality, cost and access. We hope to be able to use information from this exercise to help us determine the most effective means of delivering legal services within the legal aid scheme.

Payments to Law Centres

5.14 The Board made the following payments to law centres during the year 1993–94 :

Payments	Number	Amount £	Average Cost £
Legal Aid Fund:			
Civil Legal Aid	584	521,285	892.61
ABWOR	55	25,269	459.43
Criminal Legal Aid	84	39,310	467.97
Green Form	28,446	2,151,520	75.64
Advice at Police Stations	102	10,186	99.86
Legal Aid Fund Totals	29,271	2,747,570	93.87
Grants to Board Funded Centres	10	942,052	—
Total Payments	—	3,689,622	—

After a rise of 10.7% in 1992–93, law centres' Legal Aid Fund income again rose, by 25.9% in 1993–94. Grants to Board funded centres rose by 2.7%.

5.15 During 1993–94 further payments totalling £1,144,056, including £306,694 for civil legal aid and £832,625 for advice and assistance, were made from the Fund to citizens advice bureaux and other independent advice agencies.

Chapter Six: Franchising

- 6.1 We published the franchising specification in July 1993. This was a further major step in the development of our franchising initiative on which we first reported in 1989. The specification was the result of extensive consultation with the Law Society and others, including the Legal Aid Practitioners' Group, the Advice Services Alliance, the Federation of Independent Advice Centres, the Law Centres Federation, the National Association of Citizens Advice Bureaux and the National Consumer Council.

Objectives

- 6.2 Our objectives in promoting franchising are to work in partnership with the profession to provide an accessible and quality assured legal aid service to clients giving improving value for money to the taxpayer. This partnership approach is an important aspect of franchising. Our commitment to making this partnership work effectively at the local level led to our ensuring that staff were recruited (internally and externally) and given extensive training to fulfil key roles as liaison managers and quality auditors. Many firms of solicitors helped us in training our staff by participating in training sessions and providing case files for auditor training.
- 6.3 Franchising staff in all our area offices have held numerous seminars and workshops to explain the franchising requirements to solicitors. Staff have also conducted friendly audits to help solicitors to build on strengths and identify weaknesses before embarking on the formal application process.

Applications

- 6.4 We invited the first applications from 1 October 1993 and gave a commitment that we would complete preliminary audits (the first audit stage) by the end of January 1994 for those whose applications were received by the end of October 1993. We achieved this, sharing resources between area offices as necessary.
- 6.5 At 31 March 1994, 1477 offices offering legal aid services had applied for franchises, including five law centres and advice agencies with solicitors. An application may cover several categories of work. The table below shows the breakdown by area office and category of work.

Area Office	Applications per Area Office	Matrimonial/Family	Crime	Personal Injury	Housing	Debt	Employment	Welfare Benefits	Consumer/General Contract	Immigration/Nationality
London	169	136	98	124	95	60	54	29	74	32
Brighton	100	92	44	77	39	37	43	21	63	8
Reading	189	177	112	170	112	131	125	45	146	19
Bristol	166	158	87	148	98	98	95	41	114	5
Cardiff	75	74	68	73	50	59	54	40	63	8
Birmingham	82	75	49	75	41	46	41	34	53	8
Manchester	103	90	72	90	54	49	49	47	54	10
Newcastle	57	54	46	54	28	36	35	27	36	7
Leeds	107	93	70	85	34	47	45	22	64	13
Nottingham	110	107	77	105	50	67	77	45	78	20
Cambridge	158	148	90	130	76	87	87	26	101	4
Chester	80	76	58	77	42	49	51	38	67	17
Liverpool	81	72	58	73	62	60	53	54	64	26
TOTAL	1,477	1,352	929	1,281	781	826	809	469	977	177

- 6.6 By early June 1994, of the 1,477 applications received by 31 March, 1,251 had had a preliminary audit and 93% of these have passed this stage and progressed into the monitoring period where work passing through the area office is monitored, and on to the next audit stage, the pre-contract audit.
- 6.7 We will award the first franchises in the week beginning 1 August 1994.

Discussions and Negotiations

- 6.8 During this period we have continued discussions with the Law Society on the terms of the franchise contract. The profession has raised concerns on a number of issues, including the specific requirements of the franchise contract, as well as worries about the possibility of price competition and exclusivity being introduced through franchising.
- 6.9 We have always made our views clear on competitive tendering and exclusivity and indeed set out our position in our last annual report. It is worth restating our policy. The Lord Chancellor has made it clear that there are no firm proposals at present for the introduction of competitive tendering as a consequence of franchising. However, the Lord Chancellor has said that he is interested in exploring the possibility of developing mechanisms which would enable firms to compete on price against an agreed quality standard. Franchising is a quality standard, a scheme which has not yet been fully implemented and is still developing. Any steps to introduce competition against that quality standard would need careful and long-term planning. Any advice that we gave to the Lord Chancellor would be given in the context of continuing realisation of our objectives for franchising – the provision of an accessible, quality assured, value for money legal aid service to clients. Access is a key issue here and we will seek to ensure that any future developments can only be made in the light of full knowledge of their likely affect on access.
- 6.10 Our position on exclusivity is also clear and we have maintained this consistently. There are two types of exclusivity. One is effectively a monopoly where a single

provider has exclusive rights to provide a service. We cannot envisage introducing such an arrangement through franchising, unless an exclusive contract enabled us to secure a service in a defined geographical area where none existed.

- 6.11 The second form is where franchisees have exclusive rights to provide legal aid services in a particular area of law, in a defined geographical area. We think this would be appropriate only where franchisees could meet all current and likely demand. We have already made it clear that we would not seek to limit the number of franchisees in any category of law or geographical area.
- 6.12 Concern has been expressed by the Law Society in the course of our discussions relating to a number of other issues including:
- (a) the introduction of requirements relating to compliance with the transaction criteria and the average cost of cases within the life of the first five year contracts;
 - (b) the provision that payment will not be made for work done where devolved powers have been exercised outside our guidelines;
 - (c) the costs guidance issued for franchisees exercising devolved powers;
 - (d) the effect of monitoring requirements.

Discussions with the Law Society have continued on outstanding issues and areas needing clarification. In dealing with these issues and concerns we have tried to allay the profession's fears and hope that we can agree an appropriate way forward.

Transaction Criteria

- 6.13 We have developed further transaction criteria, our audit tool which provides us with further means of assuring the quality of service to clients by looking at the detail of the process by which the service has been provided. Transaction criteria provide us with an effective proxy for expert peer review of files, although our own research has shown that peer review on its own is not a perfect means of assessment and some sort of systematic approach, such as that provided by transaction criteria, would still need to be developed for the use of peer assessors. We will be publishing criteria covering cases up to full legal aid certificate in matrimonial/family, personal injury and crime shortly, as well as covering advice and assistance in the remaining franchise categories as updated and amended after consultation. The research report from the Birmingham pilot, which details the research based development of the transaction criteria, will also be available for purchase with the transaction criteria.
- 6.14 We are using the criteria during the pre-contract audits. Our auditors transfer the results to portable computers on site and then leave the marked transaction criteria audit checklists with the audited solicitor. We hope that this provides fast, effective feedback on the criteria themselves and the audit process. Auditors also give applicants a printout showing levels of compliance with the criteria and any areas of systematic omissions. These audits, and audits done during the training and testing phase, suggest that many franchise applicants are already achieving levels of compliance with the transaction criteria at rates in the region of 65–70%.

We have not yet agreed the level at which compliance with the transaction criteria will be set but expect to set the initial level in a range where the majority of franchisees could comply. Once transaction criteria are widely available we expect firms will want to incorporate relevant elements in training and supervisory systems. Levels of compliance will inevitably increase as a result and therefore we believe that the compliance threshold will need to be raised to take account of that; however, this will only be done after full consultation and an appropriate period of notice will be given to existing contract holders.

- 6.15 Arrangements are being put in place to update transaction criteria to reflect developments in the law and accepted best practice. Any changes to the criteria will be fully consulted on and will be published.
- 6.16 Because the use of transaction criteria as a quality assurance tool is a new concept we understand the profession's concern about the situation where, in future, a decision might be made to suspend, or terminate franchises or to refuse a franchise on the basis of the transaction criteria audit alone. We think this is unlikely. Should the situation arise, however, we are prepared to ask an independent panel of franchisees, possibly including members of the Law Society's specialist panels where appropriate, to consider the relevant files and transaction criteria data to advise us about the validity of the specific audit in assessing the competence of the work done. This group would further advise us, if non-compliance was confirmed, whether this was an objective assessment of the work being done and should reasonably be a basis for suspension or termination or the refusal of the franchise.
- 6.17 However, the need for this will, we believe, be reduced once transaction criteria become established. In order to assist this we will be prepared to re-audit the sample of files jointly with the firm and explain why non-compliances have been recorded. We will also discount files where the fee earner is no longer with the firm. If it is still the case that the firm has achieved less than the minimum compliance level we will take another sample of files focused on the firm's most recent work. If there are insufficient recent files to achieve a statistically valid sample we would be prepared to defer any decision to refuse or end a franchise until such a sample could be obtained.
- 6.18 In order to give early applicants for franchises as much certainty as possible, we propose to declare minimum compliance rates for all categories of law by 1 August 1994. However, once declared, all new applicants and existing contract holders will be expected to meet them, either on the pre-contract audit for new applicants or on the next post contract audit for franchisees.
- 6.19 We have referred in paragraph 6.14 to the need to increase the compliance threshold as levels of compliance increase, as they inevitably will. However, that will not be done until 1 August 1996 at the earliest. Existing contract holders will not be required to meet any higher compliance level until February 1997 or their next post contract audit after that date, whichever was the later.

New Categories

- 6.20 We want to consider the possibility of creating separate franchise categories in, for example, medical negligence and child care work. To achieve this aim we would need to develop transaction criteria in these specific areas. This area of work is still under consideration. We will ask the Franchising Advisory Committee, and others, for views on the best way forward.

Further Work – Outcome Measures and Average Costs

- 6.21 Our researchers continue work developing outcome measures which are aimed at enabling us to extend the range of measures at our disposal. This research is due to report in November 1994 and we are consequently some way from being able to put forward concrete proposals. We have been considering average costs criteria within franchising with a view to comparing the costs of cases of franchisees in terms of category of law, degree of difficulty or complexity and, where appropriate, outcome for the client. We believe that, over a number of cases, the average cost between franchisees will be in the same range. Where one franchisee's average costs are significantly higher or significantly lower, it is, we believe, reasonable to ask why and compare the outcomes achieved for the higher and lower costs with the average. Lower costs with poorer outcomes will cause the same degree of concern as higher costs with the same outcomes. We do accept, however, that higher costs may be justified on the grounds of significantly better outcomes.
- 6.22 In order to take this work forward we intend to commission research to identify, in particular, homogeneous types of cases and ways of defining complexity. We have invited the Law Society to join the group that will oversee that research. If the research enables us to introduce specific average cost criteria into franchising they will not be introduced until 1 August 1996 at the earliest for new applicants and will not affect existing franchisees until their first post contract audit after 1 August 1997.

Devolved Powers and Costs Guidance

- 6.23 Franchising is a quality assurance initiative which, by its nature, gives us confidence about those with whom we enter the franchise partnership. As our confidence grows, through the development of the quality assurance mechanism, our aim is to extend more of our own statutory powers to franchisees. This has many benefits: the bureaucratic processes are simplified, giving greater value for money to the taxpayer; the client receives a speedier service; and the franchisee is able to work in a quicker and more effective way.
- 6.24 Devolved powers must be exercised by franchisees in the same way as the Board. We therefore issued guidance for franchisees which indicated when, and how, devolved powers should be exercised. This included guidance on when extensions to the green form costs limit would be appropriate. This information was designed to provide a helpful indication to all practitioners of whether an extension was likely to be granted and a costs claim allowed and so we made it available to all practitioners. The guidelines were intended as indicators in standard cases but each case continued to be considered on its merits. It was, and

continues to be important for practitioners to justify the costs incurred and provide us with sufficient information so that we can consider the extensions necessary, or see that franchisees are exercising their devolved powers appropriately. Our intention in introducing this guidance was not to impose artificial constraints on practitioners either in the amount of costs they could claim, or on the amount of work they could do but to provide some consistent base from which devolved powers could be exercised, which was itself consistent with how the same powers were exercised by the Board for non-franchisees.

- 6.25 We want to develop this guidance with the help of specialist practitioners, both from the Law Society specialist committees, and within other organisations, so we are consulting these groups. As we progress through the franchise process we are building up a much clearer picture of the work which is being done by practitioners who meet the franchising criteria and so provide a quality assured, value for money service. This will also inform our development of the guidance. Once we have considered the information both from the franchise process itself and from consulting with specialists we will be publishing updated information and guidance.
- 6.26 We have also considered the best way of dealing with the situation where we believe franchisees might have exercised devolved powers inappropriately. We must continue to assess any bill of costs where the Board has the responsibility within the regulations for assessment. Of course, a right of appeal exists from any assessment carried out by the Board to an area committee. However, particularly in the case of a devolved decision to extend the green form limits, we will not second guess that decision. We will record any decision where we believe the exercise of the devolved power might be inappropriate and discuss it direct with the franchisee. We will seek to withdraw the devolved powers if we are concerned about their exercise by any franchisee.

Monitoring

- 6.27 Franchise monitoring records information on the rate at which applications and bills are rejected by our area offices. This monitoring had the effect of focusing attention on the rejections and concern was expressed that some work had been rejected inappropriately. We found that there was some justification for this concern and immediately instituted higher levels of quality control. However, given the volume of work passing through our area offices, there inevitably remains a possibility that some work will be incorrectly rejected. Our quality control procedures should minimise this but we accept that individual instances of error can cause problems and so organisations concerned about specific rejections should raise them with their Liaison Manager.

Franchising Advisory Committee

- 6.28 We announced the establishment of the Franchising Advisory Committee in July 1993. This committee has the role of advising us on the development and implementation of franchising and includes external representation from the Law Society, the Legal Aid Practitioners' Group, the Advice Services Alliance and the National Consumer Council. Among its key tasks is monitoring of the

effect of franchising on access and quality. Since achieving an accessible and quality assured service is a main objective of franchising, the Franchising Advisory Committee's advisory and monitoring role is important to us in assessing the extent to which franchising is achieving its objectives. We therefore value its contribution.

Non-Solicitor Agencies Franchising Pilot

- 6.29 The Birmingham pilot was unable to give us the information we needed to make recommendations to the Lord Chancellor on whether legal aid funds should be made available to non-solicitor agencies to provide advice and assistance under Part II of the Legal Aid Act. This was because only one non-solicitor agency was awarded a franchise during the pilot and we were consequently unable to draw any firm conclusions. We did learn valuable lessons, however, on which we have drawn in developing the framework of a further pilot aimed at testing whether non-solicitor agencies can meet the franchise quality standards and provide an accessible, quality assured legal service giving improving value for money to the taxpayer.
- 6.30 Involving advice agencies in this pilot provides us with an opportunity to explore how they might help us in achieving our objectives for the legal aid scheme. We hope that agencies providing advice and assistance in relevant areas of law can help us to effect access to quality services in areas of priority need. We will be informing ourselves about priority needs for legal aid to ensure that the available funds can be targeted to those with the greatest needs. We hope that through the pilot we can explore the extent to which non-solicitor agencies can help us to achieve these objectives.
- 6.31 We have been in close consultation with the Advice Services Alliance, the Federation of Independent Advice Centres, the National Association of Citizens Advice Bureaux and also the Law Centres Federation. We have also established a link in this context with the Lord Chancellor's Advisory Committee on Legal Education and Conduct.
- 6.32 We have commissioned a short piece of research aimed at defining initial qualifying standards for supervisors in non-solicitor agencies. The franchising specification is underpinned by the solicitors' professional qualification and all that entails. These initial qualifying standards are to provide assurances to underpin the specification for non-solicitors in the same way. We received the first draft of the final research report in April 1994 and will publish it. We are embarking on a pilot with selected non-solicitor agencies (including Citizens Advice Bureaux and independent advice agencies) using the franchise quality standard as already set out in the franchising specification. We will commission additional research to run in parallel with the pilot to examine the effect of being franchised on agencies, their work, other agencies, funders etc.
- 6.33 Agencies are used to working within the context of block funding from grant-in-aid. We will therefore pay for work during the pilot on a block payment basis so that agencies do not need to change their working practices to operate the green form scheme and case by case payments. The research will also gather information on this payment method and any benefits it brings. We aim to report the result of this pilot in 1996.

Chapter Seven: Criminal Legal Aid

Criminal Legal Aid in the Magistrates' Court

Responsibility for Criminal Legal Aid

- 7.1 In our annual report for 1992–93 we set out the results of our feasibility study into the question of whether we should be responsible for grant of criminal legal aid in the magistrates' courts. We said that we believed we should be made responsible for grant from 1 January 1995. We set out a description of the changes that would be needed to the current system if this step was to be taken. We explained that in our view, these changes would result in improvements to the present system whether we were made responsible for grant or not.
- 7.2 After considering the outcome of our feasibility study, the Lord Chancellor announced that he did not intend to transfer responsibility for grant at present. He stated that to do so offered the advantage of greater consistency of decision-making. However, he felt there were countervailing risks to the speed and efficiency of criminal procedures. He was not, at that point, satisfied that those risks were outweighed by the advantage.
- 7.3 In September 1993 the Lord Chancellor issued regulations covering the assessment of means of an applicant for legal aid. Additionally, revised guidance to courts and area committees on the application of the interests of justice test was issued in May 1994. This guidance was prepared jointly by the Lord Chancellor's Department, the Justices' Clerks' Society and ourselves. These developments are intended by the Lord Chancellor to bring about improvement in the propriety of grant. The Lord Chancellor has said that he will give further consideration to the possibility of transferring grant if these measures do not bring about an acceptable result.
- 7.4 The fragmentation of responsibility for criminal legal aid as a whole continues to make it difficult for any body to achieve satisfactory control of costs and consistency. In our report to the Lord Chancellor on our year as a shadow Board, we said that "the present diffusion of responsibilities militates against the effective management control of policy and arrangements for the grant of criminal legal aid"¹. We are still of that view. If we do not determine applications there is a limit to the role we are able to perform in this area.
- 7.5 We have considered our objectives for the coming year in the context of the Lord Chancellor's present view that responsibility for grant of criminal legal aid should

¹Legal Aid Board Report to the Lord Chancellor CM 688 paragraph 132.

remain in the magistrates' courts. We have revised our objectives and adopted current tasks which will allow us to give consideration to improvements that we can bring about given the present arrangements. The objectives we have identified are:

- (a) to develop the Board's policy on criminal legal aid issues other than in the higher courts, including full criminal legal aid, advice and assistance in criminal matters and the provision of advice and assistance at the police station and in the courts;
- (b) to consider, and report to the Board as appropriate, on issues concerned with or affecting criminal legal aid which are referred to the Legal Aid Board.

7.6 Our current tasks are:

- (a) to respond to any request from the Lord Chancellor for further advice on the question of responsibility for the determination of criminal legal aid applications in the magistrates' court;
- (b) to consider ways of exercising quality control over the criminal legal aid system. We will consider how quality in the preparation and conduct of criminal legal aid cases can be improved, and how the current arrangements for accrediting both duty solicitors and suspects' own solicitors can be harmonised and developed in future bearing in mind the implementation of franchising;
- (c) to consider how to exercise cost control over criminal legal aid expenditure. We will examine: the present arrangements for paying for criminal legal aid cases, the process by which legal aid applications are determined in expensive criminal cases, and the basis on which applications for prior authority are dealt with. We will also consider the feasibility of arrangements for contracting representation in large criminal cases;
- (d) to examine the current structure of the criminal legal aid arrangements and consider whether the division into four separate schemes remains justified;
- (e) to propose improvements which will promote quality, efficiency, control and customer care.

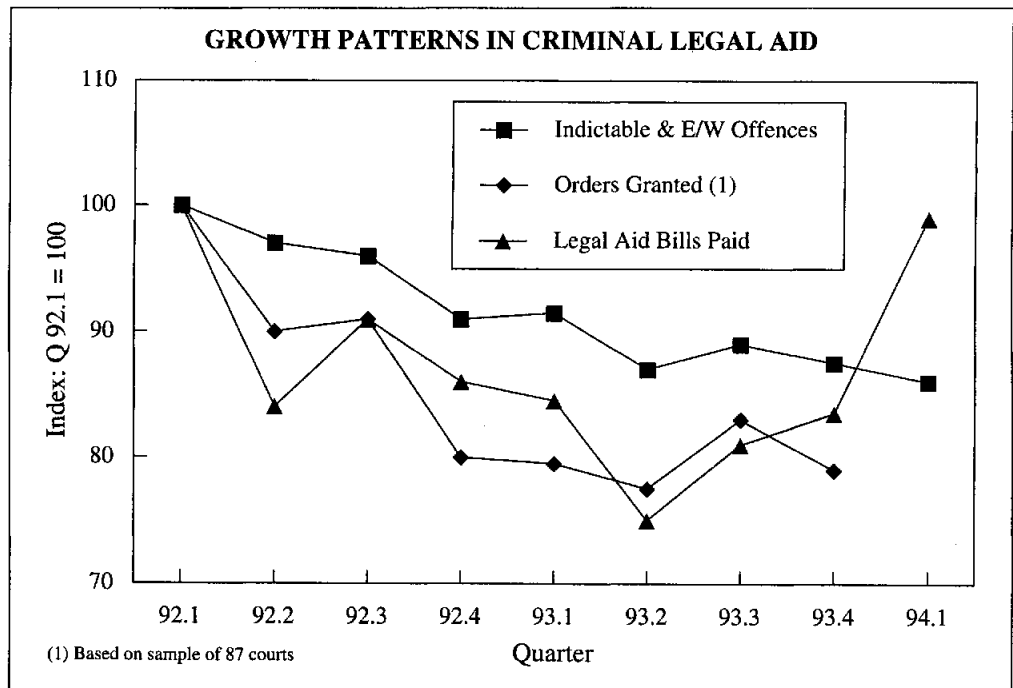
Impact of the Introduction of Standard Fees

7.7 Under the magistrates' court standard fee scheme a solicitor may submit a bill in respect of each 'case'. One legal aid order may give rise to more than one case, and one case can include more than one legal aid order. Consequently it is possible for trends in bills for work done in the magistrates' court to be different not only from trends in the number of magistrates' court matters that are likely to attract legal aid (indictable and either-way proceedings) but also legal aid orders.

7.8 In table 1 we show, for the purposes of comparison, trends in three different processes: the indictable/either-way workload of the magistrates' courts, magistrates' court legal aid orders and the bills submitted by solicitors for the work done under those orders. The table shows that the indictable/either-way workload of the magistrates' courts has fallen since 1992. The volume of legal aid orders has also fallen, but rather more steeply.

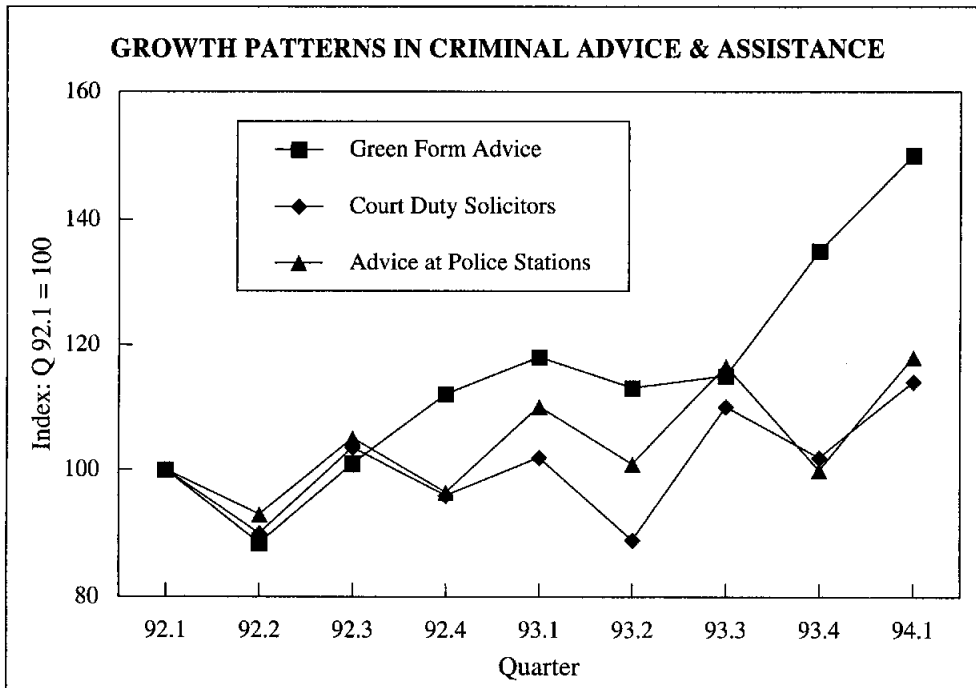
7.9 Against these trends, the number of bills we processed began to climb following the introduction of standard fees on 1 June 1993. The volume of bills has gone up while the volume of acts of assistance to defendants has gone down. The effect of the standard fee system on average costs of bills (see paragraph 4.4(d)) should be seen in this context.

Table 1



7.10 Table 2 shows trends in the use of the green form for criminal work, defendants assisted by the duty solicitor in the magistrates' court and suspects assisted at the police station over the period of the introduction of standard fees. It will be seen that all have increased over the period but that the use of the green form has increased most and that a steep climb in its take-up coincided with the introduction of magistrates' court standard fees.

Table 2



Duty Solicitor Schemes

Demand

- 7.11 The demand for advice at police stations has continued to increase but at a more modest rate than in the previous year. The increase in the current year for the police station duty solicitor was 1.3% and for own solicitors 6.3% with a total of 642,802 suspects assisted.
- 7.12 The demand for the court duty solicitor has risen to 237,359 defendants assisted; an increase of 4.7%.

Targets

- 7.13. The targets were reviewed in January 1993. It is planned to revise the telephone advice only target when a new police station claim form is introduced. The standby target will be reviewed again at the same time as the telephone target is revised. The standby target needs to be kept under review as the large increase in demand for advice in 1991 resulting from the revised PACE Codes of Practice meant that the average cost of standby per suspect assisted went down from approximately £150 in April 1989 to £100 in January 1994 with the effect that some schemes which met this target have ceased to do so. The court scheme target on the percentage of claims in respect of which no defendant is assisted has been revised from one-third to a more demanding one-fifth.

Targets for Police Stations Schemes

- 7.14 Compliance with the police station targets is based on a comparison of performance by schemes for the six months to October 1991 following the introduction of the targets, with the most recent six month period for which figures are available namely August 1993 – January 1994. The small reduction in

performance against some of the targets primarily concerns schemes serving typically rural areas with limited numbers of duty solicitors. In addition, steps to reduce the amount of standby payments per suspect assisted have resulted in some schemes being changed from rotas to panels which may have had a slight effect on finding a duty solicitor. Performance against targets was as follows:

- (a) 95% of cases to result in a duty solicitor being available: the number of compliant schemes is 82% compared with 84% in the previous year;
- (b) 80% of rota cases to be passed by the telephone referral service within 30 minutes: the number of compliant schemes is 98% compared with 99% in the previous year;
- (c) 75% of panel cases to be passed by the telephone referral service within 30 minutes: the number of compliant schemes is 89% compared with 94% in the previous year;
- (d) no more than 50% of cases to involve provision of telephone advice only without an attendance on a suspect: the number of compliant schemes is 86% compared with 87% in the previous year;
- (e) the cost of standby payments per suspect referred by the telephone referral service or reported on legal aid claims should not exceed three times the national average cost per suspect referred or reported: the number of compliant schemes is 85% compared with 89% in the previous year.

Targets for the Court Scheme

7.15 Compliance with the court duty solicitor targets is based on a comparison of performance for the 12 month period to October 1991 with the most recent 12 month period for which figures are available, that is to January 1994:

- (a) the average number of defendants per claim not to exceed seven: compliance is 99%, the same as the previous year;
- (b) for busier schemes where the duty solicitor has to be in attendance at the court, not more than one-fifth of claims for such attendances to result in no defendant being assisted: the number of compliant schemes is 98% compared with 99% in the previous year when the target was only one-third of claims to result in no defendant being assisted.

Accreditation of Own Solicitor Representatives

7.16 Excellent progress has been made during the year by a Law Society Working Party – upon which the Board is represented – in drawing up a training pack and an accreditation process for own solicitor representatives. All non-solicitor representatives must obtain accreditation unless they are trainee solicitors or duty solicitor representatives. The introduction of accreditation stems from the Board's concern about research evidence of poor quality advice in police stations. Much of that advice is given by non-solicitor representatives who have not been subject to any training or selection requirements. Accreditation will be an important step towards improving the quality of advice and is an example of the Board's response to one of the objectives set for it by the Lord Chancellor to define levels of quality in legal aid work.

- 7.17 The Society published this training pack in February 1994. It seeks to train representatives in how to cope with the difficult situations they will experience in the police station in negotiating with the police and in advising clients. In particular, the pack seeks to clarify the role of the representative.
- 7.18 The accreditation process will be in three parts. First, candidates will be required to submit to a testing organisation a portfolio of nine cases in which they have been involved. Secondly, there will be a written test which will assess the candidate's knowledge and understanding of criminal law and procedure, the representative's role in the police station and the skills that are needed to perform that role effectively. The third part of the accreditation procedure is the critical incidents test. The purpose of this test is to assess the candidate's effectiveness in the police station by attempting to simulate police station situations on an audio cassette. Candidates will be played extracts of typical police station situations and be asked to respond on an audio tape.
- 7.19 As our contribution, the Board will maintain a register of probationary and accredited representatives. Any representative who wishes to be paid from the Legal Aid Fund after 1 February 1995 must be included on the register. Probationary representatives will have a maximum period of 12 months in which to obtain accreditation. If they have not obtained accreditation within that period they will be removed from the register and will not be restored to it until they have obtained full accreditation.

Duty Solicitor Arrangements

- 7.20 The Board's Duty Solicitor Committee has considered a number of amendments to the Arrangements and has consulted the regional committees about the more important of them. We plan to publish amended Arrangements by autumn 1994.

Chapter Eight: Civil Legal Aid

- 8.1 During the course of the year we carried out two important pieces of work in the field of civil legal aid. First, we looked in depth at the issues arising for the Board and for the Lord Chancellor's Department from multi-party actions. Second, we responded to the Lord Chancellor's consultation paper, "Looking to the Future – Mediation and the Ground for Divorce". Both these issues are reported on later in this chapter.

Civil Legal Aid Committee

- 8.2 As a part of the reorganisation of our committee structure which we undertook in the light of our new Management Statement (see chapter two) we established a Civil Legal Aid Committee to oversee the development of the Board's policy on civil legal aid issues including both full civil legal aid and civil advice and assistance. It will also advise on issues affecting civil legal aid which are referred to the Board.
- 8.3 The new committee has subsumed the responsibilities of the old Multi-Party Actions (Policy) Committee within its wider remit. This will enable the committee to look at issues arising from multi-party actions, including the content and scope of the Multi-Party Actions Arrangements, within the context of civil legal aid as a whole. Our Multi-Party Actions (Operational) Committee, the work of which includes awarding contracts in selected multi-party actions, continues unaffected by these changes. As reported below, multi-party actions continue to be an important issue for the Board.

Multi-Party Actions – Use of the Power to Contract

- 8.4 Last year we reported that new Arrangements – the Multi-Party Action Arrangements 1992 – had been introduced to enable us to enter into contracts with solicitors to undertake the generic work in personal injury multi-party actions. The contract procedure would be initiated where we considered that it would result in a better service for the assisted person, secure value for money and improve the handling of the legal aid aspects of the action.
- 8.5 During the course of the year we entered into contracts with solicitors for the generic work in two multi-party actions: the actions concerning sweetened infant drinks and human growth hormone. Both of these actions are now proceeding under the Arrangements and we are monitoring the effectiveness of the procedures set out in the Arrangements as they progress. We will review the Arrangements in the light of their effectiveness in these actions and in the light of our general work on multi-party actions – details of which are set out below.

Issues Arising from Recent Multi-Party Actions

- 8.6 During the year we examined the issues that need to be addressed in multi-party actions and submitted our views to the Lord Chancellor. The stimulus for examining these issues has been the Benzodiazepine tranquilliser action. However, the report is not a detailed examination of what has occurred in that action but looks more widely at the problems which can arise with actions of this type and at a range of possible solutions to the problems that we identified. The Benzodiazepine action is continuing and, therefore, to inform ourselves we have merely looked at what has happened in the action to date without prejudice to any future developments.
- 8.7 The basic facts of this action to date provide a good illustration of how important these issues are. In this action the Board received some 17,000 applications for legal aid and, initially, around 13,000 legal aid certificates were granted to take action against a number of drug manufacturers in respect of several different types of tranquilliser. Some 93% of all the plaintiffs in the action have been legally aided. To date we estimate that between £30M to £35M of legal aid expenditure has been incurred in pursuing the action of which 90% has been spent in investigating individual claims and 10% in generic research. From these figures it is possible to see that the high cost of the action as a whole has been a product of the large number of assisted persons involved.
- 8.8 Looking at the Benzodiazepine action and other actions we have funded has enabled us to identify a number of factors which go to make these actions particularly complex and difficult to manage. Having identified these factors we have proceeded to consider whether there are viable options for changes to the current arrangements which would address the problems identified. Changes have been considered in the areas of:
- (a) the statutory tests for the grant of legal aid;
 - (b) our internal arrangements for handling multi-party actions; and
 - (c) court procedures.
- 8.9 Our overall views as a result of our investigations are that:
- (a) we believe the Lord Chancellor's Department should consider the purpose of legal aid in cases of this type. Should it be to support individual cases in situations where a privately paying client might realistically be expected to take a case? Should it be to fund cases that might be considered more widely important in the public interest even though a privately paying client would not, or could not, bring such a case?
 - (b) there are some changes that could be made to the way the Board handles these actions which would result in better control by the Board; and
 - (c) we believe the Lord Chancellor's Department should address the procedures for handling these actions in the courts.

It is in the third of these areas that we believe the greatest scope for improvements to the current arrangements lies.

- 8.10 We hope to discuss these important issues with the Lord Chancellor's Department during the coming year. We have published a report which sets out our views on multi-party actions and the changes to the current arrangements which we believe need to be considered. Copies of the report are available from our Head Office (Policy and Secretariat Department), 85 Gray's Inn Road, London, WC1X 8AA.

Lord Chancellor's Consultation Paper on Mediation and the Ground for Divorce

- 8.11 In December 1993 the Lord Chancellor published a consultation paper entitled 'Looking to the Future – Mediation and the Ground for Divorce'. The proposals in this Green Paper would affect both the administration of legal aid and the many people who use legal aid in the course of ending their marriages. We therefore welcomed the opportunity to comment on it.
- 8.12 The Green Paper puts forward proposals in three main areas. The first is in relation to the substantive law of divorce. The Green Paper argues that the basis on which the court is at present able to grant a divorce (irretrievable breakdown shown by the existence of any one of five facts, three of which are fault-based) is open to abuse and promotes acrimony in matrimonial disputes. The second area relates to a mechanism which is intended to perform a number of functions. That mechanism is the role of the interviewer. He or she will, according to the proposals, make enquirers aware of the likely consequences of divorce; inform them of the availability of services which can assist in achieving reconciliation; where proceedings are inevitable, promote the use of mediation rather than the services of lawyers; and manage the budget out of which the services of lawyers and mediators are to be purchased. The third main area covered by the Green Paper is an expansion of family mediation and a transfer of the resources currently used to pay for lawyers in family cases to support family mediation instead.
- 8.13 In our response we did not deal at length with the proposed changes to the basis on which the court may grant a divorce. These are questions of policy on marriage and the family. Implications affecting the administration of advice, assistance and representation may well be outweighed by other considerations on which we as a Board do not have the standing to comment. We emphasised that there were risks attached to the introduction of a number of changes simultaneously. However, our report focused upon two of the main areas dealt with: the interviewer's role and the proposed expansion of mediation.
- 8.14 In relation to the proposed interview, we argued that the functions the interviewer would have according to the proposals, should be split up. Rather than first providing the person considering divorce with information, and then going on to decide whether he or she should be allowed public funds to support mediation or legal help, the interviewer should only give information. The decision whether a case should be funded should be made elsewhere. Otherwise, the interviewer would have to go from being a resource for the person considering divorce to being the determining authority for an application for public funds.

- 8.15 The Green Paper proposals envisage that interviewees would receive legal information, defined as “an abstract statement of legal principles and procedures relating to divorce and its consequences”. They would not be given legal advice, which is described as being “an explanation of how the law applies to the facts of a particular case and the recommendation of a particular course of action”. We were concerned that this arrangement would not work well. People considering divorce would want advice which the interviewer would not be able to provide. Instead, a person going to an interview should be eligible for a limited amount of legal advice before he or she lodged the statement beginning the process of divorce.
- 8.16 We suggested that interviewers should be either:
- (a) directly employed by an existing body;
 - (b) employed by a single existing body contracted by a funding organisation; or
 - (c) employed by a range of organisations in the voluntary and statutory sectors under contracts with a central funding body.
- 8.17 We did not examine the relative merits of these options. However we suggested that if the Government wished to choose from among them there should be further analysis of their ramifications in terms of cost control, productivity, establishing and maintaining an appropriate culture and achieving consistency of provision.
- 8.18 As for the way in which mediation and legal services could be funded under a new scheme, we identified a series of options. In all publicly funded cases, we proposed that those who wished it should receive a limited amount of legal advice before initiating a divorce. Then those who wished to proceed would seek further funding support. We envisaged four possible structures for delivering further help, whether from mediators or lawyers:
- (a) Option A, according to which the central funding body could enter into contracts with mediation umbrella groups for the provision of blocks of cases. The assisted person would go directly from the interview and initial legal advice to an approved service, which would enable him or her to receive assistance on the basis of a simple test of financial eligibility;
 - (b) Option B, which would be similar but which would incorporate a facility for the assisted person to move on from mediation, if necessary, to a form of legal help if it was justified. The funding body could hold contracts with solicitors’ firms as well as the providers of mediation. The authority for the assisted person to receive help in the form of mediation could include legal help in defined circumstances;
 - (c) according to Option C, the assisted person would get authority to take part in mediation on the basis of a simple means test but if he or she needed legal help instead or as well, that would be available on application to the funding body; and
 - (d) lastly we outlined Option D whereby any of the above systems would operate, only the funding body would pay for each act of assistance in the form of mediation or legal help by way of case-by-case payments rather than block grants to the providers.

- 8.19 We discussed the difficult area of how far the choice between legal help and mediation should be entirely free to the person seeking assistance. If the present law is to operate, and if mediation is to be funded on the same basis as legal help, there may be occasions when people will be refused an application for legal help because mediation is available and is a cheaper and equally effective way of resolving the dispute between them. A grant of legal aid is made subject to a general test of reasonableness, and it is not reasonable to grant legal aid if there are equally effective and cheaper ways of resolving disputes. If the Government want to make mediation available to people by way of public funds but on a different basis, primary legislation may be needed.
- 8.20 If the proposed arrangements are to come into being, there will have to be far more mediation services than there are at present. We propose that the expansion in the sector should take place within a framework that would provide an accessible and quality assured service. Our franchising initiative is designed to achieve these aims. We would like to see any arrangements developed in the same way that franchising has been developed in working with existing providers, and others knowledgeable in the field, to establish standards of best practice and means of assuring that the services provided to clients are at an appropriate level of quality giving value for money for the significant sums of public money which would be invested in them. Mediation bodies have already developed entry standards which would provide a base on which further standards could be built.
- 8.21 Our role within these new arrangements could include:
- (a) entering into contracts with providers of the services of interviewers;
 - (b) funding mediation or legal help within any of the options outlined in paragraph 8.18 above;
 - (c) co-ordinating an approach like franchising in respect of mediation services.
- 8.22 We recognise that if we are to acquire these responsibilities, we will need to develop our understanding of areas in which we have not previously become involved. However we are confident that we will be able to adapt and extend our present knowledge. We look forward to working with those bodies and individuals who work in the fields of marital support and mediation in order to bring together their professional skills and experience with our capabilities in the management of large-scale operations.
- 8.23 Copies of our response are available from our Head Office (Policy and Secretariat Department), 85 Gray's Inn Road, London, WC1X 8AA.

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Section 1: Civil Legal Aid

- 1.1 Although it covers only 11% of the acts of assistance paid for by the Board, civil, certificated legal aid lies at the heart of the legal aid scheme. It occupies the time of a majority of the Board's staff and accounts for over 50% of gross expenditure from the Legal Aid Fund. In recent years the number of certificates issued has been growing steadily but, as appendix Civil 1 shows, the changes in eligibility announced by the Lord Chancellor and other legislative changes in April 1993 have brought about a reversal of this trend. Within the overall pattern there have also been continuing changes of emphasis as proceedings under the Children Act 1989 progressively replace proceedings that were previously classified as matrimonial or, in some specialised fields such as adoption, as non-matrimonial. The majority of proceedings for residence and contact are now covered by Children Act certificates and this has acted to exaggerate the reduction in the number of "traditional" matrimonial certificates issued, while Children Act certificates have continued to increase in number despite the eligibility changes.
- 1.2 Matrimonial certificates are issued on the presumption that the proceedings will take place in the county court unless the divorce is defended or has been directed to be heard in open court. The decline in the number of High Court bills shown in appendix Civil 13 confirms that this presumption is increasingly justified. In Children Act proceedings there is a similar presumption that the case will be heard in the Family Proceedings Court. In non-matrimonial proceedings the position is less clear cut. Where proceedings have already been issued or the value of the claim established, the proceedings can be identified as High Court or county court and the certificate coded accordingly. In many cases, however, it is not possible to be certain at the outset where any proceedings will take place. In such cases the certificate is coded as "court unspecified" and Civil 1 shows that this category still accounts for some 40% of all non-matrimonial certificates.
- 1.3 Because the average time lag between issue of a certificate and payment of the bill is between two and three years, appendix Civil 2 has not yet begun to reflect the downturn in the number of certificates issued to any great extent. The trend here still reflects the pattern of growth in certificate volumes of earlier years. Within this pattern of growth there has been an increase in the part played by "court unspecified" cases, however. Where a certificate has been classified as "court unspecified" it is sometimes possible when the bill is received to establish as a matter of fact whether the case went to the High Court or the county court. In the past this has led to a noticeably lower proportion of unspecified cases in Civil 2 than in Civil 1. This year there have been clear signs of an increasing propensity for cases to be settled without going to court, as can be seen from appendix Civil

10, increasing the number of certificates where the court remains unspecified and making the change in proportion from Civil 1 to Civil 2 harder to discern.

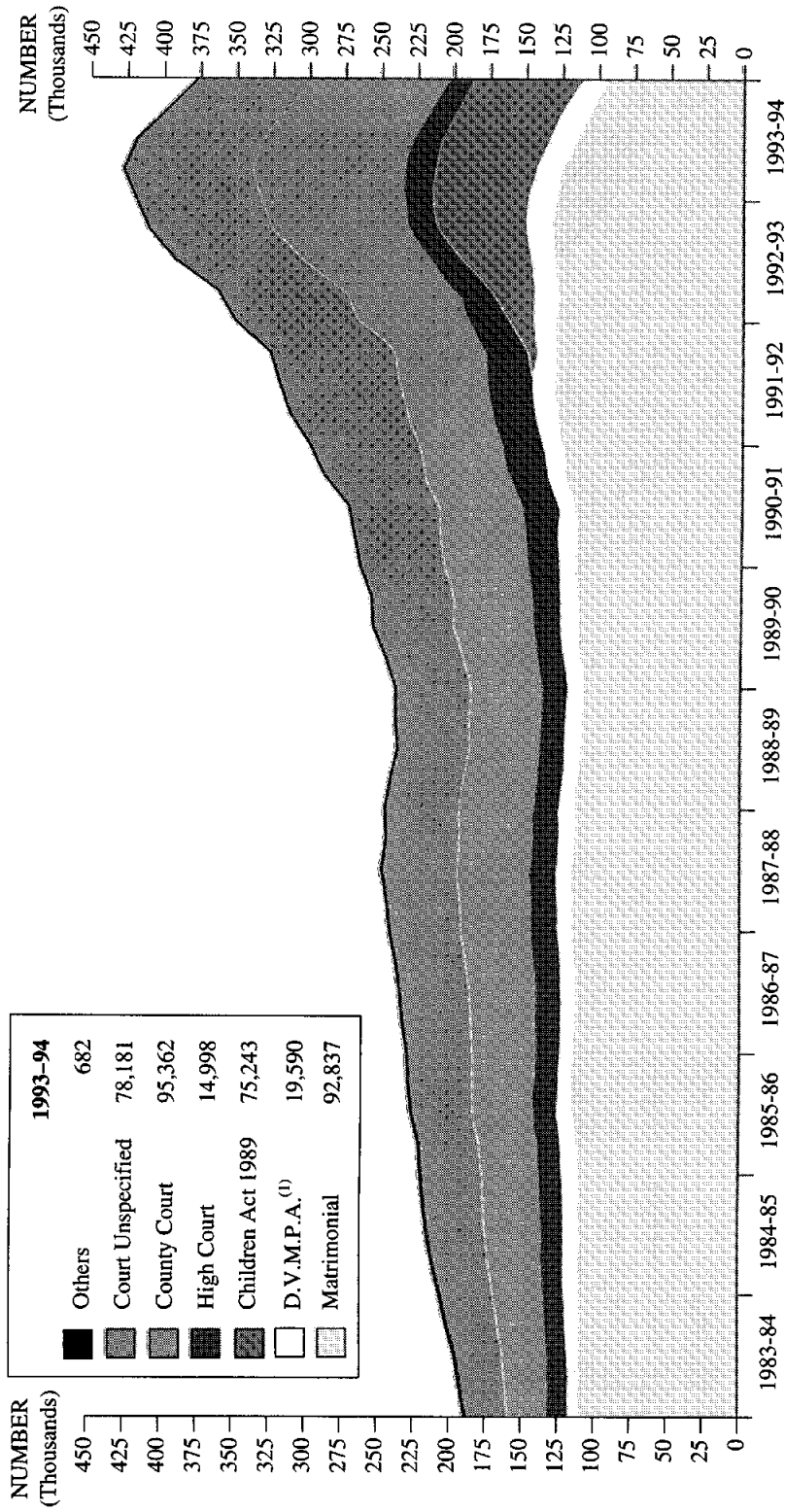
- 1.4 Appendices Civil 3 and 3A together provide more information on the change in the growth of civil legal aid during the year. Initially it might appear that the change was more marked in the matrimonial area, but this would be to ignore the switch from matrimonial to Children Act proceedings. If the two are taken together it can be seen that matrimonial and Children Act applications declined by 10.1% and non-matrimonial applications by 8.3%, less of a difference than at first sight. It is also possible that the implementation in April 1993 of the Child Support Act may have acted to remove some proceedings for ancillary relief from the legal arena altogether. Overall the number of applications received was 51,000 down on 1992-93.
- 1.5 Another change which emerges from these appendices is an increase in the proportion of applications refused on legal grounds. The exact scale of this change is complicated by the change in procedures in 1990-91, when the Board began to require simultaneous submission of legal and financial information. This resulted in the elimination of substantial numbers of incomplete or fruitless applications and a consequent reduction in the proportion of applications which had to be abandoned or withdrawn, from 21.6% in 1989-90 to 4.7% in 1991-92. Against the background of this removal of a segment of applications it is arguable that in comparison with earlier years the refusal rate actually declined slightly, or at least remained stable, in 1990-91 and 1991-92. There was a small increase in 1992-93, but a more substantial increase of around 3% in 1993-94. The Board has not changed the criteria by which it assesses the legal merits of applications. What it has done, as reported in chapter three of this report, is to introduce a quality management system designed to improve the consistency with which the existing criteria are applied. This may have contributed in some measure to the increase in refusals, but it appears that there may also have been an increase in the proportion of less meritorious applications coming forward in the wake of the other changes referred to above. Appendix Civil 4 shows that the increase in the proportion of applications refused resulted in a substantial increase in the number of appeals received. The proportion of those appeals which was successful was slightly higher than in 1992-93 at 52.2%.
- 1.6 More detail on the reductions in the numbers of certificates issued is provided by appendices Civil 6, 6A and 7. The principal change in the matrimonial area was in the number of certificates issued for ancillary relief, or proceedings for maintenance, down from nearly 84,000 in 1992-93 to below 59,000 in 1993-94. Taken with a reduction in the number of Children Act certificates issued for financial provision this suggests strongly that the Child Support Act may have had as much influence as the changes in eligibility in this area. The growth in Children Act certificates was in the existing areas of widest use, care proceedings and contact and residence. To an extent the greatest changes in non-matrimonial cases were also in the areas of widest use. There were declines in the numbers of certificates issued for contract cases and for negligence proceedings generally, but against this there were also increases in landlord and tenant and lands cases and in certificates issued for tort.

- 1.7 The reduction in applications received produced a parallel decline in the number referred to the Benefits Agency for assessment of means (Civil 8). Towards the end of the year, however, the change from a fixed twelve month contribution period to contributions payable throughout the life of the certificate began to produce an increase in the number of cases referred back to the Agency for subsequent review, a trend which might be expected to grow stronger during 1994–95. Under the revised regulations there was an increase in the proportion of applicants who were assessed as liable to pay a contribution, but this was almost exactly offset by the decline in the proportion of those applicants who chose to accept the offer of a contributory certificate. Appendix Civil 9 shows that the proportions of certificates issued with and without contributions remained exactly the same as in 1992–93, although changes in eligibility levels and in the proportion of disposable income payable by way of contribution appear to have accelerated the drift towards the higher contribution bands of those who were prepared to pay a contribution.
- 1.8 The number of cases with contributions outstanding again increased during the year to 103,573, with a balance of £48,936,180 outstanding. Of these cases 37,967 were paid up to date and 65,606 were in arrears, the total arrears being £34,348,527. The cases in arrears included 7,271 certificates which were still in force but subject to area office control and 5,730 where the contribution was being reviewed. The total arrears on these live certificates was £2,427,017. 18,058 cases had been discharged or placed on hold pending receipt of the solicitor's bill of costs to enable the debtor's liability to be quantified. The balance of 34,547 discharged cases, representing arrears of £24,706,864 had been transferred for the Board's Debt Recovery Unit to pursue.
- 1.9 Appendix Civil 10 shows that results were reported in 422,190 cases during the year. This figure is higher than the total of 359,188 bills paid shown in Civil 12, firstly because it includes magistrates' court ABWOR cases, which are dealt with in appendices Advice 5 and 6 below, and secondly because it includes under the heading "Otherwise disposed of" 26,096 cases which were reported as producing no claim on the Fund because no work had been carried out under the certificate. Besides these cases, this category includes all cases where the certificate was revoked or discharged for any reason before a positive conclusion had been reached. This might be because an unfavourable opinion had been received from counsel or because the assisted person had failed to maintain contribution payments, failed to cooperate in a reassessment of contribution or been reassessed as no longer eligible for legal aid.
- 1.10 A positive conclusion was reached in just under three-quarters of cases reported, and the major change was in the proportion of cases where this conclusion was a settlement reached between the parties without going to a full hearing in court. Up from 32.5% to 36.8% of all cases, settlements represented nearly a half of cases which reached a conclusion. There was a proportionate reduction in the number of cases which proceeded to a successful judgment in court from 34.8% of all cases to 30.1% of all cases, but overall the proportion of cases in which the assisted person was "successful" in obtaining a judgment in favour or reaching an agreed settlement again increased slightly to 90.5% of all cases where a conclusion was reached (Civil 11).

- 1.11 The cases listed under “Case settled” in Civil 10 and incorporated in Civil 11 include a major sub-set of cases where the terms of the settlement include payment of the assisted person’s costs in full by the opponent. For statistical and accounting purposes these are recorded in such a way as to show payment of the solicitor’s claim out of the Fund and the simultaneous receipt of costs to the same value, and they are therefore known as “Adjustment Purposes Only” bills, or A.P.O.s for short. They are essentially different from cases where there is no claim on the Fund, because on A.P.O. cases work has actually been done under the certificate and the solicitor has received payment for it: they are “cost neutral”, however, because there is no net claim on the Fund.
- 1.12 A.P.O. bills do have an impact on the average cost figures in Civil 12, as the costs in these cases are on average higher than in other cases. The totals in Civil 12 include 58,226 A.P.O. bills processed at an average face value of £2,645. If these cases are discounted then the average cost of bills actually paid out of the Fund is reduced to £1,726. The average cost of civil bills generally grew by 8.2% against 15.0% for A.P.O. bills, so discounting A.P.O. bills reduces the annual growth of average actual payments to 5.6%.
- 1.13 The cost figures in Civil 12, 13 and 14 are based on a “one bill per case” convention, although in a minority of cases more than one main bill may be received on the same case where the certificate has been extended or amended to cover related proceedings or an appeal to a higher court. Amounts paid on second or subsequent bills are added into the total amount paid but the count of bills paid is not increased. This provides a better indicator of the actual average cost of proceedings, although differences in timing may lead to some distortion amongst the smaller categories of case.
- 1.14 The benefit received by assisted persons from the grant of legal aid continues to increase. Appendices Civil 15 and 16 together show that the total amount awarded or agreed to be paid to the recipients of legal aid in cases which were closed during the year rose again to £934.3 million, of which £48.3 million was retained under the terms of the statutory charge in order to cover deficiencies to the fund. The proportion of non-matrimonial cases where it has been necessary to exercise the statutory charge has remained fairly stable over time, because such cases frequently include an award or agreement for payment of costs by the other side. In matrimonial cases there has been a steady trend over the years in the proportion of cases where the charge has been exercised from just over half of cases in 1983–84 to nearly four-fifths in 1993–94. This is because agreements as to costs are relatively rare in matrimonial proceedings and because the growth in the average cost of these proceedings has been far greater than the growth in contributions payable.
- 1.15 The precise impact of the statutory charge can only be identified when all monies due by way of costs and contribution have been collected into the fund. The number of new charges registered against property during the year was 18,632, of which 11,316 were quantified and 7,316 unquantified. 7,075 charges were satisfied during the year and 3,338 cancelled, leaving a balance of 86,092 charges outstanding as at 31 March 1994, of which 69,321 had been quantified. 9,123 of the new quantified charges are interest bearing, while 4,109 interest bearing charges were satisfied and 2,873 cancelled.

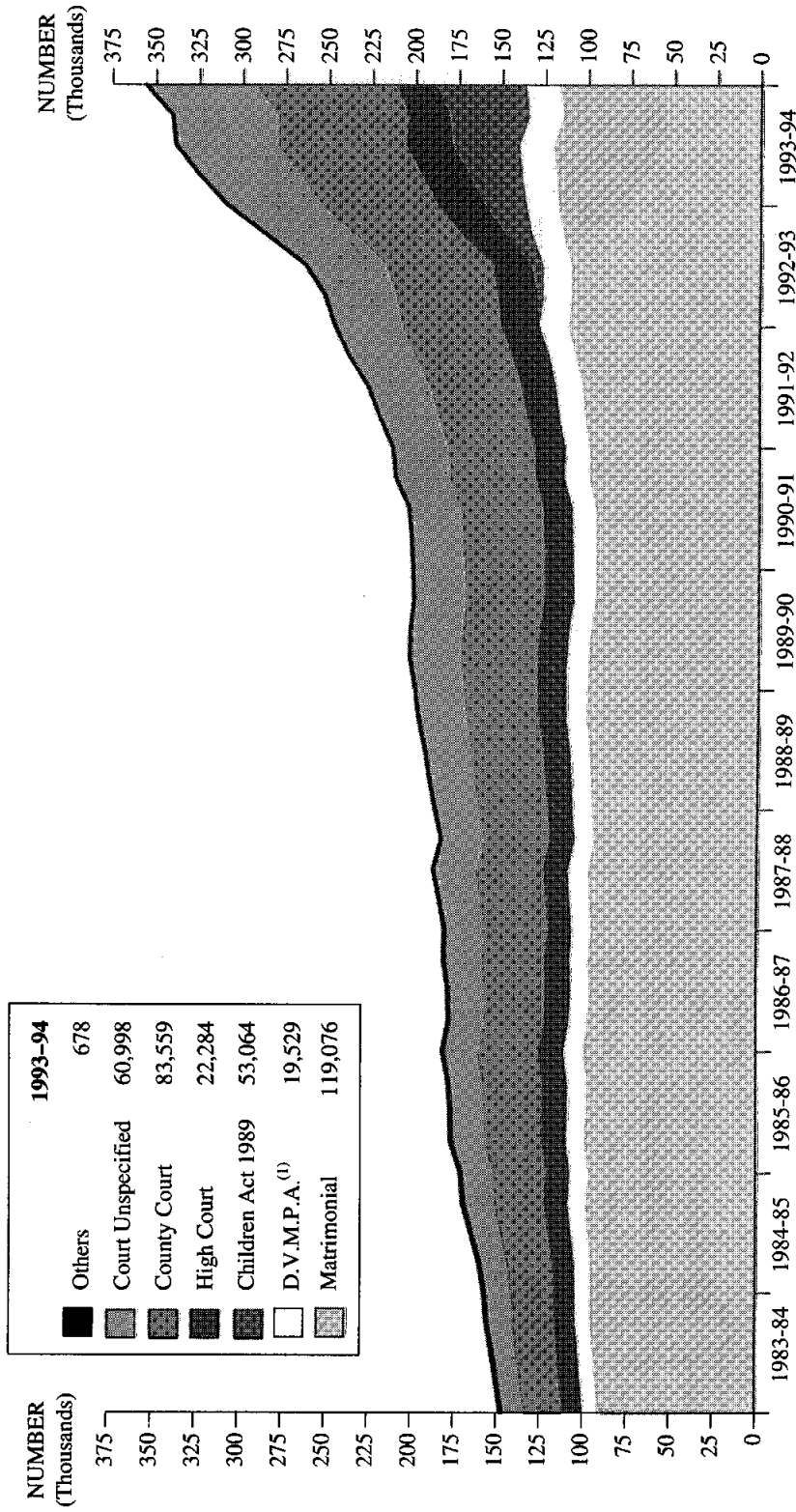
- 1.16 When efforts to recover costs or contributions prove unsuccessful the balance due has to be written off to enable the case to be closed. Civil 17 shows that the principal reason for adopting this course is that the cost to public funds of taking further steps to pursue the amount due would be likely to exceed any benefit from further monies paid in. There may be more specific reasons in individual cases, but in general the principle is that the Board does not throw good money after bad. The Board is concerned to maintain and improve the effectiveness of its recovery operations and appendix Civil 18 provides a comparison of performance from year to year by setting the amounts written off each year against the amounts recovered and retained in the Fund.
- 1.17 Last year we reported that during 1992–93 the debt recovery unit had been progressively taking control of the recovery of costs, resulting in a higher level of costs written off as older cases were reviewed. This takeover proved to be a larger task than originally foreseen, lasting well into 1993–94 and producing a further substantial block of write-offs as outstanding cases were reviewed and closed. Details of the process involved are given in paragraphs 3.47 to 3.49 of this report.

CIVIL 1
CIVIL LEGAL AID
CERTIFICATES ISSUED 1983-84 TO 1993-94



(1) Proceedings under the Domestic Violence and Matrimonial Proceedings Act 1976.

CIVIL 2
CIVIL LEGAL AID
BILLS PAID 1983-84 TO 1993-94



(1) Proceedings under the Domestic Violence and Matrimonial Proceedings Act 1976.

CIVIL 3

CIVIL LEGAL AID

APPLICATIONS RECEIVED 1983-84 TO 1993-94⁽¹⁾

Proceedings ⁽²⁾	1983-84	1984-85	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94
<i>Matrimonial</i>											
Applications received	—	—	183,150	174,840	175,683	173,735	188,604	173,200	177,995	185,289	150,045
Percentage refused on legal grounds	—	—	2.5%	3.1%	3.4%	4.6%	5.2%	5.3%	5.9%	6.7%	9.2%
Percentage refused on financial grounds	—	—	1.7%	2.4%	3.2%	3.8%	4.6%	5.7%	6.4%	7.2%	6.6%
Percentage abandoned, withdrawn or otherwise disposed of ⁽³⁾	—	—	15.8%	21.1%	21.2%	22.3%	23.2%	13.7%	4.7%	5.1%	6.3%
<i>Non-matrimonial</i>											
Applications received	—	—	181,460	186,116	198,093	203,536	229,957	240,285	280,089	287,614	263,693
Percentage refused on legal grounds	—	—	8.6%	12.2%	14.0%	17.8%	21.8%	21.8%	22.5%	25.8%	28.9%
Percentage refused on financial grounds	—	—	2.9%	4.0%	4.8%	5.3%	5.4%	5.3%	5.4%	5.7%	5.5%
Percentage abandoned, withdrawn or otherwise disposed of ⁽³⁾	—	—	15.3%	21.0%	21.0%	20.9%	20.2%	11.9%	4.7%	4.9%	5.3%
<i>All proceedings</i>											
Applications received	309,740	336,129	364,610	360,956	373,776	377,271	418,561	413,485	458,084	472,903	413,738
Percentage refused on legal grounds	5.8%	5.9%	5.5%	7.8%	9.0%	11.7%	14.3%	14.9%	16.1%	18.3%	21.8%
Percentage refused on financial grounds	2.2%	1.9%	2.3%	3.2%	4.0%	4.6%	5.1%	5.5%	5.8%	6.3%	5.9%
Percentage abandoned, withdrawn or otherwise disposed of ⁽³⁾	17.1%	16.3%	15.6%	21.0%	21.1%	21.5%	21.6%	12.7%	4.7%	5.0%	5.7%

(1) Decisions made are shown as percentages of the number of applications received.

(2) Prior to 1985-86 separate information on numbers of applications for matrimonial and non-matrimonial proceedings was not collected.

(3) Applications may be abandoned if Board or the Benefits Agency are unable to obtain information from the applicant to enable them to reach a decision, or withdrawn if the applicant decides not to pursue the application. Applications may sometimes be passed to another office for consideration, or it may be decided that an amendment to an existing certificate would be sufficient. See paragraph 1.5 of the commentary.

CIVIL 3A

CIVIL LEGAL AID

CHILDREN ACT APPLICATIONS RECEIVED 1991-92 TO 1993-94⁽¹⁾

Proceedings	1991-92	1992-93	1993-94
<i>Public law proceedings, neither means nor merits tested⁽²⁾</i>			
Applications received	5,035	13,787	18,368
Percentage refused on legal grounds	—	—	—
Percentage refused on financial grounds	—	—	—
Percentage abandoned, withdrawn or otherwise disposed of ⁽⁴⁾	2.8%	2.6%	1.8%
<i>Public law proceedings, means tested only⁽²⁾</i>			
Applications received	814	1,726	1,126
Percentage refused on legal grounds	—	—	—
Percentage refused on financial grounds	1.7%	4.5%	6.9%
Percentage abandoned, withdrawn or otherwise disposed of ⁽⁴⁾	5.0%	11.4%	9.8%
<i>Private law proceedings, both means and merits tested⁽³⁾</i>			
Applications received	20,424	68,525	72,637
Percentage refused on legal grounds	6.6%	10.5%	11.8%
Percentage refused on financial grounds	2.1%	3.8%	3.5%
Percentage abandoned, withdrawn or otherwise disposed of ⁽⁴⁾	1.8%	4.0%	4.3%
<i>All proceedings</i>			
Applications received	26,273	84,038	92,131
Percentage refused on legal grounds	5.1%	8.5%	9.3%
Percentage refused on financial grounds	1.7%	3.2%	2.9%
Percentage abandoned, withdrawn or otherwise disposed of ⁽⁴⁾	2.1%	3.9%	3.9%

(1) The Children Act 1989 came into effect on 14 October 1991.

(2) In public law proceedings respondents are entitled to non-means and non-merits tested civil legal aid. Other parties to these proceedings are required to satisfy the normal civil legal aid means test but are not merits tested.

(3) In private law proceedings the usual civil legal aid means and merits tests apply.

(4) See footnote (3) to Civil 3.

CIVIL 4

CIVIL LEGAL AID

APPEALS AGAINST REFUSAL OF LEGAL AID CERTIFICATES 1986-87 TO 1993-94⁽¹⁾

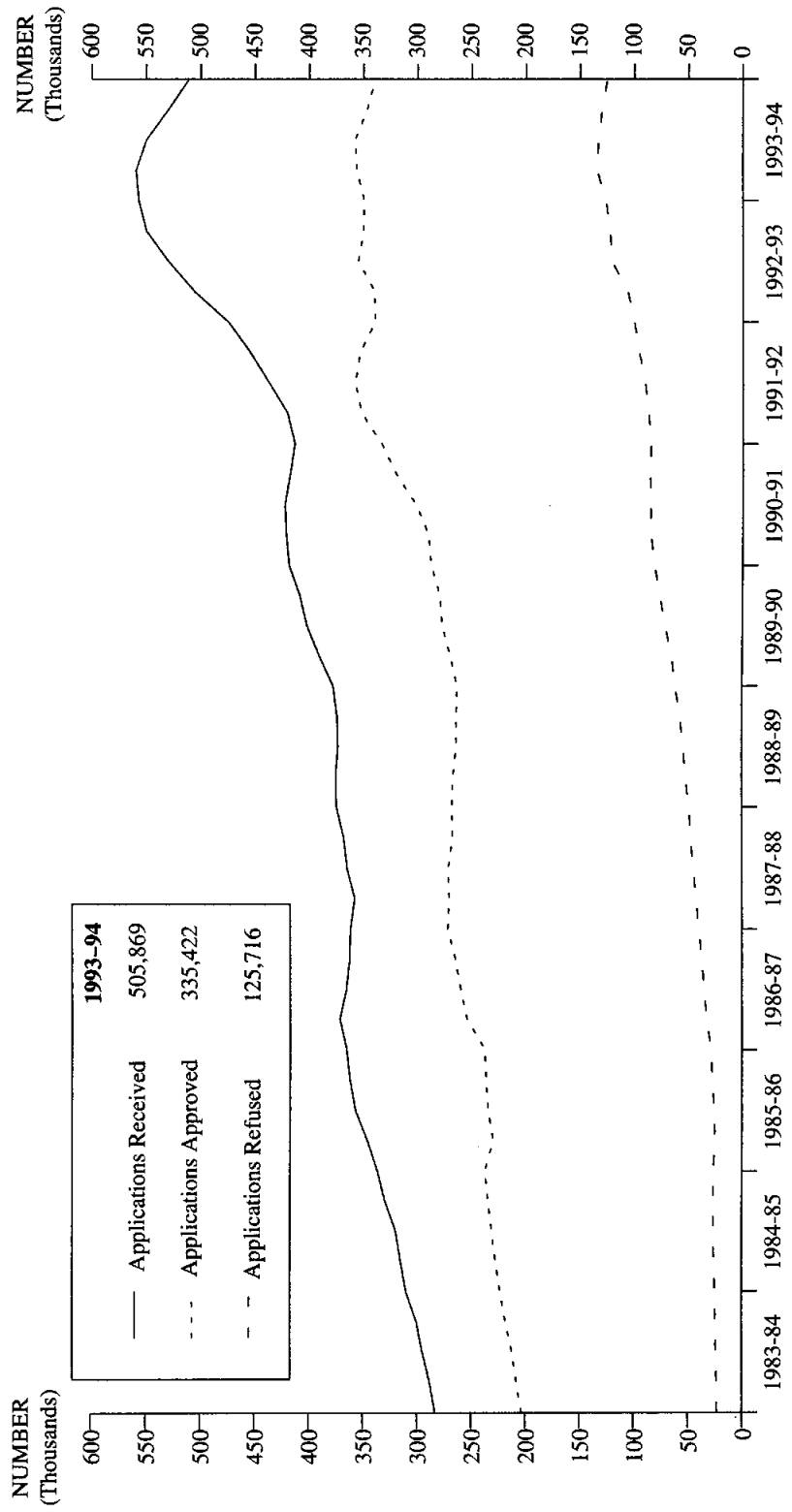
Year	Delegated refusals	Refusals as % of delegated decisions	Appeals received	Appeals granted	% ⁽²⁾ Granted
1986-87	26,751	9.1%	9,282	3,455	37.2%
1987-88	30,606	10.4%	11,475	4,490	39.1%
1988-89	39,161	13.2%	14,519	6,183	42.6%
1989-90	53,276	16.0%	22,855	11,154	48.8%
1990-91	54,866	14.6%	21,140	9,645	45.6%
1991-92 ⁽³⁾	67,817	16.8%	22,073	8,840	40.0%
1992-93	81,198	19.5%	28,053	14,118	50.3%
1993-94	82,220	19.9%	42,089	21,991	52.2%

(1) Statistics on appeals against refusal were not collected before 1986-87.

(2) The figures in this column show the proportions of appeals that were granted.

(3) It has been discovered that the figure previously published for decisions in 1991-92 omitted Children Act cases and the figure has been corrected accordingly.

CIVIL 5
CIVIL LEGAL AID
APPLICATIONS DEALT WITH 1983-84 TO 1993-94



CIVIL 6

CIVIL LEGAL AID

CERTIFICATES ISSUED FOR MATRIMONIAL PROCEEDINGS 1993-94⁽¹⁾

Proceedings ⁽²⁾	Petitioners or plaintiffs	Respondents, third parties or defendants	Totals	First issued as emergency certificates
<i>High Court and County Court:</i>				
Defended divorce or judicial separation	605	587	1,192	7.6%
Undefended to be heard in open court	133	—	133	7.5%
<i>Other Matters:</i>				
Injunction	6,114	1,161	7,275	47.4%
Ancillary relief	42,412	16,423	58,835	3.4%
Residence and contact	6,417	4,909	11,326	9.8%
Combined-injunction, ancillary relief, residence and contact	8,662	3,096	11,758	27.7%
Nullity	356	38	394	7.1%
Miscellaneous	1,260	664	1,924	29.1%
<i>Domestic Violence and Matrimonial Proceedings Act 1976:</i>				
Married	7,307	1,174	8,481	52.1%
Unmarried	10,126	983	11,109	42.6%
<i>Married Women's Property Act:</i>				
	236	74	310	8.7%
<i>Child Support Act 1991</i>				
	19	78	97	2.1%
<i>Magistrates' Courts:</i>				
	0	1	1	—
Totals	83,647	29,188	112,835	17.5%
Totals 1992-93	106,090	42,449	148,539	14.4%

(1) Civil 1 shows trends in the volume of certificates issued over the last ten years.

(2) Volumes in some categories have been affected by the implementation of the Children Act 1989 on 14 October 1991: see paragraph 1.6 of the commentary.

CIVIL 6A

CIVIL LEGAL AID

CHILDREN ACT CERTIFICATES ISSUED 1993–94⁽¹⁾

Public law proceedings	Respondent child	Respondent parent or person with parental responsibility	Other parties	Totals	First issued as emergency certificates
<i>All Courts:⁽²⁾</i>					
Use of secure accommodation	744	—	—	744	2.8%
Care and/or supervision order and/or related proceedings	8,507	7,637	898	17,042	2.0%
Emergency protection order and/or related proceedings	501	760	60	1,321	2.3%
Child assessment order	81	62	0	143	1.4%
Totals	9,833	8,459	958	19,250	2.0%
Totals 1992–93	7,462	6,303	815	14,580	1.8%

Private law proceedings	Applicant	Respondent	Totals	First issued as emergency certificates
<i>All Courts:⁽²⁾</i>				
Contact and residence	27,038	12,677	39,715	15.9%
Prohibited steps order	2,048	508	2,556	39.2%
Specific issue order	553	164	717	28.7%
Combined private law proceedings	2,272	923	3,195	33.3%
Financial provision	1,501	472	1,973	10.9%
Other Children Act proceedings	4,717	2,688	7,405	17.0%
D.P.M.C.A. and related proceedings ⁽³⁾	351	81	432	7.4%
Totals	38,480	17,513	55,993	18.0%
Totals 1992–93	36,135	16,082	52,217	18.0%

(1) See footnotes to Civil 3A.

(2) The overwhelming majority of proceedings commenced in the magistrates' court. 66 public law and 3,211 private law certificates were initially issued for proceedings in the High Court or county courts.

(3) Civil legal aid certificates issued for proceedings under the Domestic Proceedings and Magistrates' Courts Act 1978 can also include Children Act proceedings.

CIVIL 7

CIVIL LEGAL AID

CERTIFICATES ISSUED FOR NON-MATRIMONIAL PROCEEDINGS 1993-94⁽¹⁾

Proceedings ⁽²⁾	Plaintiff	Defendant	Totals	First issued as emergency certificates
House of Lords and Courts of Appeal	931	315	1,246	32.5%
<i>High Court and County Court:</i>				
Administration, Trusts	380	87	467	9.2%
Adoption, Custodianship, Guardianship and Wardship	1,784	1,572	3,356	18.7%
Bankruptcy	134	1,118	1,252	36.7%
Children Act 1975 and Child Abduction	140	59	199	12.6%
Companies	218	166	384	28.9%
Contentious Probate	303	79	382	12.8%
Contract	12,838	10,861	23,699	10.0%
Employment Appeal Tribunal	177	85	262	17.6%
Inheritance Act	1,071	238	1,309	10.2%
Landlord and Tenant	12,417	7,598	20,015	17.0%
Lands	6,117	3,814	9,931	17.9%
Negligence:—				
Accident at work	20,367	68	20,435	1.0%
Professional: Legal	3,342	0	3,342	3.4%
Professional: Medical	10,844	13	10,857	1.0%
Road Accidents	16,103	326	16,429	1.0%
Other Personal Injury	33,583	246	33,829	0.4%
Other Negligence – General	8,406	533	8,939	3.9%
Partnership	727	221	948	9.9%
Tort—General	24,169	2,285	26,454	24.0%
Miscellaneous	4,724	355	5,079	35.2%
<i>Magistrates' Courts:</i>				
Guardianship of Minors	0	1	1	—
Totals	158,775	30,040	188,815	9.9%
Totals 1992-93	170,281	34,215	204,496	9.3%

(1) Civil 1 shows trends in the volume of certificates issued over the last ten years.

(2) Volumes in some categories have been affected by the implementation of the Children Act 1989 on 14 October 1991: see paragraph 1.6 of the commentary.

CIVIL 8

CIVIL LEGAL AID

BENEFITS AGENCY MEANS ASSESSMENT STATISTICS 1983-84 TO 1993-94⁽¹⁾

Year	New applications received ⁽²⁾	Applications withdrawn	Applications determined	Applications determined as eligible %	Cases outstanding at end of period
1983-84	304,197	46,810	256,018	96.5%	29,066
1984-85	322,292	46,414	276,380	96.5%	28,564
1985-86	365,315	50,688	291,374	96.3%	51,817
1986-87	366,009	70,146	310,642	95.5%	37,038
1987-88 ⁽¹⁾	412,140	81,041	330,189	94.1%	37,948
1988-89	395,763	94,181	298,370	92.8%	41,160
1989-90	450,585	123,835	324,156	92.4%	43,754
1990-91 ⁽³⁾	370,682	95,338	309,967	91.5%	9,131
1991-92	272,848	26,674	261,359	87.8%	7,112
1992-93	287,765	27,103	271,960	88.1%	9,059
1993-94	230,685	26,355	214,644	88.3%	9,805

(1) These statistics are compiled by the Benefits Agency from their own returns. Before 1987-88 returns were compiled every four weeks, so the figures for 1983-84 to 1986-87 cover a 52 week period. The Benefits Agency then changed the basis of their returns to the financial year, and the figures for 1987-88 therefore cover the 55 weeks from 11 March 1987 to 31 March 1988, in order to include full information on the transitional period. Figures from 1988-89 onwards are for the financial year 1 April to 31 March.

(2) In addition to carrying out the original determinations of applicants' means, the Benefits Agency also carry out redeterminations at the request of the Legal Aid Board if it is believed that an applicant's financial circumstances may have changed. 4,532 such review cases were outstanding at the beginning of the year, and 66,642 new reviews were requested during the year. In 51,261 cases the original determination was adjusted or confirmed, in 1,645 cases the applicant's income or capital was assessed as enough to render them eligible for legal aid, in 3,738 cases the applicant's income or capital was assessed as enough to render them ineligible for legal aid and 16,200 cases were withdrawn, leaving a balance of 2,981 review cases outstanding at the end of the year.

(3) From September 1990 the Board no longer forwarded cases to the Benefits Agency for detailed assessment if the applicant could demonstrate that he or she was in receipt of Income Support. This resulted in reductions in the number of cases referred during the second half of 1990-91 and throughout 1991-92.

CIVIL 9

CIVIL LEGAL AID

CONTRIBUTIONS DETERMINED 1983-84 TO 1993-94⁽¹⁾

Year	Range of annual contribution assessed ⁽²⁾										Totals	
	Nil		Under £150		£150 to £299		£300 to £499		£500 and over		Number	%
1983-84	160,565	77.8%	19,101	9.3%	12,657	6.1%	9,395	4.6%	4,551	2.2%	206,269	
1984-85	176,416	79.3%	18,226	8.2%	12,547	5.6%	9,774	4.4%	5,596	2.5%	222,559	
1985-86	187,161	80.4%	17,107	7.3%	11,959	5.1%	10,091	4.3%	6,495	2.8%	232,813	
1986-87	197,089	80.1%	16,793	6.8%	12,661	5.1%	11,029	4.5%	8,358	3.4%	245,930	
1987-88	192,110	78.2%	17,281	7.0%	13,127	5.3%	12,613	5.1%	10,567	4.3%	245,698	
1988-89	184,746	77.8%	15,431	6.5%	12,439	5.2%	12,524	5.3%	12,277	5.2%	237,417	
1989-90	205,740	79.3%	14,558	5.6%	11,903	4.6%	12,832	4.9%	14,432	5.6%	259,465	
1990-91	242,216	81.4%	14,201	4.8%	11,976	4.0%	12,671	4.3%	16,491	5.5%	297,555	
1991-92	296,683	83.9%	14,939	4.2%	12,222	3.5%	12,930	3.7%	16,739	4.7%	353,513	
1992-93	360,409	85.8%	15,589	3.7%	12,242	2.9%	12,998	3.1%	18,623	4.4%	419,861	
1993-94	323,545	85.8%	9,740	2.6%	9,923	2.6%	10,877	2.9%	22,808	6.1%	376,893	

(1) Includes certificates issued for High Court, county court and magistrates' court proceedings.

(2) Prior to 1993-94 contributions were payable for the first twelve months of the life of a certificate. Since 11 April 1993 they have been payable throughout the lifetime of the certificate. Figures for 1993-94 show the annualised equivalent of the contribution assessed.

CIVIL 10

CIVIL LEGAL AID

RESULTS REPORTED IN LEGAL AID CASES 1993-94

Court	Judgment in favour of assisted person		Case settled		Judgment against assisted person		Otherwise disposed of		Totals	
	No.	%	No.	%	No.	%	No.	%	No.	%
House of Lords	3	5.7%	0	0.0%	29	54.7%	18	34.0%	53	
Court of Appeal ⁽¹⁾	20	9.6%	53	25.4%	42	20.1%	80	38.3%	209	
Chancery Division	736	36.4%	590	29.2%	196	9.7%	377	18.6%	2,023	
Queen's Bench Division	1,766	15.1%	4,883	41.7%	961	8.2%	3,613	30.8%	11,722	
<i>High Court and County Court:</i>										
Matrimonial proceedings	37,612	26.2%	37,491	26.1%	5,673	4.0%	34,068	23.8%	143,421	
Children Act 1989	249	1.1%	4,611	20.4%	4,001	17.7%	646	2.9%	22,589	
<i>Divisional Court:</i>										
Queen's Bench Division	97	3.0%	1,398	42.9%	417	12.8%	1,101	33.8%	3,258	
Family Division	11	1.9%	190	33.4%	62	10.9%	193	33.9%	569	
County Court (excluding matrimonial & Children Act 1989 proceedings)	9,521	11.1%	38,526	45.0%	5,326	6.2%	21,028	24.5%	85,700	
<i>Magistrates' Court:</i>										
Children Act 1989	19	0.1%	15,194	47.3%	1,498	4.7%	11,895	37.0%	32,131	
ABWOR	116	0.3%	3,214	8.7%	9,831	26.5%	8,426	22.7%	37,072	
Other civil proceedings	4	1.2%	74	22.2%	23	6.9%	184	55.3%	333	
Miscellaneous ⁽²⁾	712	3.8%	4,961	26.3%	1,722	9.1%	7,879	41.8%	18,860	
Court unspecified	—	—	44,220	68.8%	—	—	20,030	31.2%	64,250	
All Courts	50,866	12.0%	155,405	36.8%	29,781	7.1%	109,538	25.9%	422,190	
All Courts 1992-93	50,308	13.3%	122,924	32.5%	27,839	7.4%	95,747	25.3%	377,896	

(1) Does not include cases where the certificate was issued for High Court or county court proceedings and was subsequently amended.

(2) Includes sundry courts and tribunals, miscellaneous High Court proceedings and results reported on emergency certificates.

CIVIL 11

CIVIL LEGAL AID

LEGAL AID CASES DECIDED : PROPORTION WITH A JUDGMENT IN FAVOUR OR SETTLED 1983-84 TO 1993-94

Court	1983-84	1984-85	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	Number of cases decided in 1993-94
House of Lords	42.3%	19.0%	31.3%	40.7%	19.0%	36.0%	40.9%	27.8%	26.5%	13.5%	17.1%	35
Court of Appeal ⁽¹⁾	64.3%	63.5%	61.2%	62.5%	62.1%	72.9%	72.2%	64.7%	60.5%	71.6%	67.4%	129
Chancery Division	91.0%	88.9%	91.3%	89.2%	92.0%	91.6%	91.8%	91.6%	88.1%	88.1%	88.1%	1,646
Queen's Bench Division	88.0%	88.5%	88.2%	86.3%	86.2%	85.0%	85.8%	85.9%	85.8%	87.6%	88.1%	8,109
<i>High Court and County Court:</i>												
Matrimonial proceedings	90.2%	90.4%	91.1%	91.4%	92.2%	92.7%	93.6%	93.4%	93.5%	94.3%	94.8%	109,353
Children Act 1989	—	—	—	—	—	—	—	—	80.2%	82.8%	81.8%	21,943
<i>Divisional Court:</i>												
Queen's Bench Division	65.2%	66.6%	66.3%	68.1%	67.7%	66.1%	71.5%	72.7%	70.5%	77.0%	80.7%	2,157
Family Division	69.0%	73.4%	69.3%	70.3%	72.0%	76.2%	71.2%	71.7%	66.7%	79.7%	83.5%	376
County Court (excluding matrimonial & Children Act 1989 proceedings)	86.8%	87.9%	89.0%	89.4%	89.9%	89.5%	90.0%	89.5%	89.0%	90.7%	91.8%	64,672
<i>Magistrates' Court:</i>												
Children Act 1989	—	—	—	—	—	—	—	—	84.4%	89.4%	92.6%	20,236
ABWOR	79.0%	78.5%	79.5%	79.9%	80.4%	80.3%	80.8%	80.5%	80.2%	74.5%	65.7%	28,646
Other civil proceedings	71.2%	67.2%	69.2%	66.9%	68.0%	68.3%	63.0%	69.4%	74.9%	75.5%	84.6%	149
Miscellaneous ⁽²⁾	76.8%	77.7%	78.7%	78.6%	78.4%	77.5%	78.2%	78.3%	77.7%	81.8%	84.3%	10,981
Court unspecified	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	44,220
All Courts	86.5%	86.9%	87.9%	88.2%	88.7%	89.0%	89.5%	89.2%	89.3%	90.1%	90.5%	312,652
Number of cases decided	181,564	194,085	198,883	199,529	206,458	213,371	213,584	225,202	256,651	282,149	312,652	

(1) Does not include cases where the certificate was originally issued for county court or High Court proceedings and was subsequently amended.

(2) Includes sundry courts and tribunals, miscellaneous High Court proceedings and results reported on emergency certificates.

CIVIL 12

CIVIL LEGAL AID

BILLS PAID AND EXPENDITURE 1993-94⁽¹⁾

Proceedings	Bills Paid			Solicitors' Costs			Disbursements			Counsel's Fees		
	Number	Amount	Average Cost	Amount	Average Cost	Amount	Average Cost	Amount	Number	Amount	Average Cost	
<i>Matrimonial Proceedings:</i>												
High Court	3,440	£10,822,659	£3,146	£7,979,350	£2,320	£627,050	£182	£2,216,259	3,730	£2,216,259	£594	
County Court	115,636	£186,688,677	£1,614	£150,439,416	£1,301	£10,782,075	£93	£25,467,186	58,777	£25,467,186	£433	
Domestic Violence and Matrimonial Proceedings Act 1976	19,529	£22,951,252	£1,175	£17,017,927	£871	£2,377,592	£122	£3,555,733	12,762	£3,555,733	£279	
Married Women's Property Act	404	£722,720	£1,789	£559,298	£1,384	£48,977	£121	£114,446	297	£114,446	£385	
<i>Children Act Proceedings:</i>												
High Court	949	£5,076,544	£5,349	£3,104,530	£3,271	£259,055	£273	£1,712,959	1,456	£1,712,959	£1,176	
County Court	22,076	£34,217,865	£1,550	£25,655,208	£1,162	£1,798,343	£81	£6,764,314	9,347	£6,764,314	£724	
Magistrates' Court	30,039	£34,205,943	£1,139	£27,320,279	£909	£1,901,182	£63	£4,984,482	7,884	£4,984,482	£632	
<i>Non-Matrimonial Proceedings:</i>												
High Court	22,284	£99,438,632	£4,462	£61,948,105	£2,780	£12,052,717	£541	£25,437,810	23,686	£25,437,810	£1,074	
County Court	83,559	£141,728,067	£1,696	£102,170,911	£1,223	£18,602,328	£223	£20,954,828	59,602	£20,954,828	£352	
Court unspecified	60,998	£137,197,438	£2,249	£96,485,892	£1,582	£24,640,022	£404	£16,071,525	41,803	£16,071,525	£384	
Miscellaneous ⁽²⁾	274	£443,853	£1,620	£255,766	£933	£50,538	£184	£137,548	228	£137,548	£603	
Totals⁽³⁾	359,188	£673,493,650	£1,875	£492,936,681	£1,372	£73,139,879	£204	£107,417,090	219,572	£107,417,090	£489	

(1) The figures reflect the costs of cases tried, settled or otherwise disposed of, and include V.A.T. where appropriate.

(2) This category comprises bills paid for other courts or tribunals e.g. the Employment Appeals Tribunal, and bills for magistrates' court certificates issued prior to the implementation of the Children Act in October 1991. It does not include bills paid for House of Lords or Court of Appeal cases as these are recorded under High Court.

(3) All totals are less than those shown in the Statement of Accounts (see Accounts and General 4) as they do not include payments on account of profit costs, disbursements or counsel's fees nor payments for the recovery of costs. The figures shown for the total value of all bills may differ from the totals of individual categories due to rounding.

CIVIL 13

CIVIL LEGAL AID

AVERAGE COSTS OF MATRIMONIAL BILLS 1983-84 TO 1993-94⁽¹⁾

	Number	Average Costs			Total at 1983-84 prices ⁽¹⁾
		Total	Solicitor	Counsel	
<i>High Court</i>					
1983-84	7,830	£1,288	£952	£173	£1,288
1984-85	7,550	£1,357	£1,009	£184	£1,296
1985-86	7,372	£1,464	£1,088	£212	£1,321
1986-87	6,224	£1,646	£1,223	£243	£1,441
1987-88	5,643	£1,745	£1,301	£276	£1,466
1988-89	4,894	£2,018	£1,488	£331	£1,602
1989-90	3,834	£2,076	£1,545	£336	£1,532
1990-91	3,507	£2,343	£1,711	£397	£1,559
1991-92	3,606	£2,536	£1,844	£431	£1,621
1992-93	3,683	£2,948	£2,173	£500	£1,820
1993-94	3,440	£3,146	£2,320	£594	£1,908
<i>County Court</i>					
1983-84	87,419	£587	£466	£118	£587
1984-85	89,344	£668	£533	£138	£638
1985-86	92,541	£737	£589	£161	£665
1986-87	90,164	£828	£660	£184	£725
1987-88	90,350	£905	£721	£205	£760
1988-89	94,860	£1,057	£836	£237	£839
1989-90	91,078	£1,149	£901	£264	£848
1990-91	95,333	£1,290	£1,001	£293	£859
1991-92	109,563	£1,412	£1,095	£333	£903
1992-93	114,132	£1,514	£1,210	£386	£935
1993-94	115,636	£1,614	£1,301	£433	£979

(1) Based on the retail price index at September each year.

CIVIL 14

CIVIL LEGAL AID

AVERAGE COSTS OF NON-MATRIMONIAL BILLS 1983-84 TO 1993-94⁽¹⁾

	Number	Average Costs			Total at 1983-84 prices ⁽¹⁾
		Total	Solicitor	Counsel	
<i>High Court</i>					
1983-84	12,512	£1,360	£872	£274	£1,360
1984-85	13,835	£1,484	£947	£306	£1,417
1985-86	14,769	£1,664	£1,041	£361	£1,501
1986-87	14,118	£1,732	£1,085	£382	£1,517
1987-88	14,583	£2,037	£1,247	£482	£1,712
1988-89	16,513	£2,359	£1,443	£559	£1,873
1989-90	16,884	£2,779	£1,707	£670	£2,051
1990-91	17,449	£3,076	£1,924	£725	£2,047
1991-92	23,552	£3,304	£2,010	£889	£2,113
1992-93	26,628	£3,904	£2,416	£989	£2,410
1993-94	22,284	£4,462	£2,780	£1,074	£2,706
<i>County Court</i>					
1983-84	25,303	£560	£394	£112	£560
1984-85	30,344	£612	£432	£127	£585
1985-86	35,961	£683	£479	£146	£616
1986-87	37,497	£763	£530	£161	£668
1987-88	40,380	£816	£570	£171	£686
1988-89	43,797	£938	£651	£195	£745
1989-90	47,074	£1,036	£717	£220	£765
1990-91	50,809	£1,185	£821	£253	£789
1991-92	60,989	£1,339	£936	£291	£856
1992-93	68,357	£1,515	£1,077	£328	£935
1993-94	83,559	£1,696	£1,223	£352	£1,029

(1) Based on the retail price index at September each year.

CIVIL 15

CIVIL LEGAL AID

OPERATION OF THE STATUTORY CHARGE IN CLOSED MATRIMONIAL CASES 1983-84 to 1993-94

Year	Total awarded or agreed	Cases with no monies retained	Cases with monies retained	Total ⁽¹⁾ amount retained	Average amount retained	Proportion of total award retained
1983-84	£115,745,465	8,744	8,926	£7,619,640	£853.65	6.6%
1984-85	£150,422,712	9,658	10,731	£10,195,145	£950.06	6.8%
1985-86	£172,059,499	8,646	12,429	£12,823,815	£1,031.77	7.5%
1986-87	£209,987,546	8,830	14,873	£16,871,234	£1,134.35	8.0%
1987-88	£239,342,404	8,448	16,130	£19,309,083	£1,197.09	8.1%
1988-89	£320,749,244	7,558	19,815	£26,359,253	£1,330.27	8.2%
1989-90	£313,354,754	5,878	16,553	£24,230,968	£1,463.84	7.7%
1990-91	£316,942,967	5,031	16,063	£24,708,039	£1,538.20	7.8%
1991-92	£352,457,553	4,594	17,249	£27,928,549	£1,619.14	7.9%
1992-93	£396,891,865	4,906	19,957	£34,596,273	£1,733.54	8.7%
1993-94	£413,659,451	5,428	20,056	£37,123,573	£1,851.00	9.0%

(1) This total includes money received in satisfaction of registered charges during the year.

CIVIL 16

CIVIL LEGAL AID

OPERATION OF THE STATUTORY CHARGE IN CLOSED NON-MATRIMONIAL CASES 1983-84 TO 1993-94

Year	Total awarded or agreed	Cases with no monies retained	Cases with monies retained	Total ⁽¹⁾ amount retained	Average amount retained	Proportion of total award retained
1983-84	£102,520,198	19,576	3,111	£1,714,440	£551.09	1.7%
1984-85	£132,832,413	24,574	3,517	£2,223,266	£632.15	1.7%
1985-86	£148,001,281	25,085	4,088	£2,883,504	£705.36	1.9%
1986-87	£160,129,402	27,127	4,265	£3,793,590	£889.47	2.4%
1987-88	£174,765,807	29,189	4,199	£3,752,020	£893.55	2.1%
1988-89	£226,116,427	31,004	4,754	£4,760,270	£1,001.32	2.1%
1989-90	£265,694,922	33,496	4,700	£5,316,286	£1,131.12	2.0%
1990-91	£280,491,576	33,627	4,419	£5,963,202	£1,349.45	2.1%
1991-92	£305,935,745	36,909	4,557	£6,816,608	£1,495.85	2.2%
1992-93	£422,581,498	50,352	4,971	£9,256,081	£1,862.02	2.2%
1993-94	£520,593,269	58,106	5,511	£11,192,661	£2,030.97	2.1%

(1) This total includes money received in satisfaction of registered charges during the year.

CIVIL 17

CIVIL LEGAL AID

WRITE-OFF OF BAD DEBTS 1993-94

Category of write-off	Contribution ⁽¹⁾⁽²⁾		Revoked emergency certificates ⁽³⁾		Costs ⁽⁴⁾⁽⁵⁾		Totals	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount
Debtor cannot be traced	534	£243,365	542	£444,317	1,922	£1,832,745	2,998	£2,520,427
Expense not justified	3,981	£353,029	673	£284,045	7,057	£2,540,798	11,711	£3,177,872
Poor circumstances of debtor	540	£262,226	436	£352,451	873	£810,828	1,849	£1,425,504
Debtor outside jurisdiction					12	£13,399	12	£13,399
Debtor has died	123	£18,023	17	£9,895	50	£46,715	190	£74,632
Compromise	9	£4,670	81	£57,746	19	£9,400	109	£71,815
Debtor bankrupt	3	£1,346	1	£94	311	£983,663	315	£985,103
Court proceedings-order refused ⁽⁶⁾	1	£11	1	£68	4	£4,515	6	£4,595
Parties reconciled ⁽⁵⁾	2	£90	4	£2,701	84	£78,398	90	£81,189
Costs and contribution in same case (not analysed)							242	£188,937
Totals	5,193	£882,760	1,755	£1,151,318	10,332	£6,320,459	17,522	£8,543,474
Totals 1992-93	3,040	£614,163	1,248	£941,567	9,201	£3,684,588	13,699	£5,381,986

(1) Monies written-off under "Contribution" and "Revoked emergency certificates" are monies due from assisted persons. Monies written-off under "Costs" are monies due from other parties.

(2) Included in this total are 28 magistrates' courts cases, where a total of £5,686 in contributions was written off.

(3) Frequently orders for costs are made without reference to the means of the other party, and it is subsequently found that there is no likelihood of the debtor paying the costs. The Board's policy is not to incur further expense in pursuing payment.

(4) These are cases where recovery proceedings were issued in the county court, but the court ultimately took the view that the debtor's circumstances were such that a further order would not be appropriate.

(5) This category was introduced from 1 April 1984 as an explicit recognition that in matrimonial proceedings it may be impracticable or impolitic to continue to pursue recovery when the parties have become reconciled, particularly where there is a danger that such action might jeopardise the reconciliation.

CIVIL 18

CIVIL LEGAL AID

AMOUNTS RECEIVED AND BAD DEBTS WRITTEN OFF 1983-84 TO 1993-94

	Contributions received and retained		Contributions written off		Costs cash recovered		Costs written off		Bills paid on emergency certificates		Written off on revoked certificates	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
1983-84	£7,107,561		£485,485	6.4%	£7,270,649		£1,701,406	19.0%	£1,868,679		£375,507	16.7%
1984-85	£7,512,728		£547,676	6.8%	£8,189,516		£1,645,831	16.7%	£1,984,658		£518,643	20.7%
1985-86	£8,222,493		£515,033	5.9%	£9,034,811		£1,753,690	16.3%	£2,428,824		£489,094	16.8%
1986-87	£8,783,474		£578,486	6.2%	£9,516,617		£1,800,966	15.9%	£3,131,836		£614,293	16.4%
1987-88	£11,184,304		£641,489	5.4%	£10,778,084		£1,921,132	15.1%	£4,253,562		£979,273	18.7%
1988-89	£12,002,551		£598,370	4.7%	£12,311,500		£1,497,257	10.8%	£5,356,452		£1,064,062	16.6%
1989-90	£13,294,787		£789,974	5.6%	£12,346,533		£1,578,349	11.3%	£6,680,313		£1,688,219	20.2%
1990-91	£13,751,212		£883,654	6.0%	£12,207,519		£1,876,031	13.3%	£8,717,123		£1,566,201	15.2%
1991-92 ⁽¹⁾	£14,217,529		£1,333,466	8.6%	£14,441,929		£2,299,922	13.7%	£9,449,580		£1,911,607	16.8%
1992-93 ⁽²⁾	£14,821,632		£1,614,163	4.0%	£17,031,003		£3,684,588	17.8%	£10,690,684		£941,567	8.1%
1993-94	£16,353,757		£882,760	5.4%	£22,581,657		£6,320,459	28.0%	£12,130,947		£1,151,318	9.5%

(1) During 1991-92 control of contributions was transferred to area offices: see paragraph 1.17 of the commentary.

(2) During 1992-93 recovery of costs was brought under the Board's control: see paragraph 1.17 of the commentary.

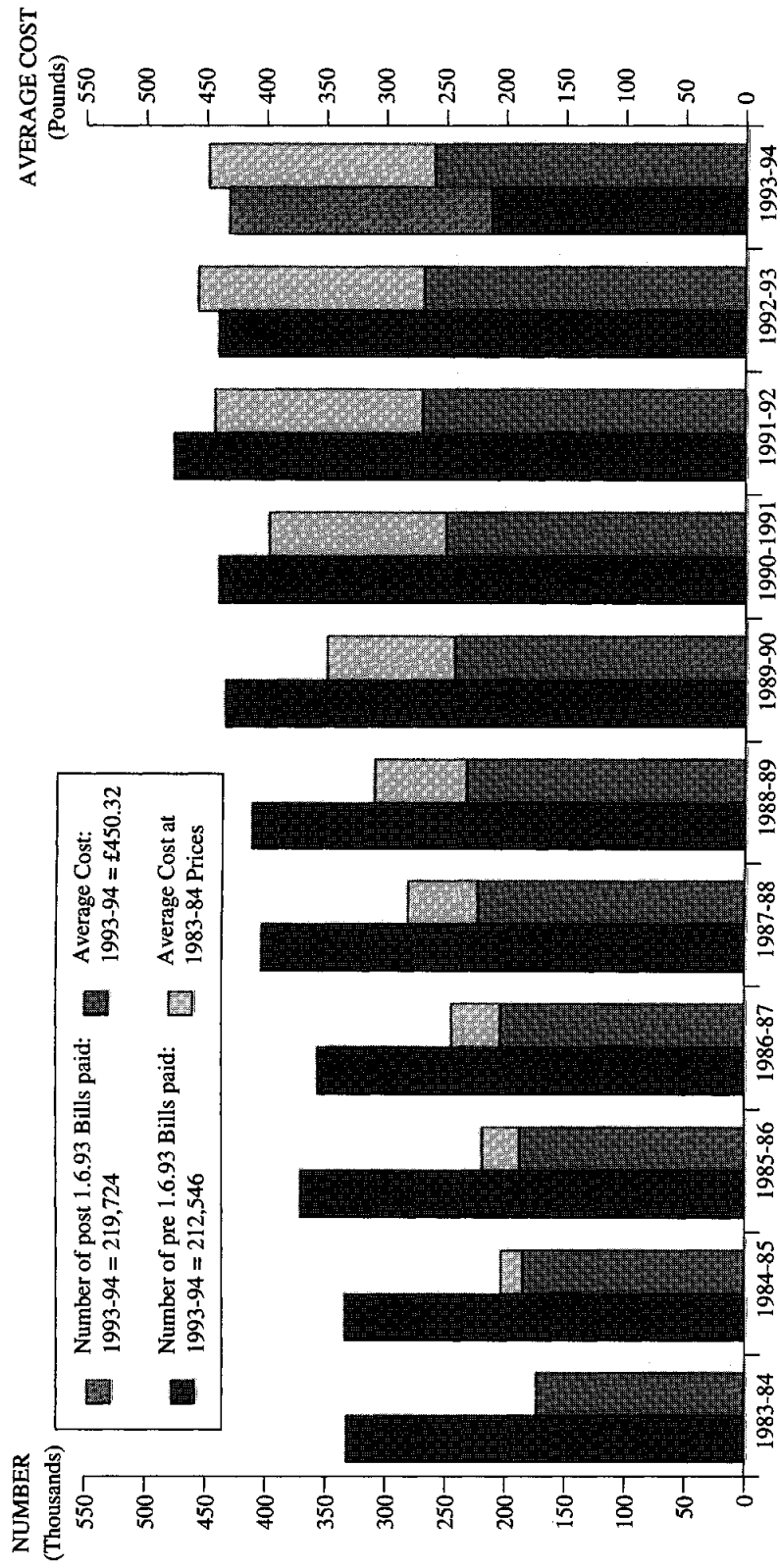
Section 2: Criminal Proceedings in Magistrates' Courts

- 2.1 Partly due to the introduction of the duty solicitor schemes, legal aid in criminal proceedings has been easily the fastest growing sector of legal aid over the last ten years. Including advice given under the green form scheme, which is covered in the Advice section of the appendices, it accounts for more than half of the acts of assistance paid for annually out of the Fund. However the implementation of the Children Act 1989 has resulted in the transfer of payments which used to fall into the criminal area to civil legal aid, and as a result of this and other factors the proportion of expenditure devoted to criminal matters has declined from just under 40% two years ago to just under 30% this year.
- 2.2 The introduction of standard fees for criminal legal aid in the magistrates' courts in June 1993 has complicated year-on-year comparison of bills paid in 1993-94. As noted in paragraphs 7.7 to 7.10 of this report, there appears to have been an increase in the ratio of bills paid to offences in the last six months. This has had the effect, comparatively, of inflating the volume of bills paid while depressing the average cost of those bills. In appendices Criminal 1 and 2 we have reported on the overall volumes and average costs of bills paid as a matter of record, but it should be borne in mind that these tables are not strictly comparing like with like. Appendices Criminal 3A and 3B report separately on payments made under the new and old schemes respectively.
- 2.3 Criminal 3A shows that the majority of standard fee claims paid during the year were for lower standard fees. This is to be expected, as by definition all of the claims paid in the first few months must be for relatively short-lived cases, where the amount of work carried out by the solicitor and counsel would be insufficient to advance the claim into or beyond the higher standard fee ranges. Moreover, the natural effect of the development described in paragraphs 7.7 to 7.10 of this report would be to encourage the submission of two or more lower standard fee claims where previously one, more expensive, bill would have been submitted. It is anticipated that as a more representative age-profile of cases develops during 1994-95 the numbers and proportions of higher and non-standard fee claims will increase.
- 2.4 Conversely, old-style claims paid in the latter part of the year must by definition have been for legal aid orders issued before June 1993. This resulted in the inclusion of a disproportionately high number of longer-lived, more expensive bills, and Criminal 3B shows that the average cost of old-style claims paid during the year was substantially higher than the average of £457.56 paid for such bills in 1992-93.

- 2.5 Appendix Criminal 5 shows that after three years in which all “busy” courts were covered by the court duty solicitor scheme, at the end of 1993–94 four such courts remained uncovered. In only one case, Oxford, was this the result of the failure of an existing scheme. In the other three cases courts which had previously been classified as “less busy” and were without schemes became busy courts through increases in workload. Negotiations are in progress to restore or extend cover to these courts as soon as possible.
- 2.6 The numbers of both claims paid and defendants assisted under the court duty solicitor scheme increased in 1993-94, as can be seen from appendix Criminal 6. The growth in the number of claims was the more rapid, resulting in a further small decline in the number of suspects assisted per claim from 3.3 last year to 3.2 this. Another development in the use of the scheme is shown in appendices Criminal 7 and 8 although, as these are based on the date the advice was given rather than the date the claim was paid, the figures for 1993–94 are only provisional: solicitors are allowed three months to submit their claims and so not all claims for attendance during 1993–94 had been processed at the time of going to press. The number of defendants receiving assistance during the year increased markedly after three years of little change, and the proportion of those defendants who received representation also increased to 83%, resulting in a similar increase in the number of defendants represented under the scheme. As mentioned in paragraphs 7.7 to 7.10, this increase took place in the context of a continuing decline in the workload of the courts, and may therefore also be related to the introduction of standard fees.
- 2.7 The advice at police stations scheme also showed increasing numbers of claims both for stand-by duty and for assisting suspects (Criminal 9), but in this case the increase in the number of suspects was the greater, with the result that at constant prices the cost per suspect assisted actually fell for the second year in succession and the proportion of stand-by claims with suspects assisted continued to edge upwards. Appendix Criminal 10, which is compiled on the same basis as Criminal 7 and 8, shows some small changes in the use made of the scheme. Slightly less of the advice given during 1993–94 was given by duty solicitors as opposed to suspects’ own solicitors, while there was a minor reduction in the proportion of suspects receiving telephone advice only, following changes in the Duty Solicitor Arrangements in 1991–92.
- 2.8 Appendix Criminal 11, which builds on research originally carried out for the Board by Alastair Gray and Paul Fenn of the Centre for Socio-Legal Studies at Wolfson College, Oxford, is subject to the same qualifications as Criminal 1 and 2, as it includes a mixture of old and new-style claims in 1993–94. The apparent reduction in the average time spent on attendance may therefore be a product of the diversification of standard fee claims. Certainly one effect of the introduction of standard fees is that as a result of the simplification of the claim form for lower standard fees it is no longer possible to collect separate information on travel and waiting for attendances and travel and waiting at hearings. Travel and waiting for new-style claims is therefore now reported separately. The lower average times for these cases (and the higher times this year for travel and waiting on old-style cases) are a consequence of the relative youth of new style claims referred to in paragraph 2.3 above, and may be expected to increase during 1994–95 as a more representative age-profile of cases develops.

CRIMINAL 1

**CRIMINAL LEGAL AID
BILLS PAID 1983-84 TO 1993-94**



CRIMINAL 2

CRIMINAL LEGAL AID

AVERAGE COSTS 1983-84 TO 1993-94⁽¹⁾

Year	Overall average cost	Annual growth %	Solicitors' fees	Annual growth %	Counsel's fees ⁽²⁾	Annual growth %	Preparation hourly rate (incl. VAT)	Annual growth %
1983-84	£187.51	7.7%	£165.46	7.3%	£101.76	7.8%	£28.75	4.2%
1984-85	£204.11	8.9%	£179.88	8.7%	£108.55	6.7%	£29.90	4.0%
1985-86	£219.33	7.5%	£191.86	6.7%	£116.68	7.5%	£31.05	3.8%
1986-87	£244.63	11.5%	£213.92	11.5%	£135.98	16.5%	£33.99	9.5%
1987-88	£281.21	15.0%	£245.31	14.7%	£152.40	12.1%	£37.49	10.3%
1988-89	£309.49	10.1%	£267.74	9.1%	£170.36	11.8%	£39.91	6.4%
1989-90	£348.69	12.7%	£300.33	12.2%	£189.48	11.2%	£42.26	5.9%
1990-91	£397.70	14.1%	£346.16	15.3%	£202.45	6.8%	£45.47	7.6%
1991-92	£445.12	11.9%	£389.89	12.6%	£231.68	14.4%	£49.73	9.4%
1992-93	£457.56	2.8%	£399.70	2.5%	£245.08	5.8%	£51.20	3.0%
1993-94⁽³⁾	£450.32	n.a.	£400.46	n.a.	£258.73	n.a.	£51.20	0.0%

(1) The volume of criminal bills paid is shown in appendix Criminal 1.

(2) These are principally fees where counsel has been instructed by the solicitor although not specifically assigned by the court.

(3) Costs in 1993-94 have been affected by the introduction of standard fees from 1 June 1993, making a direct comparison with previous years inappropriate: see paragraphs 7.7 to 7.10 of the report and paragraph 2.2 of the commentary.

CRIMINAL 3A

CRIMINAL LEGAL AID

BILLS PAID AND AVERAGE COSTS IN 1993-94 FOR LEGAL AID ORDERS ISSUED AFTER 1 JUNE 1993⁽¹⁾

Category of Fee Paid ⁽²⁾	Total Payments		Solicitors' Costs		Disbursements		Counsel's Fees ⁽³⁾			
	Number	Amount	Average	Amount	Average	Amount	Average	Number	Amount	Average
<i>Lower Standard Fees</i>										
Category 1: guilty pleas, uncontested summary proceedings, etc.	123,271	£26,477,094	£214.79	£25,598,081	£207.66	£545,997	£4.43	5,377	£333,016	£61.93
Category 2: contested trials, cracked trials, etc.	38,829	£14,215,598	£366.11	£13,480,202	£347.17	£310,817	£8.00	3,965	£424,579	£107.08
Category 3: committals and transferrals.	31,930	£11,233,084	£351.80	£10,714,209	£335.55	£295,878	£9.27	2,934	£222,997	£76.00
Totals	194,030	£51,925,776	£267.62	£49,792,492	£256.62	£1,152,692	£5.94	12,276	£980,592	£79.88
<i>Higher Standard Fees</i>										
Category 1: guilty pleas, uncontested summary proceedings, etc.	7,670	£3,987,583	£519.89	£3,873,906	£493.34	£132,503	£17.28	719	£71,175	£98.99
Category 2: contested trials, cracked trials, etc.	5,650	£4,530,412	£801.84	£4,206,176	£744.46	£132,296	£23.42	1,014	£191,940	£189.29
Category 3: committals and transferrals.	3,460	£2,702,935	£781.19	£2,526,018	£730.06	£111,446	£32.21	585	£65,471	£111.92
Totals	16,780	£11,220,929	£668.71	£10,516,099	£626.70	£376,244	£22.42	2,318	£328,586	£141.75
<i>Non-standard Fees</i>										
Category 1: guilty pleas, uncontested summary proceedings, etc.	99	£86,791	£876.68	£80,526	£813.39	£3,100	£31.31	16	£3,165	£197.83
Category 2: contested trials, cracked trials, etc.	50	£64,828	£1,296.56	£56,855	£1,137.09	£1,588	£31.75	18	£6,385	£354.74
Category 3: committals and transferrals.	56	£80,920	£1,445.00	£73,990	£1,321.24	£4,165	£74.37	12	£2,766	£230.49
Totals	205	£232,539	£1,134.34	£211,370	£1,031.07	£8,852	£43.18	46	£12,317	£267.75
<i>Exempt</i>										
Counsel assigned, extradition, enhanced rate cases, etc.	8,709	£11,139,147	£1,279.04	£9,722,936	£1,116.42	£429,336	£49.30	2,209	£986,875	£446.75
Grand Totals	219,724	£74,518,391	£339.15	£70,242,897	£319.69	£1,967,125	£8.95	16,849	£2,308,369	£137.00

(1) This table includes only payments made under the standard fee regime introduced on 1 June 1993. Payments for legal aid orders issued before that date are included in Criminal 3B; see paragraph 2.2 of the commentary.

(2) The categories of fee, fee ranges and fees payable are set out in detail in Part III of Schedule 1 of the Legal Aid in Criminal and Care Proceedings (Costs) Regulations 1989.

(3) These are principally fees where counsel has been instructed by the solicitor although not specifically assigned by the court.

CRIMINAL 3B

CRIMINAL LEGAL AID

BILLS PAID AND AVERAGE COSTS IN 1993-94 FOR LEGAL AID ORDERS ISSUED BEFORE 1 JUNE 1993⁽¹⁾

Type of Hearing	Total Payments		Solicitors' Costs		Disbursements		Counsel's Fees ⁽²⁾			
	Number	Amount	Average	Amount	Average	Amount	Average	Number	Amount	Average
<i>Summary Trials</i>										
One defendant	161,391	£73,617,541	£456.14	£65,123,788	£403.52	£3,413,160	£21.15	25,046	£5,080,593	£202.85
More than one defendant	9,771	£7,908,463	£809.38	£7,053,311	£721.86	£304,544	£31.17	1,807	£550,608	£304.71
Counsel assigned (one or more defendants)	347	£1,031,005	£2,971.20	£591,006	£1,703.19	£35,832	£103.26	377	£404,167	£1,072.06
Totals	171,509	£82,557,008	£481.36	£72,768,105	£424.28	£3,753,535	£21.89	27,230	£6,035,368	£221.64
<i>Preliminary Hearings</i>										
One defendant	35,650	£24,990,302	£700.99	£21,325,858	£598.20	£1,222,516	£34.29	8,289	£2,441,928	£294.60
More than one defendant	4,329	£4,883,819	£1,128.16	£4,273,684	£987.22	£219,046	£50.60	951	£391,090	£411.24
Counsel assigned (one or more defendants)	1,058	£7,712,041	£7,289.26	£4,497,325	£4,250.78	£268,799	£254.06	1,265	£2,945,917	£2,328.79
Totals	41,037	£37,586,162	£915.91	£30,096,867	£733.41	£1,710,360	£41.68	10,505	£5,778,935	£550.11
Grand Totals	212,546	£120,143,171	£565.26	£102,864,972	£483.97	£5,463,896	£25.71	37,735	£11,814,303	£313.09

(1) The number and cost of bills paid this year has been affected by the introduction of the standard fee regime for all legal aid orders issued after 1 June 1993: see paragraph 2.2 of the commentary.

(2) These are principally fees where counsel has been instructed by the solicitor although not specifically assigned by the court.

CRIMINAL 4

LEGAL AID IN CRIMINAL AND CARE PROCEEDINGS⁽¹⁾

APPLICATIONS RECEIVED AND GRANTED 1983-84 TO 1993-94

Year	Assignment of counsel in magistrates' courts		Application to amend a legal aid order		Prior authority for expenditure		Application for review of refusal of legal aid ⁽²⁾		Grand Totals	
	Received	Granted %	Received	Granted %	Received	Granted %	Received	Granted %	Received	Granted %
1983-84	9	11.1%	7	14.3%	184	73.4%	210	54.8%	410	61.5%
1984-85	304	18.8%	248	28.6%	7,203	89.0%	4,476	68.5%	12,231	78.5%
1985-86	224	31.7%	274	28.1%	10,707	89.5%	5,418	71.4%	16,623	81.8%
1986-87	248	37.9%	423	27.4%	11,793	89.9%	6,138	71.7%	18,604	81.8%
1987-88	273	28.9%	385	36.1%	11,695	89.6%	6,359	69.3%	18,713	80.7%
1988-89	363	32.0%	551	31.2%	14,092	89.9%	5,791	67.1%	20,797	81.0%
1989-90	126	51.6%	190	47.9%	13,799	89.9%	4,025	68.2%	18,140	84.4%
1990-91	133	42.9%	76	65.8%	16,090	88.6%	3,831	66.0%	20,130	83.9%
1991-92	273	34.4%	98	50.0%	17,178	85.2%	3,890	60.2%	21,439	79.9%
1992-93	502	29.3%	136	40.4%	21,010	83.1%	5,767	52.7%	27,415	75.5%
1993-94	541	27.4%	145	54.5%	24,155	85.0%	4,957	58.7%	29,798	79.5%

(1) Previously Sections 5 and 6 Legal Aid Act 1982 (implemented 1 April 1984).

(2) Refers to the refusal of a legal aid order by a magistrates' court.

CRIMINAL 5

DUTY SOLICITORS — GENERAL

IMPLEMENTATION OF SCHEMES 1984-85 TO 1993-94

Year	Magistrates' courts scheme ⁽¹⁾				Police stations scheme ⁽²⁾		
	No. of courts	Courts without scheme "Busy" courts	"Less busy" courts	Implementation %	No. of police stations	Stations without scheme	Implementation %
1984-85	625	64	393	26.9%	—	—	—
1985-86	603	36	255	51.7%	—	—	75.8%
1986-87	601	14	131	75.9%	—	—	85.9%
1987-88	564	11	112	78.2%	—	—	94.2%
1988-89	560	5	76	85.5%	1,878	142	92.4%
1989-90	558	3	65	87.8%	1,884	101	94.6%
1990-91	576	0	22	96.2%	1,882	94	95.0%
1991-92	531	0	16	97.0%	1,806	53	97.1%
1992-93	525	0	23	95.6%	1,855	39	97.9%
1993-94	527	4	13	96.8%	1,836	19	99.0%

(1) First statutory scheme introduced June 1984.

(2) Scheme came into effect on 1 January 1986. Implementation was initially monitored by court area as for the duty solicitor scheme, it being assumed that the existence of a scheme in an area implied cover at all police stations. The introduction of a count of police stations in 1988-89 showed that this assumption had been over-optimistic.

CRIMINAL 6

MAGISTRATES' COURT DUTY SOLICITOR SCHEME⁽¹⁾

PAYMENTS MADE 1984-85 TO 1993-94

Year	Number of claims	% with defendants	Defendants assisted	Amount paid	Cost per defendant		Cost per defendant at 1984-85 prices ⁽²⁾
				£000's	£	Annual growth %	
1984-85	6,859	87.7%	19,811	537	£27.12	—	£27.12
1985-86	42,557	87.7%	123,874	3,370	£27.21	0.3%	£25.69
1986-87	48,179	87.1%	133,293	3,920	£29.41	8.1%	£26.96
1987-88	53,191	90.0%	169,250	4,887	£28.88	-1.8%	£25.41
1988-89	55,118	91.3%	188,161	5,307	£28.21	-2.3%	£23.45
1989-90	62,045	93.5%	226,075	6,531	£28.89	2.4%	£22.33
1990-91	63,092	94.2%	229,144	7,084	£30.91	7.0%	£21.55
1991-92	67,865	94.1%	232,588	8,003	£34.41	11.3%	£23.04
1992-93 ⁽³⁾	68,774	94.4%	226,549	10,179	£44.93	30.6%	£29.04
1993-94	74,445	94.3%	238,765	11,378	£47.65	6.1%	£30.26

(1) First statutory scheme introduced June 1984.

(2) Based on the retail price index at September each year.

(3) From April 1992 the composite hourly rate payable for court duty solicitor work was changed from one based on a combination of waiting and advocacy rates to one based on preparation and advocacy rates. This had the effect of increasing the hourly rate by approximately 28%.

CRIMINAL 7

MAGISTRATES' COURT DUTY SOLICITOR SCHEME⁽¹⁾

NUMBER AND TYPE OF DEFENDANTS ASSISTED 1984-85 TO 1993-94⁽²⁾

Category ⁽³⁾	1984-85	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94
Number of defendants assisted ⁽⁴⁾	31,454	136,422	127,329	172,627	190,684	220,846	224,772	225,389	226,268	237,359
<i>Defendants assisted:</i>										
Adults	91.2%	92.1%	93.6%	94.2%	94.9%	95.3%	95.8%	96.5%	95.7%	93.8%
Juveniles	8.6%	7.8%	6.4%	5.8%	5.1%	4.7%	4.2%	3.5%	4.3%	6.2%
Not stated	0.1%	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
<i>Defendant's circumstances:</i>										
In custody	46.8%	41.5%	37.7%	39.6%	41.9%	41.2%	40.8%	40.0%	38.8%	39.4%
On bail	52.9%	58.2%	62.3%	60.4%	58.1%	58.8%	59.2%	59.9%	61.2%	60.6%
Not stated	0.3%	0.3%	0.0%	0.0%	0.0%	0.1%	0.0%	0.0%	0.0%	0.0%
<i>Assistance given:</i>										
Advice only	23.5%	22.7%	22.1%	20.0%	19.1%	18.9%	17.7%	17.8%	18.0%	17.0%
Representation	76.4%	77.1%	77.9%	79.9%	80.9%	81.1%	82.3%	82.1%	82.0%	83.0%
Not stated	0.1%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

(1) First statutory scheme introduced June 1984.

(2) The figures for earlier years have been revised to take account of late returns.

(3) In a few cases, the claim forms did not include full information on the defendants assisted. These cases are shown as 'Not stated'.

(4) The number of defendants assisted differs from that shown in Criminal 6, as these figures are based on cases heard during each year rather than on claims received and paid during each year.

CRIMINAL 8

MAGISTRATES' COURT DUTY SOLICITOR SCHEME⁽¹⁾

RESULTS IN REPRESENTED CASES 1984-85 TO 1993-94⁽²⁾

	1984-85	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94
Total number represented	24,033	103,307	99,233	138,000	154,223	179,112	184,881	185,131	185,513	196,949
<i>Defendant's plea:</i>										
Guilty	42.6%	44.7%	43.2%	41.8%	41.7%	42.9%	44.1%	45.2%	46.8%	47.2%
Not guilty	10.9%	9.0%	8.1%	7.8%	8.2%	8.5%	8.3%	8.4%	8.4%	7.8%
Mixed plea	2.5%	2.3%	2.5%	2.4%	2.4%	2.3%	2.5%	2.7%	2.8%	3.0%
No plea entered	44.0%	43.9%	46.2%	47.9%	47.7%	46.3%	45.1%	43.7%	42.0%	42.0%
<i>Outcome of hearing:</i>										
Adjourned/remanded	62.0%	58.3%	57.1%	57.6%	57.3%	56.0%	54.7%	52.4%	50.0%	50.7%
Custodial sentence	2.5%	2.4%	1.7%	1.6%	1.5%	1.4%	1.3%	1.4%	1.4%	1.2%
Suspended sentence	1.4%	1.6%	1.4%	1.4%	1.3%	1.1%	1.0%	1.3%	1.1%	1.0%
Fine or other sentence	26.7%	29.9%	31.3%	31.3%	31.4%	32.3%	33.5%	34.8%	36.7%	36.4%
Other result/not stated ⁽³⁾	7.4%	7.9%	8.4%	8.2%	8.6%	9.1%	9.5%	10.0%	10.8%	10.6%

(1) First statutory scheme introduced June 1984.

(2) The figures for earlier years have been revised to take account of late returns.

(3) In a few cases, the claim forms did not include full information on the defendants assisted or on the outcome of the hearing. These cases are shown as 'not stated'.

CRIMINAL 9

LEGAL ADVICE AT POLICE STATIONS⁽¹⁾

PAYMENTS MADE 1985-86 TO 1993-94

Year ⁽²⁾	Number of stand-by claims paid	% with suspects	No. of suspects assisted (all claims)	Amount paid £000's	Cost per suspect assisted £	Annual growth %	Cost per suspect at 1986-87 prices ⁽³⁾
1985-86	—	—	4,859	568	£116.86	—	—
1986-87	—	—	198,498	16,597	£83.61	-28.4%	£83.61
1987-88	—	—	271,848	23,210	£85.38	2.1%	£81.96
1988-89	97,188	40.4%	287,148	25,532	£88.92	4.1%	£80.63
1989-90	100,291	43.2%	345,103	31,008	£89.85	1.1%	£75.75
1990-91	99,811	47.0%	397,479	37,056	£93.23	3.8%	£70.88
1991-92	105,626	56.1%	549,083	53,661	£97.73	4.8%	£71.37
1992-93	101,622	60.3%	612,053	61,463	£100.42	2.8%	£70.82
1993-94	102,674	61.7%	658,332	66,767	£101.42	1.0%	£70.26

(1) Scheme came into effect on 1 January 1986.

(2) Separate claim forms for stand-by claims and for actual advice were introduced in March 1988. The total number of stand-by claims prior to this is not known.

(3) Based on the retail price index at September each year.

CRIMINAL 10

LEGAL ADVICE AT POLICE STATIONS⁽¹⁾

TYPE OF SOLICITOR AND ASSISTANCE GIVEN 1986-87 TO 1993-94⁽²⁾

Assistance	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94
Number of suspects assisted ⁽³⁾	216,899	206,192	293,102	343,212	408,830	557,482	615,515	642,802
<i>Assistance given as:</i>								
Duty solicitor	31.9%	37.1%	34.5%	33.5%	33.3%	35.1%	33.8%	32.8%
Own solicitor	66.6%	61.5%	64.3%	65.3%	65.4%	63.0%	64.3%	65.4%
Both duty and own solicitor	1.5%	1.4%	1.2%	1.1%	1.3%	1.9%	1.9%	1.8%
<i>Type of assistance given:</i>								
Telephone advice only	13.5%	17.1%	20.3%	22.7%	22.6%	22.9%	22.8%	22.4%
Attendance at police station only	85.9%	82.4%	79.3%	77.1%	77.2%	77.0%	77.1%	77.5%
Attendance at court ⁽⁴⁾	0.6%	0.5%	0.4%	0.2%	0.2%	0.1%	0.1%	0.1%

(1) Scheme came into effect on 1 January 1986.

(2) The figures for earlier years have been revised to take account of late returns.

(3) The number of suspects assisted differs from that shown in Criminal 9, as these figures are based on assistance given during each year rather than on claims received and paid during each year.

(4) May also include attendance at police station.

CRIMINAL 11

CRIMINAL LEGAL AID

COST COMPONENTS IN MAGISTRATES' COURT CRIMINAL CASES 1988 TO 1993⁽¹⁾

Item	1988	1989	1990	1991	1992	Incidence in 1993	1993 ⁽²⁾
<i>Average time spent on attendance & preparation:</i>							
Attendance	(hrs) 2.04	(hrs) 2.00	(hrs) 2.26	(hrs) 2.45	(hrs) 2.32	(hrs) 2.17	94.8%
Preparation	1.28	1.28	1.49	1.86	1.89	1.88	93.1%
Travelling ⁽³⁾	1.49	1.50	1.60	2.40	1.67	1.92	11.2%
Waiting ⁽³⁾	1.09	0.50	0.80	0.47	0.44	0.47	2.9%
<i>Average time spent hearings:</i>							
Advocacy	1.22	1.25	1.25	1.31	1.25	1.24	92.2%
Travelling ⁽³⁾	1.30	1.29	1.31	1.42	1.38	1.50	74.0%
Waiting ⁽³⁾	1.50	1.52	1.86	1.52	1.48	1.52	81.8%
<i>Average time spent overall on:</i>							
Travelling ⁽⁴⁾	—	—	—	—	—	1.18	68.9%
Waiting ⁽⁴⁾	—	—	—	—	—	1.12	77.3%
<i>Average numbers of:</i>							
Letters	(no.) 7.3	(no.) 7.7	(no.) 8.3	(no.) 8.9	(no.) 8.6	(no.) 8.6	94.6%
Telephone calls	7.2	6.9	7.3	8.0	7.6	7.5	87.2%
<i>Number of dates claimed:</i>							
Attendances	4.0	4.1	4.3	4.4	4.5	4.2	94.8%
Hearings	3.1	3.2	3.2	3.3	3.4	3.2	93.1%
Length of case in days	48.1	49.5	59.8	74.1	72.9	72.4	92.1%

(1) In line with the originating research, data is shown by calendar year.

(2) This column indicates the proportion of cases in the latest sample which included a claim for the item in question.

(3) Includes old-style claims only; see paragraph 2.8 of the commentary.

(4) Includes new-style claims only; see paragraph 2.8 of the commentary.

Section 3: Legal Advice and Assistance

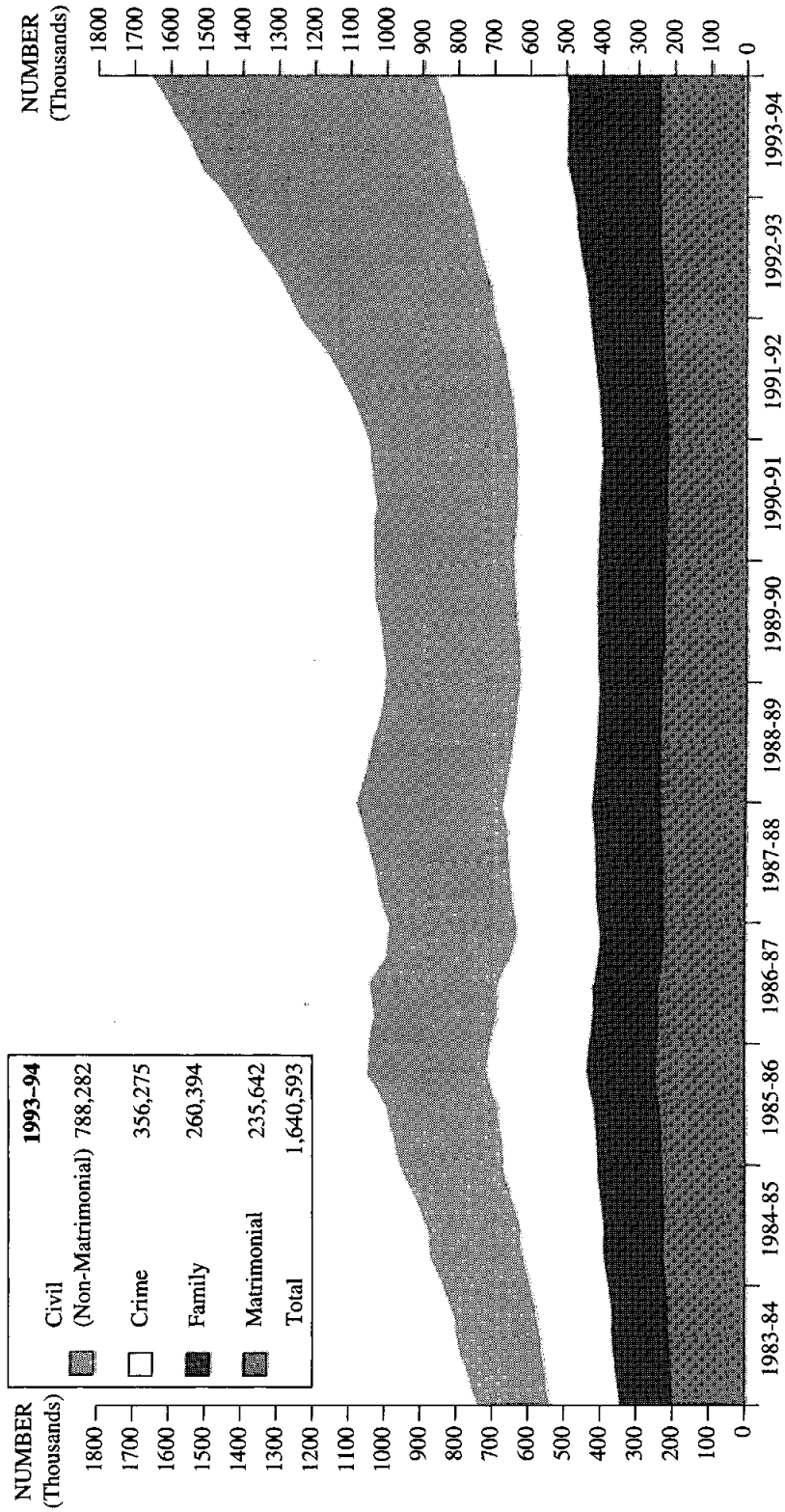
- 3.1 Despite the introduction and/or growth of other schemes over the last ten years, the “green form” scheme and its “ABWOR” offshoot, assistance by way of representation, remain the most widely used of the legal aid schemes, accounting for just over half of all acts of assistance paid for out of the Fund every year. In 1984–85 they accounted for nearly a quarter of Legal Aid Fund expenditure, excluding criminal legal aid in the higher courts, but since then they have been outpaced by other schemes, so that their share fell to just over an eighth in 1993–94.
- 3.2 The changing pattern of use of the green form scheme is shown clearly in appendix Advice 1. During the earlier years the story was one of steady and general growth, but then for five years take-up oscillated about the one million level. One of the reasons for the change was clearly the introduction of the advice at police stations scheme. In the early eighties one of the principal engines of growth was advice on criminal matters. The introduction of the court duty solicitor scheme in 1984–85 appears to have had little effect on this, but with the advent of the police stations scheme in 1985–86 there was a sharp decline, followed by stabilisation. This change was so marked as to produce an overall reduction in 1986–87.
- 3.3 Since 1990–91 there has been a return to rapid growth, which continued at a slightly slower pace in 1993–94. This last year’s growth has taken place in the face of eligibility changes in April 1994 which reduced eligibility levels and eliminated contributory green form advice altogether. Growth in advice on matrimonial and family matters came to a standstill, but there was continuing expansion of claims for advice on criminal matters and on non-matrimonial civil matters. We have commented on the growth in criminal green form advice in paragraphs 7.7 to 7.10 of this report. Appendix Advice 2 shows that the principal growth areas on the non-matrimonial side were immigration and nationality, welfare benefits and housing problems while volumes in some other fields were slightly reduced.
- 3.4 One surprise during the year has been how slowly contributory green form claims from before 1993–94 have worked their way through the system. Advice 3 shows that 4.3% of claims paid during the year still carried a contribution, and as late as March this percentage was still running at 2.4%. As a result, we have been obliged to revise our estimate of the average time taken from the provision of advice under the green form to submission of the solicitor’s claim. It appears that it is not uncommon for solicitors to retain the green form on file and submit it together with their claim for the main proceedings, particularly in matrimonial

cases, and it is therefore likely that we will continue to receive numbers of contributory claims in 1994–95. Since the eligibility changes have since been partially reversed, it is also possible that we will not be able fully to assess what the impact of the original changes would have been in the fullness of time.

- 3.5 The 1,640,593 green form claims paid in 1993–94 cost a total of £147.2 million gross at an average cost of £89.74, an increase of 20.6% in real terms on the average cost in 1983–84. During the same period, and allowing for the introduction of a differential rate for London, the hourly rate paid to solicitors for green form has increased by 8.0% in real terms. The difference is accounted for by an average increase of eleven minutes in the implied time spent on each green form enquiry since 1983–84.
- 3.6 That the average time spent on each act of green form assistance has changed only marginally over the years is confirmed by appendix Advice 4, which shows that the implied number of hours worked has remained almost the same for most types of advice, although there were a number of small increases in 1993–94. There is an element of approximation here, as payment of disbursements is not recorded separately for green form cases. In practice, however, the incurring of disbursements is relatively rare, being confined largely to obtaining copies of birth and marriage certificates in matrimonial cases and of photographs and experts reports in accident cases. The major exception is advice on immigration and nationality matters, which frequently involves copy certificates, medical reports, blood tests and, increasingly, DNA tests. The latter probably underlie a large part of the apparent doubling of the implied hours worked on these cases since 1988–89.
- 3.7 Assistance by way of representation was left open as an option when the Children Act 1989 was implemented in October 1991, although the expectation was that the majority of applicants would seek a full legal aid certificate. Appendices Advice 5 and 6 confirm that this expectation was fully justified, as they show a reduction of more than half in the numbers of applications received and bills paid since 1991–92. Advice 6 shows that the only remaining major area of growth is now in the use of ABWOR for appearances before Mental Health Review Tribunals.

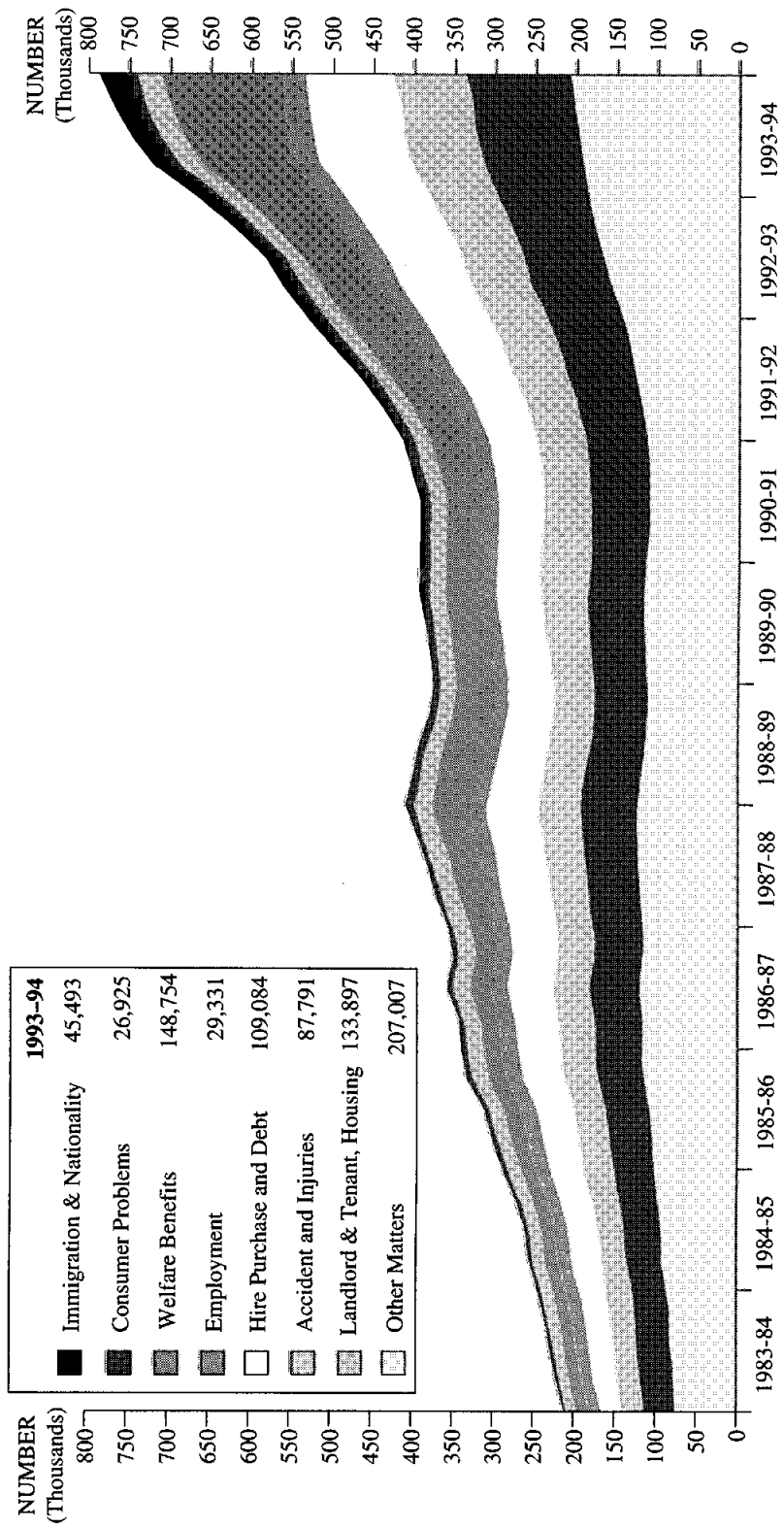
ADVICE 1

**LEGAL ADVICE AND ASSISTANCE
GREEN FORM BILLS PAID 1983-84 TO 1993-94**



ADVICE 2

LEGAL ADVICE AND ASSISTANCE
GREEN FORM CIVIL (NON-MATRIMONIAL) BILLS PAID 1983-84 TO 1993-94



ADVICE 3

LEGAL ADVICE AND ASSISTANCE

GREEN FORM BILLS PAID WITH A CONTRIBUTION 1983-84 TO 1993-94⁽¹⁾

Year	Bills paid	Bills paid with a contribution		Average contribution paid ⁽²⁾	Average paid at 1983-84 prices ⁽³⁾
	Number	Number	% of all bills paid		
1983-84	831,561	83,404	10.0%	£13.87	£13.87
1984-85	953,340	94,465	9.9%	£15.64	£14.93
1985-86	1,038,805	104,382	10.0%	£17.32	£15.61
1986-87	980,507	100,937	10.3%	£18.35	£16.07
1987-88	1,077,454	113,526	10.5%	£19.39	£16.29
1988-89	994,606	107,483	10.8%	£20.73	£16.46
1989-90	1,029,018	111,136	10.8%	£22.49	£16.60
1990-91	1,041,351	107,187	10.3%	£25.24	£16.80
1991-92	1,230,472	105,045	8.5%	£28.90	£18.48
1992-93	1,434,661	100,253	7.0%	£31.19	£19.25
1993-94	1,640,593	69,916	4.3%	£33.36	£20.23

(1) Contributory green form advice was no longer available after 11 April 1993, but large numbers of claims were received and paid during 1993-94 for advice given before that date.

(2) This information is derived from green forms submitted for payment: no information is available as to actual payment of contributions, as these are assessed and collected by solicitors.

(3) Based on the retail price index at September each year.

ADVICE 4

LEGAL ADVICE AND ASSISTANCE

IMPLIED HOURS WORKED, BY CATEGORY, 1983-84 TO 1993-94⁽¹⁾

Type of problem	1983-84	1984-85	1985-86	1986-87	1987-88	1988-89	1989-90	1990-91	1991-92	1992-93	1993-94	Average Cost 1993-94	Total Payments £000's 1993-94
Divorce and Judicial Separation-Petitioners	2.4	2.5	2.6	2.6	2.4	2.3	2.4	2.5	2.5	2.6	2.8	£143.17	32,039
Divorce and Judicial Separation-Respondents	1.8	1.9	2.0	1.9	1.9	1.8	1.7	1.8	1.8	2.0	1.8	£94.09	1,116
Other Family Matters	1.3	1.4	1.5	1.4	1.3	1.3	1.3	1.4	1.4	1.5	1.5	£77.86	20,275
Crime	1.2	1.3	1.3	1.2	1.1	1.0	1.1	1.2	1.2	1.2	1.2	£60.91	21,702
Landlord & Tenant, Housing	1.4	1.4	1.5	1.4	1.3	1.3	1.4	1.5	1.6	1.7	1.9	£95.05	12,727
Hire Purchase and Debt	1.3	1.4	1.4	1.3	1.3	1.2	1.3	1.3	1.4	1.4	1.5	£77.22	8,423
Employment	1.5	1.6	1.6	1.5	1.4	1.3	1.3	1.4	1.5	1.7	1.8	£91.92	2,696
Accidents and Injuries	1.6	1.8	1.8	1.7	1.6	1.7	1.8	1.8	1.8	1.8	1.9	£95.34	8,370
Welfare Benefits	1.3	1.3	1.3	1.3	1.2	1.2	1.3	1.5	1.5	1.4	1.5	£74.75	11,119
Immigration & Nationality	1.6	1.7	1.8	1.8	1.7	2.2	3.4	4.0	4.3	4.6	4.8	£248.28	11,295
Consumer Problems	1.2	1.3	1.4	1.3	1.2	1.2	1.2	1.3	1.4	1.4	1.5	£76.38	2,056
Other Matters	1.2	1.3	1.3	1.2	1.2	1.1	1.2	1.3	1.3	1.4	1.5	£74.46	15,414
All matters	1.6	1.6	1.7	1.6	1.5	1.5	1.5	1.6	1.6	1.7	1.8	£89.74	147,233
Average cost of all matters	£45.13	£48.62	£52.41	£54.01	£56.09	£58.41	£64.65	£73.42	£81.62	£86.80	£89.74		
Hourly rate (incl. VAT)	£28.75	£29.90	£31.05	£33.99	£37.49	£39.91	£42.26	£45.47	£49.73	£51.20	£51.20		

(1) No separate account is kept of disbursements paid as part of a claim for advice and assistance. This may explain the marked increase since 1987-88 in implied hours worked for immigration and nationality cases, where substantial disbursements are frequently incurred.

ADVICE 5

ASSISTANCE BY WAY OF REPRESENTATION

APPLICATIONS RECEIVED AND GRANTED AND BILLS PAID 1983-84 TO 1993-94

Year	Applications received	Applications granted		Bills paid	Amount paid	Average cost	Average cost at 1983-84 prices ⁽¹⁾
	Number	Number	%	Number	£000's	£	£
1983-84	85,707	72,282	84.3%	63,615	9,806	£154.15	£154.15
1984-85	84,898	71,159	83.8%	66,774	11,659	£174.61	£166.75
1985-86 ⁽²⁾	82,993	70,248	84.6%	60,667	11,358	£187.21	£168.81
1986-87	83,546	71,321	85.4%	58,631	11,725	£199.98	£175.07
1987-88	84,069	71,870	85.5%	61,392	13,792	£224.65	£188.80
1988-89	79,078	67,433	85.3%	58,123	14,099	£242.57	£192.57
1989-90	83,749	71,933	85.9%	61,256	16,581	£270.68	£199.78
1990-91	86,232	73,948	85.8%	63,323	19,106	£301.72	£200.82
1991-92	80,375	67,505	84.0%	65,875	22,763	£345.55	£220.93
1992-93	60,356	49,735	82.4%	48,787	21,462	£439.90	£271.57
1993-94	32,056	26,503	82.7%	37,072	19,162	£516.89	£313.48

(1) Based on the retail price index at September each year.

(2) During revision of the ABWOR case code system in 1985-86 it was discovered that the older systems had exaggerated the numbers of bills paid, but insufficient data was available to revise the published figures: see The Law Society's 36th Annual Report, HC 156(1985-86), page 31.

ADVICE 6

ASSISTANCE BY WAY OF REPRESENTATION

BILLS PAID BY CATEGORY OF CASE 1993-94

Category of Case	Bills Paid		Average Cost		Bills paid with a contribution %	Average contribution per contributor £
	Number	Annual growth %	£	Annual growth %		
<i>Magistrates' Courts:</i>						
Maintenance	2,303	-53.0%	£359.18	2.8%	13.2%	£36.79
Variation of maintenance order	3,014	-36.4%	£408.56	11.7%	16.1%	£41.57
Residence/contact	16,026	-3.0%	£514.33	12.7%	10.2%	£46.81
Variation of residence/contact	604	-33.4%	£589.29	15.3%	11.9%	£57.43
Protection order	1,018	-35.5%	£398.40	9.8%	10.8%	£37.55
Affiliation	407	-51.9%	£917.97	98.7%	7.6%	£39.00
Guardianship	1,274	-77.6%	£503.61	-5.8%	13.7%	£39.97
Child care ⁽¹⁾	85	-71.1%	£585.15	27.6%	5.9%	£28.00
Custodianship ⁽²⁾	18	-81.6%	£448.78	25.1%	5.6%	£70.00
Children Act ⁽³⁾	5,981	-24.6%	£521.91	41.8%	13.0%	£44.27
Miscellaneous ⁽⁴⁾	563	3.9%	£565.53	23.3%	14.2%	£51.46
Total Magistrates' Courts	31,293	-28.9%	£497.74	16.7%	11.7%	£44.38
Mental Health Review Tribunals	5,756	23.0%	£620.13	10.4%	2.3%	£18.23
Prisons' Boards of Visitors	22	-64.5%	£737.93	11.7%	4.5%	£32.00
Fire Precautions Act 1971	1	-83.3%	£904.35	119.0%	0.0%	—
Totals	37,072	-24.0%	£516.89	17.5%	10.3%	£43.45

(1) Proceedings under Part 1A Child Care Act 1980.

(2) Proceedings under ss. 33 to 46 of Part 2 Children Act 1975.

(3) Proceedings under the Children Act 1989.

(4) All other proceedings for which assistance by way of representation is available in the magistrates' court.

Section 4: Legal Aid General

- 4.1 The pattern of use of the different legal aid schemes across England and Wales exhibits some interesting variations, which are demonstrated in appendix General 1. Comparison with last year's table shows that the impact of eligibility changes on applications for civil legal aid has been spread fairly evenly across the regions, but there is still quite a wide range of take-up. In matrimonial proceedings the application rate in South Wales is over 50% higher than in the London and North Western areas, while applications for non-matrimonial legal aid range from three per thousand in the Eastern area to nearly 12 per thousand on Merseyside. Children Act applications have only a short history, yet already even neighbouring areas can display wide variations, with almost twice as many applications per thousand population in the North Western area as in Chester and North Wales. It is also interesting that even while ABWOR numbers decline they continue to display their historical pattern of use with three or four times more applications in the north and midlands as in the south.
- 4.2 The green form and criminal schemes tend to show more of a town/country than a north/south divide, with higher use generally in the areas which include large conurbations than in the more rural areas. Examples are the high use of green form in the areas which include London, Cardiff, Birmingham, Newcastle and Manchester, while their use on Merseyside is the highest for any of the schemes anywhere at more than one per 15 head of population. Some areas such as South Wales show a below average use of the court duty solicitor scheme alongside above average use of the police stations scheme, but in London, and to a lesser extent the North West, the use of both is above average, with use of advice at police stations in London now exceeding one per 50 head of population.
- 4.3 We have discussed the performance of the Board's offices against targets nationally in chapter three of this report. Appendix General 2 sets out the performance of individual offices in more detail, and includes for the first time information on the speed of processing applications for amendments and authorities.
- 4.4 The use made of the different legal aid schemes by the male and female partners in matrimonial and other family matters is of interest to the Board and to other agencies, and General 3 draws together the available information on this topic. In defended divorce proceedings and where contact and residence are involved it appears that the partners are almost equally likely to be in receipt of legal aid, but that in all other areas the female partner is more likely to be legally aided. Over the period for which strictly comparable data are available the main trend to emerge is the increased involvement of the female partner in ABWOR, although

as ABWOR declines even this trend is becoming less clearly defined. There does not appear to have been any clear change in the use of civil legal aid certificates, while Children Act certificates have been divided almost equally between the sexes.

- 4.5 Appendices General 5, 6 and 7 show how the payments made out of the Fund this year have been distributed between solicitors' offices in England and Wales and between counsel by range of payments and type of work. The "regions" referred to in General 5 and 6 do not correspond precisely with the current organisation of legal aid offices into groups. It remains the Board's intention to remedy this as part of the ongoing improvements to its computer systems, although this has taken longer than hoped. In the meantime the figures are again included in their historical format to maintain consistency with previous reports. The number of solicitors' offices paid this year shows a marginal reduction from 11,317 to 11,271, while the number of counsel paid once again increased from 7,820 to 8,136. It should be remembered that offices in this context are the offices to which payment is made and not necessarily the offices at which the work is done. Some multi-office practices have a single account number and will be counted as one office. Therefore it is not possible for this table to confirm trends in the number of firms undertaking legal aid work. The level of concentration of legal aid work has remained broadly the same over the last two years, with the busiest 19.1% of offices receiving 69.3% of payments by volume and 68.2% by value in 1993-94 compared with 19.7% of offices receiving 69.5% of payments by volume and 69.4% by value in 1992-93.

GENERAL 1

LEGAL AID GENERAL

USE OF LEGAL AID BY AREA AND POPULATION 1993-94⁽¹⁾

Group/Area	Population '000s	Civil applications made per '000 population			Acts of assistance paid for per '000 population				Advice at police stations
		Matrimonial	Non-matr'l	Children Act	ABWOR	Green Form	Criminal	Court duty solicitor	
South East:									
No. 1 London	6,905	2.45	6.29	2.11	0.33	33.90	10.14	6.95	20.51
No. 2 South Eastern	4,008	2.66	3.47	1.59	0.32	19.38	5.36	3.31	9.93
Group Total	10,913	2.52	5.25	1.92	0.32	28.57	8.39	5.61	16.63
Wales and West:									
No. 3 Southern	4,368	2.92	3.34	1.42	0.29	20.02	6.14	3.73	9.41
No. 4 South Western	4,082	3.30	3.94	1.57	0.35	29.27	6.45	3.74	11.03
No. 5 South Wales	2,191	3.99	6.76	2.13	0.86	35.80	11.98	4.15	15.81
Group Total	10,641	3.29	4.27	1.62	0.43	26.82	7.46	3.82	11.35
Midlands:									
No. 6 West Midland	4,174	2.76	5.22	1.46	0.83	44.65	8.90	5.33	11.86
No. 10 East Midland	4,358	2.88	4.27	1.90	0.84	31.80	8.31	3.80	13.08
No. 11 Eastern	5,175	2.76	3.05	1.47	0.20	18.62	6.21	3.52	8.54
Group Total	13,707	2.80	4.09	1.61	0.60	30.74	7.70	4.16	11.00
North East:									
No. 8 Northern	3,256	2.94	6.27	1.75	1.24	41.80	10.60	3.91	11.80
No. 9 North Eastern	4,377	3.37	5.54	2.25	0.75	28.87	8.59	3.79	12.51
Group Total	7,633	3.19	5.85	2.04	0.96	34.38	9.45	3.84	12.21
North West:									
No. 7 North Western	3,487	2.42	6.65	2.49	1.23	40.93	10.84	7.97	13.76
No. 12 Chester & N. Wales	2,778	3.37	4.35	1.27	0.75	25.96	8.04	5.08	12.06
No. 15 Merseyside	2,118	3.33	11.71	1.95	0.99	68.41	11.13	4.03	14.49
Group Total	8,383	2.96	7.17	1.95	1.01	42.91	9.99	6.01	13.38
Totals	51,277	2.93	5.14	1.80	0.63	31.99	8.43	4.65	12.84
Totals 1992-93	50,955	3.64	5.64	1.65	0.96	28.16	8.63	4.45	12.01

(1) The population figures used here are taken from the mid-1992 population estimates for England and Wales published by the Office of Population Censuses and Surveys in OPCS monitor PP1 93/3, 9 November 1993, and are based on the 1991 Census results with allowance for subsequent births, deaths and migration.

GENERAL 2

LEGAL AID GENERAL

AREA OFFICE PERFORMANCE AGAINST TARGETS 1993-94

Group/Area	Civil legal aid applications processed within:			Bills processed within:			Correspondence: amendments and authorities processed within:						
	Civil bills			pre-1.1.'94 All bills			Magistrates' courts 'post-1.1.'94			Other bills			
	2 Weeks	6 Weeks	6 Weeks	6 Weeks	4 Weeks	6 Weeks	4 Weeks	6 Weeks	2 Weeks	4 Weeks	6 Weeks	2 Weeks	4 Weeks
South East:													
No. 1 London	69.3%	89.4%	75.0%	94.1%	93.0%	75.9%	92.5%	71.9%	92.5%				
No. 2 South Eastern	70.4%	92.3%	76.0%	91.0%	83.9%	92.7%	93.8%	80.6%	93.5%				
Group Total	69.6%	90.2%	75.3%	93.4%	90.9%	78.8%	92.8%	74.5%	92.8%				
Wales and West:													
No. 3 Southern	79.9%	94.0%	91.3%	99.0%	82.9%	97.1%	98.3%	89.8%	95.5%				
No. 4 South Western	76.7%	93.3%	84.1%	92.4%	45.1%	45.7%	88.9%	95.6%	97.9%				
No. 5 South Wales ⁽¹⁾	84.3%	96.2%	78.0%	91.3%	93.4%	91.8%	98.6%	n.a.	n.a.				
Group Total	80.0%	94.4%	85.3%	94.1%	74.2%	80.5%	94.5%	92.6%	96.7%				
Midlands:													
No. 6 West Midland	80.6%	95.1%	77.3%	93.7%	65.5%	85.8%	94.3%	72.2%	90.9%				
No. 10 East Midland	79.5%	94.3%	89.9%	89.7%	90.7%	93.5%	90.4%	95.4%	98.9%				
No. 11 Eastern	73.3%	90.6%	78.5%	90.8%	78.0%	73.0%	95.0%	81.2%	92.7%				
Group Total	77.9%	93.4%	81.9%	91.4%	77.7%	85.5%	93.3%	83.6%	94.3%				
North East:													
No. 8 Northern	83.7%	95.5%	96.7%	99.0%	98.7%	97.1%	99.3%	97.9%	99.2%				
No. 9 North Eastern	81.0%	94.9%	89.4%	98.6%	89.1%	95.4%	99.0%	97.6%	99.1%				
Group Total	82.2%	95.2%	92.3%	98.8%	93.8%	96.2%	99.1%	97.8%	99.2%				
North West:													
No. 7 North Western	81.9%	95.1%	77.2%	96.3%	74.7%	80.7%	86.4%	83.6%	96.0%				
No. 12 Chester & N. Wales	75.3%	94.3%	94.7%	94.6%	93.4%	96.7%	96.5%	77.9%	97.7%				
No. 15 Merseyside	73.2%	94.0%	86.5%	96.9%	76.7%	82.7%	96.8%	74.4%	93.5%				
Group Total	77.0%	94.5%	85.0%	96.0%	79.9%	85.7%	92.3%	78.9%	95.7%				
Totals	77.1%	93.5%	83.3%	94.5%	83.0%	84.2%	94.2%	83.9%	95.3%				
Targets	70.0%	90.0%	75.0%	90.0%	97.5%	90.0%	92.0%	70.0%	95.0%				

(1) Technical constraints prevented the installation of correspondence monitoring systems in the Cardiff office during 1993-94.

GENERAL 3

LEGAL AID GENERAL

PROPORTION OF FEMALE APPLICANTS ASSISTED IN MATRIMONIAL AND FAMILY MATTERS 1985-86 TO 1993-94

Subject matter	1985-86		1986-87		1987-88		1988-89		1989-90		1990-91		1991-92		1992-93		1993-94			
	Number	% Female	Number	% Female	Number	% Female	Number	% Female	Number	% Female	Number	% Female	Number	% Female	Number	% Female	Number	% Female		
<i>Advice and assistance bills paid:</i>																				
Divorce and judicial separation	246,865	71.2%	222,956	69.1%	237,056	68.2%	232,494	72.9%	225,066	74.7%	215,895	74.2%	231,065	72.1%	231,367	71.7%	223,776	69.6%	223,776	69.6%
Other family matters	183,324	69.4%	175,111	68.0%	191,878	68.9%	171,787	71.5%	185,587	73.5%	183,655	72.5%	204,584	70.8%	236,837	68.4%	256,882	67.1%	256,882	67.1%
<i>ABWOR bills paid:</i>																				
Maintenance	19,848	79.8%	17,837	81.2%	17,597	82.2%	15,308	83.2%	14,296	83.3%	12,978	83.4%	10,577	82.4%	4,895	85.2%	2,303	85.1%	2,303	85.1%
Variation of maintenance order	8,786	58.2%	8,204	59.4%	7,734	62.6%	6,690	65.3%	6,559	68.2%	6,404	68.8%	6,370	68.0%	4,740	65.9%	3,014	61.3%	3,014	61.3%
Residence/contact	10,939	52.6%	8,500	51.3%	8,433	51.7%	6,598	50.9%	8,681	54.9%	12,635	60.1%	16,110	58.7%	16,519	51.6%	16,026	49.5%	16,026	49.5%
Variation of residence/contact	1,059	54.8%	1,609	54.2%	1,693	54.3%	1,643	55.3%	1,868	57.1%	1,652	56.4%	1,471	54.0%	907	51.3%	604	50.0%	604	50.0%
Protection order	3,655	77.0%	3,169	77.0%	3,048	79.0%	2,627	80.4%	2,567	80.0%	2,263	80.5%	2,007	80.6%	1,579	82.7%	1,018	80.4%	1,018	80.4%
Affiliation	10,001	83.1%	10,488	83.1%	12,306	84.0%	13,245	84.8%	10,449	81.5%	4,548	78.7%	2,625	75.8%	847	71.3%	407	42.5%	407	42.5%
Guardianship	4,038	57.8%	5,971	54.9%	6,968	54.2%	8,207	51.6%	12,745	63.2%	18,510	68.6%	21,313	66.9%	5,688	64.3%	1,274	58.9%	1,274	58.9%
Child care	513	44.0%	340	61.5%	460	67.2%	590	65.6%	471	67.3%	253	56.1%	568	53.3%	294	56.1%	85	64.7%	85	64.7%
Custodianship	3	66.7%	254	60.2%	347	68.9%	288	72.6%	283	74.2%	275	68.7%	249	69.5%	98	72.4%	18	44.4%	18	44.4%
Children Act 1989 ⁽¹⁾	—	—	—	—	—	—	—	—	—	—	—	—	345	84.1%	7,930	80.7%	5,981	76.6%	5,981	76.6%
<i>Civil legal aid certificates issued:</i>																				
Divorce and judicial separation	4,520	49.1%	3,924	51.1%	3,221	51.7%	2,810	54.3%	2,682	54.0%	2,458	50.9%	2,366	55.4%	1,992	55.4%	1,325	56.7%	1,325	56.7%
Other matters:—	7,181	80.2%	7,599	80.2%	7,720	80.7%	6,447	82.1%	7,004	82.5%	7,678	79.6%	8,043	78.5%	7,839	80.4%	7,275	83.1%	7,275	83.1%
Injunction	69,073	72.6%	69,616	73.5%	68,186	75.7%	65,957	76.6%	66,491	76.7%	72,021	75.1%	77,014	73.0%	83,914	70.9%	58,835	71.4%	58,835	71.4%
Ancillary relief	11,666	47.9%	11,458	47.3%	11,690	48.4%	10,185	49.5%	10,676	48.3%	11,549	47.8%	13,104	45.0%	11,989	43.0%	11,326	45.1%	11,326	45.1%
Residence and contact	19,769	69.9%	21,359	70.9%	21,290	71.2%	21,338	72.1%	26,572	72.0%	27,935	70.2%	26,591	68.7%	20,442	66.9%	11,758	68.5%	11,758	68.5%
Combined injunction, ancillary relief, residence and contact	520	65.4%	474	67.7%	458	66.8%	363	68.9%	332	70.2%	368	64.9%	454	64.3%	463	67.4%	394	64.7%	394	64.7%
Nullity	1,358	67.4%	1,210	68.1%	1,167	67.7%	1,001	69.6%	1,011	69.9%	1,080	69.4%	1,514	65.8%	2,233	62.0%	1,924	61.3%	1,924	61.3%
Miscellaneous	—	—	—	—	—	—	—	—	—	—	—	—	16,212	55.3%	66,797	55.7%	75,243	53.3%	75,243	53.3%
Children Act 1989 ⁽¹⁾	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

(1) The Children Act 1989 came into effect on 14 October 1991.

GENERAL 4

LEGAL AID FUND AND SCHEME

SUMMARY OF RECEIPTS AND PAYMENTS FOR EACH OF THE LAST FIVE YEARS 1989-90 TO 1993-94

Receipt or payment item	1989-90		1990-91		1991-92		1992-93		1993-94	
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
A. LEGAL AID — CIVIL CASES										
(i) Matrimonial expenditure		127,175	153,149	196,935	196,935	255,668	322,559			
Less: Contributions retained	8,598		8,645	8,490	9,388	9,388	7,445			
Costs recovered	4,329		3,958	4,133	4,771	4,771	5,667			
Damages retained	26,768		31,958	33,812	34,319	34,319	42,719			
		39,695	44,561	46,435	48,478	48,478	55,831			
		87,480	108,588	150,499	207,190	207,190	266,728			
(ii) Other civil expenditure		154,180	196,860	285,794	399,543	399,543	471,515			
Less: Contributions retained	4,743		5,138	5,799	5,496	5,496	8,965			
Costs recovered	62,889		72,254	91,015	125,858	125,858	172,943			
Damages retained	8,301		8,513	9,231	11,976	11,976	12,468			
		75,932	85,906	106,045	143,330	143,330	194,376			
		78,248	110,954	179,749	256,213	256,213	277,139			
B. LEGAL AID — CRIMINAL CASES										
(i) Cases in magistrates' courts expenditure		151,478	174,900	212,029	212,029	200,660	193,906			
Less: Contributions received	2,648		3,237	2,022	3,263	3,263	2,309			
Costs recovered	2		18	11	4	4	2			
		2,649	3,254	2,033	3,267	3,267	2,311			
		148,828	171,646	209,996	197,393	197,393	191,595			
(ii) Duty Solicitor Scheme — magistrates' court expenditure		6,522	7,071	7,989	10,156	10,156	11,363			
(iii) Duty Solicitor Scheme — advice at police stations expenditure		30,969	37,031	53,615	61,439	61,439	66,660			

GENERAL 4 (continued)

Receipt or payment item	1989-90		1990-91		1991-92		1992-93		1993-94	
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
C. LEGAL ADVICE AND ASSISTANCE										
(i) Green form expenditure		66,188	76,060	99,659	123,642	145,731				
Less: Contribution	2,500		2,707	3,038	3,130	2,335				
Costs	1,258	3,758	1,337	1,456	1,766	1,844				
		62,430	4,044	4,494	4,896	4,178	118,746			141,552
			72,016	95,165						
(ii) Assistance by way of representation expenditure		16,586	19,153	22,825	21,762	18,792				
Less: Contribution	337		378	378	257	166				
Costs	48	385	58	35	34	20				
		16,201	436	413	291	185	21,471			18,606
			18,717	22,411						
D. ADMINISTRATION										
Expenditure	30,329		33,045	40,673	43,937	47,449				
Less: Miscellaneous receipts	21		16	17	21	435				
	30,307		33,029	40,656	43,916	47,013				
TOTAL NET COST OF THE SCHEME		£460,986	£559,052	£760,080	£916,525	£1,020,658				

GENERAL 5

LEGAL AID GENERAL

PAYMENTS MADE TO SOLICITORS BY REGION AND RANGE OF TOTAL PAYMENTS 1993-94⁽¹⁾

OFFICES RECEIVING PAYMENTS⁽²⁾

Region ⁽³⁾	London		South and East		South-west and Wales		Midlands		Merseyside and North		All Regions	
Total payments in range ⁽⁴⁾	Number	%	Number	%	Number	%	Number	%	Number	%	Number ⁽⁵⁾	%
£1-£5,000	777	20.2%	730	15.7%	548	14.5%	332	12.0%	634	15.1%	2,802	24.9%
£5,001-£10,000	217	5.6%	243	5.2%	157	4.2%	117	4.2%	206	4.9%	777	6.9%
£10,001-£20,000	335	8.7%	393	8.4%	273	7.2%	166	6.0%	322	7.7%	1,132	10.0%
£20,001-£40,000	424	11.0%	550	11.8%	464	12.3%	314	11.4%	547	13.0%	1,585	14.1%
£40,001-£60,000	348	9.1%	467	10.0%	395	10.4%	261	9.5%	404	9.6%	1,126	10.0%
£60,001-£80,000	236	6.1%	336	7.2%	300	7.9%	189	6.9%	316	7.5%	753	6.7%
£80,001-£100,000	195	5.1%	277	5.9%	232	6.1%	162	5.9%	251	6.0%	548	4.9%
£100,001-£120,000	147	3.8%	214	4.6%	169	4.5%	125	4.5%	195	4.6%	398	3.5%
£120,001 and over	1,162	30.3%	1,449	31.1%	1,244	32.9%	1,090	39.6%	1,333	31.7%	2,150	19.1%
All Ranges	3,841	100.0%	4,659	100.0%	3,782	100.0%	2,756	100.0%	4,208	100.0%	11,271	100.0%
NUMBER OF PAYMENTS⁽⁶⁾												
£1-£5,000	3,931	0.7%	4,003	0.7%	3,905	0.7%	2,519	0.4%	4,875	0.5%	19,233	0.6%
£5,001-£10,000	3,582	0.7%	4,854	0.8%	4,659	0.8%	3,397	0.6%	6,303	0.6%	22,795	0.7%
£10,001-£20,000	11,513	2.2%	12,806	2.1%	12,600	2.2%	8,195	1.4%	18,785	1.8%	63,899	1.9%
£20,001-£40,000	23,559	4.4%	32,518	5.4%	36,939	6.5%	25,266	4.3%	55,710	5.5%	173,992	5.3%
£40,001-£60,000	25,408	4.8%	41,314	6.9%	48,276	8.5%	33,251	5.6%	56,623	5.6%	204,872	6.2%
£60,001-£80,000	23,009	4.3%	34,125	5.7%	38,132	6.7%	29,372	5.0%	60,362	5.9%	185,000	5.6%
£80,001-£100,000	24,170	4.5%	34,680	5.8%	33,389	5.9%	30,376	5.1%	56,890	5.6%	179,505	5.4%
£100,001-£120,000	20,630	3.9%	36,147	6.0%	28,474	5.0%	32,070	5.4%	49,147	4.8%	166,468	5.0%
£120,001 and over	397,259	74.5%	399,404	66.6%	359,275	63.5%	428,056	72.2%	710,105	69.7%	2,294,099	69.3%
All Ranges	533,061	100.0%	599,851	100.0%	565,649	100.0%	592,502	100.0%	1,018,800	100.0%	3,309,863	100.0%

GENERAL 5 (continued)

VALUE OF PAYMENTS

Region ⁽³⁾	London		South and East		South-west and Wales		Midlands		Merseyside and North		All Regions	
	£	%	£	%	£	%	£	%	£	%	£	%
Total payments in range ⁽⁴⁾												
£1—£5,000	£890,969	0.5%	£955,759	0.5%	£695,537	0.5%	£393,987	0.3%	£858,756	0.4%	£3,795,009	0.4%
£5,001—£10,000	£1,279,840	0.8%	£1,397,023	0.7%	£960,789	0.7%	£719,538	0.5%	£1,381,513	0.6%	£5,738,704	0.7%
£10,001—£20,000	£3,661,193	2.2%	£4,120,368	2.2%	£2,966,581	2.1%	£1,811,349	1.3%	£3,976,011	1.8%	£16,535,502	1.9%
£20,001—£40,000	£7,773,280	4.6%	£10,878,172	5.7%	£9,683,678	6.8%	£5,657,076	4.1%	£12,446,231	5.7%	£46,438,437	5.4%
£40,001—£60,000	£9,280,701	5.5%	£13,300,222	7.0%	£12,046,385	8.4%	£7,666,212	5.6%	£13,496,512	6.2%	£55,790,030	6.5%
£60,001—£80,000	£7,996,012	4.8%	£12,068,992	6.3%	£10,598,449	7.4%	£7,319,859	5.3%	£13,838,451	6.4%	£51,821,763	6.1%
£80,001—£100,000	£7,368,119	4.4%	£12,387,087	6.5%	£9,150,426	6.4%	£7,371,654	5.4%	£12,694,843	5.8%	£48,972,129	5.7%
£100,001—£120,000	£6,685,371	4.0%	£11,382,674	6.0%	£7,793,767	5.5%	£7,167,867	5.2%	£10,473,682	4.8%	£43,503,361	5.1%
£120,001 and over	£122,687,627	73.2%	£124,747,407	65.2%	£88,684,720	62.2%	£99,647,953	72.3%	£148,140,164	68.2%	£583,907,871	68.2%
All Ranges	£167,623,113	100.0%	£191,237,703	100.0%	£142,580,332	100.0%	£137,755,495	100.0%	£217,306,163	100.0%	£856,502,806	100.0%

- (1) This table includes all payments made to solicitors in respect of civil legal aid certificates, criminal legal aid orders in magistrates' courts, legal advice and assistance, assistance by way of representation and the duty solicitor schemes, except for payments on account and set-offs in settled cases.
- (2) A firm may have more than one office to which payments are made.
- (3) The regions shown in this analysis are as follows: London (Legal Aid Area 1), South and East (Legal Aid Areas 2, 3 and 11), South-west and Wales (Legal Aid Areas 4, 5 and 12), Midlands (Legal Aid Areas 6 and 10) and Merseyside and North (Legal Aid Areas 7, 8, 9 and 15).
- (4) Includes disbursements and V.A.T. where applicable.
- (5) Offices may receive payments from more than one region, depending on their location. Accordingly the figures in "All Regions" may differ from the totals of the figures in the preceding columns.
- (6) The total amount due in respect of a certificate may consist of more than one payment, and each such payment is included as a separate item.

GENERAL 6

LEGAL AID GENERAL

PAYMENTS MADE TO SOLICITORS BY REGION AND TYPE OF WORK 1993-94⁽¹⁾

OFFICES RECEIVING PAYMENTS⁽²⁾

Region ⁽³⁾	London		South and East		South-West and Wales		Midlands		Merseyside and North		All Regions	
	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%
Type of work ⁽⁴⁾												
<i>High Court:</i>												
Matrimonial proceedings	669	17.4%	436	9.4%	560	14.8%	302	11.0%	502	11.9%	2,409	21.4%
Other proceedings (inc. Children Act)	1,550	40.4%	1,638	35.2%	1,491	39.4%	880	31.9%	1,549	36.8%	6,324	56.1%
<i>County court:</i>												
Matrimonial proceedings	1,712	44.6%	2,618	56.2%	1,970	52.1%	1,338	48.5%	2,322	55.2%	8,507	75.5%
Other proceedings (inc. Children Act)	2,123	55.3%	2,500	53.7%	2,037	53.9%	1,388	50.4%	3,108	73.9%	8,989	79.8%
<i>Magistrates' court:</i>												
Civil proceedings (exc. Children Act)	520	13.5%	1,125	24.1%	1,165	30.8%	875	31.7%	1,614	38.4%	5,250	46.6%
Criminal proceedings	1,709	44.5%	2,534	54.4%	2,118	56.0%	1,790	64.9%	2,159	51.3%	6,555	58.2%
Legal advice and assistance	1,971	51.3%	2,594	55.7%	2,227	58.9%	1,534	55.7%	2,823	67.1%	9,376	83.2%
Magistrates' court duty solicitor scheme	401	10.4%	671	14.4%	698	18.5%	560	20.3%	987	23.5%	3,267	29.0%
Advice at police stations scheme	1,126	29.3%	1,723	37.0%	1,523	40.3%	1,190	43.2%	1,683	40.0%	5,396	47.9%
All Types	3,841	—	4,659	—	3,782	—	2,756	—	4,208	—	11,271	—
NUMBER OF PAYMENTS												
<i>High Court:</i>												
Matrimonial proceedings	1,701	0.3%	627	0.1%	892	0.2%	442	0.1%	780	0.1%	4,442	0.1%
Other proceedings (inc. Children Act)	9,133	1.7%	6,268	1.0%	6,108	1.1%	3,444	0.6%	6,407	0.6%	31,360	0.9%
<i>County court:</i>												
Matrimonial proceedings	13,197	2.5%	39,198	6.5%	30,888	5.5%	19,896	3.4%	35,421	3.5%	138,600	4.2%
Other proceedings (inc. Children Act)	33,943	6.4%	38,927	6.5%	28,659	5.1%	27,641	4.7%	58,214	5.7%	187,384	5.7%
<i>Magistrates' court:</i>												
Civil proceedings (exc. Children Act)	2,809	0.5%	5,032	0.8%	6,842	1.2%	7,789	1.3%	15,735	1.5%	38,207	1.2%
Criminal proceedings	70,004	13.1%	80,456	13.4%	74,908	13.2%	74,158	12.5%	133,481	13.1%	433,007	13.1%
Legal advice and assistance	234,072	43.9%	261,532	43.6%	270,073	47.7%	324,988	54.9%	550,224	54.0%	1,640,889	49.6%
Magistrates' court duty solicitor scheme	13,809	2.6%	17,066	2.8%	13,142	2.3%	11,790	2.0%	18,617	1.8%	74,424	2.2%
Advice at police stations scheme	154,393	29.0%	150,745	25.1%	134,137	23.7%	122,354	20.7%	199,921	19.6%	761,550	23.0%
All Types	533,061	100.0%	599,851	100.0%	565,649	100.0%	592,502	100.0%	1,018,800	100.0%	3,309,863	100.0%

GENERAL 6 (continued)

VALUE OF PAYMENTS⁽⁵⁾

Region ⁽³⁾	London		South and East		South-west and Wales		Midlands		Merseyside and North		All Regions	
	£	%	£	%	£	%	£	%	£	%	£	%
Type of work ⁽⁴⁾												
<i>High Court:</i>												
Matrimonial proceedings	£4,464,148	2.8%	£1,283,990	1.0%	£1,402,990	1.1%	£612,780	0.6%	£907,133	0.6%	£8,671,041	1.2%
Other proceedings (inc. Children Act)	£24,176,106	15.3%	£15,275,758	9.7%	£12,385,373	9.4%	£6,019,163	6.7%	£12,486,875	9.3%	£70,343,275	10.1%
<i>County court:</i>												
Matrimonial proceedings	£17,224,076	11.5%	£52,070,069	28.4%	£35,564,884	25.8%	£21,751,529	16.5%	£34,474,803	16.8%	£161,085,360	19.9%
Other proceedings (inc. Children Act)	£40,363,424	17.5%	£45,713,260	16.7%	£27,880,778	13.3%	£23,950,637	12.0%	£54,343,535	16.6%	£192,251,633	15.5%
<i>Magistrates' court:</i>												
Civil proceedings (exc. Children Act)	£1,609,552	1.1%	£2,693,216	1.7%	£2,992,725	2.8%	£4,099,170	3.8%	£6,918,644	4.1%	£18,313,307	2.7%
Criminal proceedings	£32,369,703	25.1%	£34,762,378	21.3%	£28,565,567	22.3%	£35,474,789	28.9%	£49,366,452	25.5%	£180,538,890	24.5%
Legal advice and assistance	£29,135,064	15.5%	£24,231,483	13.0%	£20,494,893	15.4%	£32,833,425	21.2%	£40,472,381	18.2%	£147,167,245	16.6%
Magistrates' court duty solicitor scheme	£2,437,405	1.5%	£2,360,960	1.2%	£1,752,075	1.1%	£1,801,203	1.4%	£3,021,201	1.4%	£11,372,843	1.4%
Advice at police stations scheme	£15,843,636	9.6%	£12,846,590	6.8%	£11,541,047	8.7%	£11,212,800	8.9%	£15,315,139	7.4%	£66,759,212	8.2%
All Types	£167,623,113	100.0%	£191,237,703	100.0%	£142,580,332	100.0%	£137,755,495	100.0%	£217,306,163	100.0%	£856,502,806	100.0%

AVERAGE PAYMENTS

<i>High Court:</i>												
Matrimonial proceedings	£2,624.43		£2,047.83		£1,572.86		£1,386.38		£1,162.99		£1,952.06	
Other proceedings (inc. Children Act)	£2,647.12		£2,437.10		£2,027.73		£1,747.72		£1,948.94		£2,243.09	
<i>County court:</i>												
Matrimonial proceedings	£1,305.15		£1,328.39		£1,151.41		£1,093.26		£973.29		£1,162.23	
Other proceedings (inc. Children Act)	£1,189.15		£1,174.33		£972.85		£866.49		£933.51		£1,025.98	
<i>Magistrates' court:</i>												
Civil proceedings (exc. Children Act)	£573.00		£535.22		£437.41		£526.28		£439.70		£479.32	
Criminal proceedings	£462.40		£432.07		£381.34		£478.37		£369.84		£416.94	
Legal advice and assistance	£124.47		£92.65		£75.89		£101.03		£73.56		£89.69	
Magistrates' court duty solicitor scheme	£176.51		£138.34		£133.32		£152.77		£162.28		£152.81	
Advice at police stations scheme	£102.62		£85.22		£86.04		£91.64		£76.61		£87.66	
All Types	£314.45		£318.81		£252.07		£232.50		£213.30		£258.77	

(1) See footnote (1) to General 5.

(2) See footnote (2) to General 5.

(3) See footnote (3) to General 5.

(4) Magistrates' court civil proceedings include certificated cases and assistance by way of representation.

(5) Total payments shown may differ from those shown in the Accounts due to accounting adjustments.

GENERAL 7

LEGAL AID GENERAL

PAYMENTS MADE TO COUNSEL BY RANGE OF TOTAL PAYMENTS AND TYPE OF WORK 1993-94⁽¹⁾

Total payments in range	Counsel receiving payments		Fees paid		Payments		Average £
	Number	%	Number	%	£	%	
Up to £1,000	1,639	20.1%	4,306	1.8%	£665,902	0.6%	£154.65
£1,001-£2,000	759	9.3%	5,230	2.2%	£1,131,315	1.1%	£216.31
£2,001-£4,000	1,037	12.7%	12,472	5.2%	£3,068,637	2.9%	£246.04
£4,001-£6,000	736	9.0%	13,078	5.5%	£3,660,352	3.5%	£279.89
£6,001-£8,000	537	6.6%	12,307	5.2%	£3,705,701	3.5%	£301.11
£8,001-£10,000	473	5.8%	12,977	5.5%	£4,238,617	4.1%	£326.63
£10,001-£12,000	343	4.2%	11,104	4.7%	£3,777,285	3.6%	£340.17
£12,001-£14,000	332	4.1%	11,829	5.0%	£4,287,412	4.1%	£362.45
£14,001 and over	2,280	28.0%	154,442	65.0%	£80,081,557	76.5%	£518.52
All Ranges	8,136	100.0%	237,745	100.0%	£104,616,778	100.0%	£440.04
Type of work	Number	%	Number	%	£	%	£
<i>High Court:</i>							
Matrimonial proceedings	1,649	20.3%	3,732	1.6%	£2,229,881	2.1%	£597.50
Other proceedings (inc. Children Act)	4,909	60.3%	24,580	10.3%	£25,652,771	24.5%	£1,043.64
<i>County court:</i>							
Matrimonial proceedings	4,164	51.2%	58,593	24.6%	£25,443,323	24.3%	£434.24
Other proceedings (inc. Children Act)	6,047	74.3%	92,444	38.9%	£36,277,644	34.7%	£392.43
<i>Magistrates' court:</i>							
Civil proceedings (exc. Children Act)	1,378	16.9%	3,198	1.3%	£890,279	0.9%	£278.39
Criminal proceedings	4,526	55.6%	55,198	23.2%	£14,122,880	13.5%	£255.86
All Types	8,136	—	237,745	100.0%	£104,616,778	100.0%	£440.04

(1) This table includes all payments made to counsel in respect of civil legal aid certificates, criminal legal aid orders in magistrates' courts and assistance by way of representation, except for payments on account and set-offs in settled cases.

GENERAL 8

LEGAL AID GENERAL

APPLICATIONS AND APPEALS TO THE COUNCIL OF THE LAW SOCIETY AND THE COSTS APPEALS COMMITTEE OF THE LEGAL AID BOARD 1983-84 TO 1993-94

Year	Applications for authority to have a taxation reviewed		Appeals against assessments of costs and fees by area committees				High Court and county court cases		All appeals against assessment			
	No. Received	% Allowed	Legal advice and assistance	Magistrates' court criminal cases	Magistrates' court civil cases	No. Received	% Allowed	No. Received	% Allowed	No. Received	% Allowed	
1983-84	28	39.3%	11	27.3%	371	22.4%	75	10.7%	12	41.7%	469	21.1%
1984-85	16	50.0%	22	9.1%	560	32.0%	61	19.7%	3	0.0%	646	29.9%
1985-86	20	70.0%	22	0.0%	295	29.5%	34	20.6%	23	21.7%	374	26.5%
1986-87	29	62.1%	25	16.0%	313	34.2%	26	19.2%	22	36.4%	386	32.1%
1987-88	25	84.0%	11	36.4%	354	44.1%	22	31.8%	30	33.3%	417	42.4%
1988-89	40	77.5%	31	32.3%	595	36.1%	35	25.7%	46	43.5%	707	35.9%
1989-90 ⁽¹⁾	23	65.2%	30	36.7%	308	31.2%	23	13.0%	50	60.0%	411	34.1%
1990-91	19	47.4%	2	0.0%	58	60.3%	3	33.3%	6	50.0%	69	56.5%
1991-92	34	70.6%	3	66.7%	13	61.5%	2	50.0%	2	50.0%	67	70.1%
1992-93	23	47.8%	2	100.0%	16	56.3%	2	50.0%	3	33.3%	73	60.3%
1993-94	35	45.7%	2	50.0%	22	36.4%	0	—	12	41.7%	113	51.3%

(1) After 1 June 1989 appeals could only be made to the Costs Appeals Committee on a point of principle.

Section 5: Accounts

FOREWORD

1. Introduction

The Accounts of the Legal Aid Fund for the period 1 April 1993 to 31 March 1994 have been prepared under s.7 of the Legal Aid Act 1988. The Accounts present an analysis of the cash transactions made within the Legal Aid Administration and Fund Votes.

2. Statutory Responsibilities

The Legal Aid Board

The Legal Aid Act requires the Board to prepare Accounts for each financial year on a basis and in a format directed by the Lord Chancellor. The Accounts are prepared on the cash basis of accounting, in accordance with Government Accounting Guidelines.

The Board is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the Board's financial position and to enable the Board to ensure that the Accounts comply with the Legal Aid Act 1988 and the requirements directed by the Lord Chancellor. The Board's Financial Memorandum requires it to ensure that its accounting and other procedures incorporate adequate safeguards against theft and fraud.

The Legal Aid Act established the Legal Aid Board to administer legal aid. The Board has the following statutory responsibilities:

- (a) to administer civil legal aid and legal advice;
- (b) to establish and administer a Legal Aid Fund through which all relevant receipts and payments must pass;
- (c) to produce an annual report and to prepare an annual statement of accounts.

In addition, the Board has powers to do anything, (subject to certain exclusions):

- (d) which it considers necessary or desirable to provide or secure the provision of advice, assistance and representation under the Act; or
- (e) which is calculated to facilitate the discharge of its functions.

The Lord Chancellor

The Lord Chancellor's statutory responsibilities in respect of the Legal Aid Board are:

- (a) conferring by direction certain functions on the Board, which it is not otherwise empowered to perform;

- (b) appointing the members of the Board;
- (c) directing the Board to provide legal advice, assistance or representation by contracts with, or grants or loans to, other persons or bodies;
- (d) financing the Board's cost for the administration of legal aid; monies for this purpose are provided from Class IX, Vote 1;
- (e) financing the expenditure of the Legal Aid Fund, net of receipts into the Fund and subject to Treasury approval; monies for this purpose are provided from Class IX, Vote 2;
- (f) making regulations to give effect to the Legal Aid Act or for preventing abuse of it;
- (g) laying before Parliament the Board's annual statement of accounts and report of the auditors.

3. Approving the Accounts

The Lord Chancellor is responsible to Parliament, under the Act, for the proper and efficient use of monies voted for legal aid expenditure and exercises these responsibilities through the Department's Accounting Officer. These Accounts have been prepared in accordance with s.7 of the Legal Aid Act which empowers the Lord Chancellor to appoint an external auditor to audit the Accounts of the Legal Aid Fund.

The Legal Aid Act empowers the Legal Aid Board to appoint a Chief Executive who is the Board's Accounting Officer and is jointly responsible to Parliament, with the Department's Accounting Officer, for the proper and efficient use of monies voted for legal aid expenditure. The Act requires separate Accounts to be kept in respect of the Board's Legal Aid Fund and the receipts and expenditure of the Board which do not relate to the Fund. The Lord Chancellor appoints external auditors to audit both Accounts, and lays before Parliament a copy of the Accounts and the report of the auditors.

4. Legal Aid Activities

Legal aid aims to provide legal services for those of small or moderate means provided they can show sufficient cause for being party to proceedings. There are three main forms:

(a) *Civil Legal Aid*

This covers representation in most civil cases (including matrimonial matters);

(b) *Criminal Legal Aid*

This covers representation in criminal cases. The Legal Aid Board is concerned only with funding proceedings in the magistrates' courts. Funding of criminal legal aid in the higher courts is the responsibility of the Lord Chancellor's Department.

(c) *Legal Advice and Assistance (the Green Form Scheme) and Assistance By Way of Representation (ABWOR)*

This allows a solicitor to give advice and assistance to an extendable financial limit.

ABWOR provides for representation principally in domestic proceedings in the magistrates' courts.

In addition, there are two duty solicitor schemes. One makes advice and representation available for certain criminal hearings in the magistrates' courts. The second, known as the 24 hour duty solicitor scheme, provides for legal advice and assistance to people arrested or helping with enquiries at police stations.

Each of these is paid from the Legal Aid Fund and their costs are shown in the Accounts.

5. Law Centres

The Board has a power to make grants where directed to do so by the Lord Chancellor, to the extent of his direction. It makes grants to nine Law Centres and to the Law Centres' Federation. These grants are paid out of a separate Vote to the Board's Administration budget or Fund expenditure: Class IX Vote 1 sub-head F2.

6. Receipts

Applicants for legal aid may be required to make a contribution towards their legal costs. Generally, these are paid in instalments. They are shown as contributions by assisted persons in the Accounts.

When money or property has been recovered or preserved during civil proceedings for which a legal aid certificate has been issued, the Legal Aid Board has a first charge on this money or property where the expenditure incurred on legal aid exceeds any contributions made and costs awarded.

In some cases the enforcement of the charge is postponed, and simple interest, currently at the rate of 8 per cent, is added each year to the amount of the charge outstanding. Money obtained by way of the charge is paid over to the Legal Aid Fund.

Steve Orchard
Chief Executive

The Right Honourable
The Lord High Chancellor of Great Britain
House of Lords
London SW1

AUDITORS' REPORT TO THE LORD CHANCELLOR

We have audited the Accounts of the Legal Aid Board set out on pages 115 to 121 which have been prepared under the accounting policies set out in note (1) on page 117.

Respective responsibilities of the Legal Aid Board and of the auditors

As described in the Foreword the Legal Aid Board is responsible for the preparation of the Accounts. It is our responsibility to form an independent opinion, based on our audit, on those Accounts and to report our opinion to you.

Basis of Opinion

We conducted our audit in accordance with Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to amounts and disclosures in the Accounts.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the Accounts are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of the information in the Accounts.

The scope of our audit has not included an examination of the assessment of the means of applicants for civil legal aid or the grant of criminal legal aid by the courts.

Unqualified opinion

In our opinion:

- (i) the accounts present a fair summary of the receipts and payments of the Legal Aid Board for the year ended 31 March 1994 and of the balances held at that date;
- (ii) proper books of account have been maintained and a statement of accounts prepared therefrom in accordance with sections 7(1) and 7(2) of the Legal Aid Act 1988 and the directions of the Lord Chancellor;
- (iii) receipts and payments have complied with relevant statutes and directions of the Lord Chancellor.

CLARK WHITEHILL
Chartered Accountants and
Registered Auditor
London

6 June 1994

LEGAL AID — ADMINISTRATION*Receipts and payments account for the year ended 31 March 1994*

				<i>Previous year 1992-93</i>
	Notes	£'000s	£'000s	£'000s
ADMINISTRATION				
H.M.G. Grants received:—				
Administration				
Class X—Vote 1 Sub-head F1			47,450	43,703
Grants to Law Centres				
Class X—Vote 1 Sub-head F2			942	917
			<u>48,392</u>	<u>44,620</u>
Operating receipts—				
Miscellaneous			3	18
			<u>48,395</u>	<u>44,638</u>
LESS				
Salaries and wages	2	25,967		22,639
Other operating payments	3	18,238		15,897
Grants to Law Centres		942		917
			<u>45,147</u>	<u>39,453</u>
Surplus of receipts			3,248	5,185
LESS				
Other payments (Net)	4		2,811	5,399
DEFICIENCY/(EXCESS) OF PAYMENTS OVER RECEIPTS IN YEAR			<u>437</u>	<u>(214)</u>
Statement of Balances as at 31 March 1994				
BANK AND CASH				
Balance at beginning of the financial year			483	697
Deficiency/(Excess) of payments over receipts in year			<u>437</u>	<u>(214)</u>
Balance at end of the financial year			<u>920</u>	<u>483</u>

Approved by the Legal Aid Board on 6 June 1994**By order of the Legal Aid Board****For and on behalf of the Lord Chancellor's Department**

S.M. ORCHARD – Chief Executive

Sir THOMAS LEGG, K.C.B., Q.C. – Permanent Secretary

The notes on pages 117 to 121 form part of these accounts.

LEGAL AID — FUND*Receipts and payments account for the year ended 31 March 1994*

			<i>Previous year 1992-93</i>
	Notes	£'000s	£'000s
LEGAL AID			
H.M.G. Grants received:—			
Class IX—Vote 2 Sub-head A1		975,000	869,097
Operating receipts:	6	290,773	231,977
		<u>1,265,773</u>	<u>1,101,074</u>
LESS			
Operating payments	7	1,264,417	1,104,586
		<u>1,264,417</u>	<u>1,104,586</u>
DEFICIENCY/(EXCESS) OF PAYMENTS OVER RECEIPTS IN YEAR		<u>1,356</u>	<u>(3,512)</u>

Statement of Balances as at 31 March 1994

BANK AND CASH

Balance at beginning of the financial year		32,863	36,375
Deficiency/(Excess) of payments over receipts in year		1,356	(3,512)
Balance at end of the financial year	8	<u>34,219</u>	<u>32,863</u>

Approved by the Legal Aid Board on 6 June 1994**By order of the Legal Aid Board****For and on behalf of the Lord Chancellor's Department**

S.M. ORCHARD – Chief Executive

Sir THOMAS LEGG, K.C.B., Q.C. – Permanent Secretary

The notes on pages 117 to 121 form part of these accounts.

LEGAL AID — ADMINISTRATION

Notes to the accounts
Year ended 31 March 1994

NOTE 1

These accounts are drawn up in a form directed by the Lord Chancellor and approved by the Treasury. In accordance with Government Accounting guidelines they are prepared on the cash basis of accounting.

*Previous
year
1992-93*

NOTE 2—ADMINISTRATION: SALARIES AND WAGES

	£'000s	£'000s
(a) Staff costs		
Salaries and wages	21,334	19,178
Social Security costs	1,785	1,438
Other pension costs	738	733
Redundancy	362	248
Temporary Staff costs	1,631	942
	<u>25,850</u>	<u>22,539</u>
(b) Board members' remuneration fees**	117	100
TOTAL SALARIES AND WAGES	<u>25,967</u>	<u>22,639</u>

(c) The Chief Executive's total actual remuneration including bonus and taxable benefits was £74,935 (previous year £72,643). The Chief Executive is an ordinary member of the Legal Aid Board's Pension Scheme.

Senior employees

The following number of other senior employees received remuneration falling within the following ranges:

	No.	No.
£30,001—£40,000	70	54
£40,001—£50,000	14	12
£50,001—£60,000	5	1

The average number of employees during the year was made up as follows:

	No.	No.
Office and Management	<u>1,409</u>	<u>1,352</u>

(d) The emoluments* of the Chairman

	<u>£24,991</u>	<u>£24,290</u>
--	----------------	----------------

Other Board members' ** emoluments* fell within the following ranges:

	No.	No.
£0—£10,000	<u>11</u>	<u>14</u>

*excluding pension contributions

**excludes the Chief Executive who became a Board member in 1991-92 and is shown separately above

LEGAL AID — ADMINISTRATIONNotes to the accounts (continued)
Year ended 31 March 1994*Previous
year
1992-93***NOTE 3—ADMINISTRATION: OTHER OPERATING PAYMENTS**

	£'000s	£'000s
Rent and rates	4,836	4,394
Maintenance, heating and lighting	1,256	1,037
Office supplies, printing and stationery	1,984	1,534
Postages and telephones	1,962	1,745
Audit fee	86	161
Office machinery maintenance	175	550
Travelling, subsistence and committee members' attendance fees	1,593	1,270
Contribution recovery costs	390	236
Payments under operating leases: Plant and machinery	314	357
Research and Development	112	149
Duty Solicitor call service	338	1,264
Computer consultancy	2,176	896
Data Preparation	246	193
Staff recruitment expenses	301	291
Removal and allied expenses	95	121
Conferences and courses	865	492
Land Registry charges	591	422
Legal and professional charges	310	204
Miscellaneous	608	581
	<u>18,238</u>	<u>15,897</u>

NOTE 4 — ADMINISTRATION: OTHER PAYMENTS (NET)

	£'000s	£'000s	£'000s
RECEIPTS:			
Sales of fixtures and equipment		2	3
Compensation		430	—
		<u>432</u>	<u>3</u>
PAYMENTS			
Freehold and leasehold property, including alterations, fixtures & fittings	1,232		488
Office furniture, machinery and computer equipment	2,003		4,841
Increase in outstanding advances	8		73
		<u>3,243</u>	<u>5,402</u>
NET PAYMENTS		<u>2,811</u>	<u>5,399</u>

NOTE 5 — ADMINISTRATION: PENSION COSTS

The Legal Aid Board operates two pension schemes for the staff. Both of these are 'defined benefit schemes'. The basic benefits, which provide a 1/60th per year annual pension on final salary are funded with an Insurance Company. Members of the No. 4 Scheme have to take the benefit as 1/80th per year pension and 3/80th per year cash sum on retirement.

Pensions in payment are index linked and the uplift is paid directly from the Legal Aid Administration Vote.

In the most recent triennial funding review, carried out in 1992, the Actuary to the Funds certified that assets exceeded liabilities by:—

	6 April 1992		6 April 1989	
	£'000s	%	£'000s	%
No. 3 Scheme	426	36%	288	34%
No. 4 Scheme	14,255	60%	9,096	63%

The actuary recommended that only employees' contributions be continued and that employers' contributions for the foreseeable future should be zero.

LEGAL AID — FUNDNotes to the accounts (continued)
Year ended 31 March 1994Previous
year
1992-93**NOTE 6 — FUND: OPERATING RECEIPTS**

	Notes	£'000s	£'000s	£'000s
CIVIL CASES				
Contributions by assisted persons		23,424		20,938
Costs	9	179,542		131,117
Damages and other monies recovered on behalf of assisted persons		79,329		70,057
Miscellaneous		1,803		1,411
			284,098	223,523
CRIMINAL CASES IN MAGISTRATES' COURTS				
Contributions by assisted persons		2,309		3,263
Costs		2		4
			2,311	3,267
LEGAL ADVICE AND ASSISTANCE				
Contributions by assisted persons and costs	9		4,364	5,187
			290,773	231,977

NOTE 7 — FUND: OPERATING PAYMENTS

	Notes	£'000s	£'000s	£'000s
CIVIL CASES				
Solicitors' charges and Counsel's fees	9	547,012		458,335
Disbursements	9	101,876		87,916
Interim payments to Solicitors and Counsel		143,917		107,628
Costs of successful unassisted parties		1,269		1,332
Refunds of contributions, damages and other monies recovered for assisted persons		32,808		31,045
Miscellaneous		1,083		671
			827,965	686,927
CRIMINAL CASES IN MAGISTRATES' COURTS				
Solicitors' charges and Counsel's fees		188,450		192,016
Disbursements		5,456		8,645
			193,906	200,661
LEGAL ADVICE AND ASSISTANCE				
Payments to Solicitors	9		164,523	145,404
DUTY SOLICITOR SCHEME				
Payments to Solicitors			78,023	71,594
			1,264,417	1,104,586

NOTE 8 — FUND: BALANCE AT END OF THE FINANCIAL YEAR

	£'000s	£'000s
Cash and Bank		
Legal Aid	541	(480)
Deposit accounts for assisted persons	33,678	33,343
	34,219	32,863

Monies have been received by the Fund on behalf of assisted persons and are held on deposit pending payment out. The interest earned on these monies whilst on deposit is added to the principal sources.

LEGAL AID — FUNDNotes to the accounts (continued)
Year ended 31 March 1994*Previous
year
1992-93***NOTE 9 — FUND: AMOUNTS SET OFF**

	£'000s	£'000s
Receipts		
Legal Aid — Civil Cases:		
Costs	156,960	114,086
Legal Advice and Assistance:		
Contribution by assisted persons	2,498	3,383
	<u>159,458</u>	<u>117,469</u>
Payments		
Legal Aid — Civil Cases:		
Solicitors' charges and counsel's fees	130,279	95,190
Disbursements	26,681	18,896
Legal Advice and Assistance:		
Payments to Solicitors	2,498	3,383
	<u>159,458</u>	<u>117,469</u>

In accordance with Regulations 105 and 106 of the Civil Legal Aid (General) Regulations 1989 sums due to be paid into the Fund have been set off against sums repayable out of the Fund. These amounts have been included as receipts and payments respectively in the Receipts and Payments Account, as above.

NOTE 10 — FUND: SECURITIES HELD

	1993/94			1992/93		
	Non-Interest Bearing '000s	Interest Bearing '000s	Total '000s	Non-Interest Bearing '000s	Interest Bearing '000s	Total '000s
Number of:						
Quantified	41	28	69	41	21	62
Not yet quantified	12	5	17	12	4	16
Total held at 31 March 1994	<u>53</u>	<u>33</u>	<u>86</u>	<u>53</u>	<u>25</u>	<u>78</u>
Value of:	£'000s	£'000s	£'000s	£'000s	£'000s	£'000s
Principal quantified	<u>66,740</u>	<u>62,132</u>	<u>128,872</u>	<u>63,583</u>	<u>43,678</u>	<u>107,261</u>
Interest Bearing charges		£'000s			£'000s	
(a) Values of Principal:—						
Agreement reached		54,025			36,244	
No Agreement*		8,107			7,434	
		<u>62,132</u>			<u>43,678</u>	
(b) Interest on above						
Quantified Charges:						
Accrued to date		12,517			7,573	
Less: Received to date		1,085			600	
Outstanding		<u>11,432</u>			<u>6,973</u>	

Securities held consist of Land charge certificates and acknowledgements relating to land properties which are subject to a Statutory Charge (Section 9(6)) in favour of the Legal Aid Fund and miscellaneous items of jewellery and other valuables.

Accrual of simple interest of 12% was introduced in year 1990-91 and was reduced to 10.5% with effect from 1 January 1992 and further reduced to 8% with effect from 1 September 1993.

*Immediately enforceable (debt)

LEGAL AID — FUNDNotes to the accounts (continued)
Year ended 31 March 1994*Previous
year
1992-93*

NOTE 11 — FUND: LOSSES	Cases '000s	£'000s	Cases '000s	£'000s
(i) Deficiency to Fund (not recoverable from assisted person) as a result of claims abandoned:—				
(a) Contributions written off as irrecoverable	5.2	883	3.0	614
(b) Costs written off as irrecoverable	10.4	6,320	9.3	3,685
(c) Costs and contributions written off as irrecoverable in the same case	0.2	189	0.2	142
(d) Amounts due to the Fund under revoked Emergency Certificates	1.8	1,151	1.2	942
	<u>17.6</u>	<u>8,543</u>	<u>13.7</u>	<u>5,383</u>
(ii) Full write off as a result of claims abandoned:—				
(a) Contributions written off as irrecoverable	5.2	883	3.0	614
(b) Costs written off as irrecoverable	10.4	13,592	9.3	9,424
(c) Costs and contributions written off as irrecoverable in the same case	0.2	273	0.2	223
(d) Amounts due to the Fund under revoked Emergency Certificates	1.8	1,151	1.2	942
	<u>17.6</u>	<u>15,899</u>	<u>13.7</u>	<u>11,203</u>

Losses occur where costs awarded against third parties cannot be recovered in full or contributions outstanding from an assisted person cannot be recovered. Losses from third parties are offset against any sums due to assisted persons and hence the full write off (shown in (ii) above) is reflected in a smaller deficiency to the Fund (shown in (i) above).

Note that where the Legal Aid Board has abandoned a claim for costs and there is no deficiency to the Fund, the assisted person is informed and is free to pursue the claim in his own right to recover any loss suffered.

(iii) In addition there are a number of cases where orders for costs have been made in favour of assisted persons in connection with authorised summary proceedings in Courts of Summary Jurisdiction in which these costs have not been recovered for the benefit of the Legal Aid Fund.

LEGAL AID BOARD ACCOUNTS DIRECTION—APPENDIX TO THE ACCOUNTS

The Lord Chancellor, in the exercise of his powers under Section 7(2) of the Legal Aid Act 1988 and with the approval of the Treasury, hereby makes the following direction.

1. The annual accounts which it is the duty of the Legal Aid Board to prepare in respect of the financial year ending 31 March, 1993 and in respect of any subsequent financial year shall comprise:
 - (a) a foreword;
 - (b) a receipts and payments account; and
 - (c) a statement of balances;including such votes as may be necessary for the purposes referred to in paragraph 2 below. The Board should observe all relevant guidance given in “Government Accounting” as amended or augmented from time to time.
2. The annual accounts referred to above shall present a fair summary of the receipts and payments account of the Legal Aid Board and of its year-end balances. The account shall also reflect commercial accounting practices, insofar as these can be applied to the accounts of the Board.
3. The annual accounts mentioned in paragraph 1 above shall include information in the form set out in Schedule 1 to this direction.
4. This Direction (excluding Schedule 1) shall be reproduced as an appendix to the accounts.
5. This Direction supersedes the Direction issued on 1 June 1992.

B. H. Cousins

Principal Establishment and Finance Officer
for and on behalf of the Lord Chancellor

25 May 1993

Appendix 1: Legal Aid Statutory Instruments

LEGAL AID IN CIVIL PROCEEDINGS

Civil Legal Aid (General) (Amendment) Regulations 1993 (No. 565) came into force on 1 and 12 April 1993 to amend S.I. No. 339 of 1989 in relation to contributions for the lifetime of the case and payments on account to counsel.

Civil Legal Aid (General) (Amendment) (No. 2) Regulations 1993 (No. 1756) came into force on 1 September 1993 to reduce the interest rate for postponed legal aid statutory charges to 8%.

Civil Legal Aid (General) (Amendment) Regulations 1994 (No. 229) came into force on 25 February 1994 to amend S.I. No. 339 of 1989 in relation to prescribed rates for civil cases.

Civil Legal Aid (Assessment of Resources) (Amendment) Regulations 1993 (No. 788) came into force on 12 April 1993 to amend the eligibility and assessment provisions of S.I. No. 338 of 1989 and provide for contributions for the lifetime of a case.

Civil Legal Aid (Scope) Regulations 1993 (No. 1354) came into force on 27 May 1993 to amend schedule 2 to the Legal Aid Act 1988 to make civil legal aid available for certain proceedings under the Child Support Act 1991.

Legal Aid in Family Proceedings (Remuneration) (Amendment) Regulations 1993 (No. 1117) came into force on 27 May 1993 to amend S.I. No. 2038 of 1991 in relation to remuneration for proceedings under the Child Support Act 1991.

Legal Aid in Family Proceedings (Remuneration) (Amendment) Regulations 1994 (No. 230) came into force on 25 February 1994 to amend the remuneration provisions of S.I. No. 2038 of 1991.

Legal Aid in Civil Proceedings (Remuneration) Regulations 1994 (No. 228) came into force on 25 February 1994 to establish prescribed fees and hourly rates for some family civil legal aid.

LEGAL ADVICE AND ASSISTANCE

Legal Advice and Assistance (Amendment) Regulations 1993 (No. 790) came into force on 12 April 1993 to amend S.I. No. 340 of 1989 to abolish contributory green form advice and assistance and to make contributions in ABWOR payable for the lifetime of the case.

LEGAL AID IN CRIMINAL PROCEEDINGS

Legal Aid in Criminal and Care Proceedings (General) (Amendment) Regulations 1993 (No. 789) came into force on 12 April 1993 to amend the eligibility and contribution provisions of S.I. No. 344 of 1989.

Legal Aid in Criminal and Care Proceedings (General) (Amendment) (No. 2) Regulations 1993 (No. 1895) came into force on 1 September 1993 to increase the financial information available when applications for criminal legal aid are being considered.

Legal Aid in Criminal and Care Proceedings (Costs) (Amendment) Regulations (1993 No. 934) came into force on 1 June 1993 to amend S.I. No. 343 of 1989 to introduce standard fees for criminal proceedings in the magistrates' court and make provision for interim payments in the Crown Court.

Appendix 2: Recent Decisions

1. **Scope of the Green Form Scheme** – whether a large green form extension may be refused because the work to be done amounts to representation rather than advice and assistance.

R. – v – Legal Aid Board ex parte Grace Higgins

The applicant was a bar student who failed her 1992 bar finals and along with a number of others contended that the exams and assessments were inherently unfair and racially discriminatory. This complaint was to be heard before a panel of judges called the Visitors. Civil legal aid is not available for proceedings before the Visitors but the applicant was helped under the green form scheme. After initial extensions, the applicant made a further application for an extension to cover experts reports from a statistician and educationalist in the sum of about £6,000. This was refused on the basis that it was not a proper use of the green form scheme which should not necessarily be extended to provide the same degree of cover as would be available under a limited legal aid certificate.

In a judicial review of this refusal, the court first considered whether the extension was within the scope of the scheme and held that it came within the wide definitions of “advice” and “assistance” under the Legal Aid Act 1988. Work under the green form scheme can cover anything other than a lawyer appearing as advocate in court. The court then considered what approach or factors should be taken into account when deciding whether it is reasonable for advice and assistance to be given under Regulation 21 of the Advice and Assistance Regulations 1989. The court held that an extension should not be refused simply on the basis that it was not a proper use of the green form scheme, and every case should be considered on its merits deciding whether it is reasonable for the advice and assistance to be given. Their Lordships differed as to the nature of the test, Lord Justice Simon Brown taking the view that the Board was entitled to take into account the simplicity and informality of the green form procedures when considering an extension, so that the larger the extension requested the more compelling would need to be the reasons for granting it. Mr. Justice Buckley took a broader view to the effect that an extension should be granted whenever the merits and reasonableness of an individual case required it.

By the time of the hearing, the expert reports in question had already been commissioned and obtained. Despite the conclusions reached as to the test to be applied, the court held that an extension could not be granted retrospectively and therefore the original decision to refuse the extension would not be quashed in the circumstances.

2. **Costs of Successful Unassisted Parties** – procedures for applications under section 18 of the Legal Aid Act 1988 for costs to be paid out of the Legal Aid Fund – whether an affidavit of costs and resources had to comply with the regulations – whether the court has power to extend time limits under the regulations.

David Jones and John Kempster – v – Mohsen Zahedi

Middleton – v – Middleton

These were two separate Court of Appeal decisions which concerned the procedures for successful unassisted parties to claim costs from the Fund under section 18 of the Act. In first instance cases, the unassisted party must show that he or she would suffer severe financial hardship if no order for costs was made. The relevant procedures are set out in Part XIV of the Civil Legal Aid (General) Regulations 1989.

In Jones – v – Zahedi (Judgment 2 July 1993) an unassisted party had filed an affidavit which dealt with some aspects of his financial situation but did not deal with all the financial information required by Schedule 2 of the Regulations. The court held that the requirements of the regulations were strict and had to be complied with. A technical, formal or insignificant failure to comply with the schedule could be overlooked but the court could not properly make an order in favour of the unassisted party where he had failed to comply with the schedule in a significant respect of which the Legal Aid Board complained, unless the unassisted party could show that he could not in all the circumstances comply with the schedule in that respect. Further, the unassisted party could not, without the agreement of the Board, make good any deficiencies in the affidavit through oral evidence.

In Middleton – v – Middleton (Judgment 14 December 1993) the court was concerned with the time limits for filing affidavits under the regulations. Where a court refers a section 18 application for hearing and determination pursuant to Regulation 139, the unassisted party is required by Regulation 142 to file an affidavit of costs and resources within 21 days of the adjournment. In the Middleton case the unassisted party had filed the affidavit late and the area office had refused to allow an extension of time. The issue was whether the court had any residuary power to extend the time limits. The Board appealed against the first instance ruling that the court had such a discretion to extend time limits, and the Court of Appeal held that the time limits in question were mandatory and the court had no power to extend them. The regulations were a self contained procedural code and the application under section 18 was dismissed.

3. **Advice and Assistance at Police Stations** – legality of “own solicitor referral service”.

R. – v – The Legal Aid Board ex parte Gilchrist

Healthcall Services Ltd. had developed proposals for an “own solicitor referral service”. This allowed individual solicitors who undertook police station work but who did not wish to be disturbed out of hours to inform local police stations that any requests for their assistance should be passed to the Healthcall own solicitor scheme. Under this scheme Healthcall would have solicitors in

attendance at local centres who would be able to provide advice by telephone. If personal attendance was required the case would be passed back to the original solicitor. Healthcall's original proposals were amended following representations from the Board. Under the amended proposals the Healthcall own solicitor would act on a self employed basis as an "own solicitor". Healthcall would provide facilities to such solicitors for which the solicitor would make payment.

The Board was advised that, under Healthcall's proposals, the solicitors were effectively employed by Healthcall and that the advice was therefore given by Healthcall which as a limited company was not a legal representative which could be remunerated under the Legal Aid Act 1988, or alternatively, the solicitors were agents of either Healthcall, or the original solicitor, in which case remuneration could not be provided on the basis that use of agents in such circumstances is not permitted.

Proceedings for judicial review of the Board's decision to refuse payment were brought by an individual solicitor who had been refused payment for a specific claim.

At first instance the court agreed with the Board that the solicitor providing advice could not act as an agent of the original solicitor. It found, however, that the agreement as drawn up did indeed mean that solicitors providing advice at Healthcall's premises were own solicitors, who were neither employees of Healthcall nor agents, and that they could be remunerated accordingly.

On appeal, the Court of Appeal upheld the decision at first instance and also decided that the advising solicitors were own solicitors.

4. **Confidentiality** – section 38 Legal Aid Act 1988 – whether information otherwise confidential could be provided in a summary or collection of information.

R. – v – The Legal Aid Board ex parte London Docklands Development Corporation and Docklands Light Railway Ltd.

Approximately 800 residents of the Docklands area of London claimed to have been adversely affected by construction works undertaken by the applicants. Legal aid certificates were granted subject to limitations. The certificates were extended to enable proceedings to be issued.

Thereafter, the applicants instituted proceedings for judicial review of that decision on the basis that the Board had failed to consider individually the applications for each of the legally assisted persons before granting (or extending) legal aid.

The Board contended in affidavit evidence, that due to the confidentiality provisions in section 38 Legal Aid Act 1988, it could release only minimal information about the applications in question.

The applicants applied to the court for leave to serve interrogatories and discovery submitting that the Board is entitled under section 38(2) Legal Aid Act 1988 to supply information in the form of a summary or collection of information

so framed as not to enable information relating to any particular person to be ascertained from it. The Board argued that this construction was incorrect. It argued that the purpose of section 38(2) was to enable the Board to provide information to bodies such as the Lord Chancellor's Department and the Lord Chancellor's Legal Aid Advisory Committee and that it would be incorrect to say that information supplied by each of a number of individuals which for each of them would be confidential could be released "in a summary". The Board additionally argued that if information supplied to it would in other circumstances be subject to legal privilege, the position would be no different because the papers had been passed to the Board.

The application was refused at first instance and the applicants appealed to the Court of Appeal insofar as the application for leave to serve interrogatories was concerned.

The Court of Appeal held that documents and information produced to the Board which were protected by section 38(1) Legal Aid Act 1988 cannot be released under section 38(2) in such circumstances. Furthermore, documents covered by legal professional privilege are received by the Board in a situation where a duty of confidence arises and they remain privileged in the Board's hands. Additionally, having regard to the public interest in ensuring a free flow of information between the Board and solicitors they are covered by public interest immunity.

The substantive judicial review proceedings had not been concluded when this Annual Report went to press.

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Newcastle
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Fenale Street
Newcastle upon Tyne
NE1 5RU
Tel: 091-232 3461

Leeds
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New Station Street
Leeds
LS1 4JS
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Central Square
Cardiff CF1 1PF
Tel: 0222 388971

Reading
80 Kings Road
Reading RG1 4LT
Tel: 0734 589696



MAKING A COMPLAINT

What kind of complaints can we help with?

Delay in answering your letter or enquiry

Delay in dealing with your application

Delay in answering your telephone call

Delay in refunding money

Complaints about your assessment of means

Complaints about your contribution

Other complaints

April 1994



Legal Aid Board

Legal Aid Head Office: 85 Gray's Inn Road, London WC1X 8AA Tel: 071-813 1000

Appendix 3: Complaints Leaflet

CUSTOMER COMPLAINT

Name _____ Tel. No. _____

Address _____

Legal Aid reference/certificate number _____

Please give details of your complaint here:

(Continue on a separate sheet if necessary)

Signed: _____ Date: _____

We are keen to achieve the highest level of service to all our customers. However, we may sometimes fail to deliver what is expected of us. If you are unhappy with the service you have received, please let us know so that we can put things right.

How to complain

You can either fill in the page opposite and send it to your local area office or telephone your local area office with your complaint.
(See back for details.)

If you are unhappy with the reply, please write to the *Area Manager* at the same office. Please make sure you mark **complaint** clearly at the top of your *letter* - as it will be separated from your envelope - stating your reference or certificate number. The Area Manager will be responsible for investigating your complaint.

If you are still not satisfied please write to the Board's head office where the central complaints team, which is independent of area offices, will investigate your complaint **providing it has been through the stages above**. Please make sure you state your reference/certificate number when you write.

At all stages of your complaint we aim to respond within 5 working days. Sometimes a full investigation may take longer, if so we will contact you within 5 days to let you know when you will receive a full explanation.

If your complaint has still not been resolved an MP may ask the Parliamentary Commissioner for Administration, the Ombudsman, to look into your complaint. To find the name of the MP for your area contact your local library. For more information about the Ombudsman please contact:
Office of the Parliamentary Commissioner for Administration, Church House,
Great Smith Street, London SW1P 3BW Tel. 071 276-2130 / 3000

Appendix 4: Oldham Referral Scheme

The Oldham Referral Scheme is a joint Scheme between Oldham Law Association and advice agencies in Oldham, which is being set up with the help of North Western Legal Services Committee.

The Scheme combines three elements:

- (a) local Referral Scheme for agency to solicitor referrals to replace the old £5 Fixed Fee Interview Scheme;
- (b) scheme for Welfare Rights and other referrals by solicitors to agencies;
- (c) an inter-firm Referral Scheme.

The Scheme started as a result of discussions about the implications of the requirement in the Franchising Scheme for solicitors to identify the need for benefits advice of their clients, and then refer on to an appropriate agency, if the work was not to be handled in-house.

The discussions very quickly developed however, along much broader lines, and it was agreed that there was a need to set up a Referral Scheme covering all subject areas, and aimed at ensuring that the client was directed to the most appropriate source of help.

A crucial aspect of the Scheme is that both solicitors and agencies have agreed to provide accurate information about the areas of work in which they are experienced. Directories have been produced which list solicitors and agencies and the areas of work undertaken by workers in each firm or agency. Solicitors firms have agreed that they will limit their entries to three subject areas per fee earner.

As the Scheme is designed to encourage clients to obtain advice and help, the solicitors will provide an initial diagnostic interview free of charge. This was readily agreed to by solicitors in Oldham, and the agencies considered that it was vital that clients were not discouraged by the charging of a fee for the initial interview.

Another vital aspect of the Scheme is that of information and experience sharing between solicitors and agencies. It is a common criticism by agencies of solicitors that they make referrals and then do not hear what has happened to the case. It is vitally important that solicitors are willing to share information with the agency making the referral, if the client agrees and the agency requires it. The agency might still be working with the client, or might be able to explain issues involved in the case to the client if the client considers that he/she is having difficulty in communicating with the solicitor.

The Oldham Referral Scheme involves an agreement by solicitors in Oldham and agencies that they will undertake training for each other in areas where they have experience and skills which can be imparted to the other. The Agencies have agreed that they will provide welfare benefits training to the solicitors, and the solicitors have agreed that they will provide training on how to identify when a referral to a solicitor might be appropriate in a range of subject areas such as matrimonial, personal injury, child care etc.

The Scheme also involves willingness to attend briefing sessions on the operation of the Scheme, by both solicitors and agencies, and also to take part in monitoring and evaluation of the Scheme in order to ensure that it is operating effectively, and to identify any gaps.

It has been agreed that for the first year of the operation of the Scheme the North Western Legal Services Committee will monitor the referrals made and received using a monitoring form. There will also be a monitoring group set up consisting of solicitors and agencies to ensure that the Scheme is operating successfully and to deal with any problems that might arise.

Solicitors and agencies in Oldham have agreed how important it is to improve working relationships between themselves and to encourage closer co-operation, and they also understand that the Scheme is being run as a pilot which will be of value elsewhere.

Appendix 5: Members of the Legal Aid Board

John Pitts (Chairman) is from an industrial background. He is a former Chairman and Chief Executive of Tioxide Group plc. and prior to that a Divisional Director of ICI plc. He has had a prominent role in the chemical industry, having been a President of the Chemical Industries Association and Chairman of its Safety, Health and Environment Council. Until March 1994 he was the Chairman of SASDA, a development agency at Newton Aycliffe in Co. Durham.

Martin Acland * has followed a career in banking. He is a Justice of the Peace, Chairman of the Hertford and Ware Bench and a General Commissioner of Income Tax. He also serves on the Hertfordshire Family Health Services Authority.

Diana Beale * has a background in advice work and is a CAB worker in south Wales. She has been a council member of the National Association of Citizens Advice Bureaux Council and the Legal Action Group. She is co-author of "CAB and Access to Legal Services in south Wales" and former Chair of south Wales Legal Services Steering Group.

Valerie Boakes is the Managing Director of Europower Management Ltd., a marketing communications and management development company. Her previous career had been as a Director of Whitworths Sugars, a commodity buyer with Allied Lyons and as a market analyst and researcher. She is a board member of the Home Grown Cereals Authority, a member of the board of Horticultural Research International and is a member of the Chartered Institute of Marketing, Institute of Purchasing and a fellow of the Royal Society of Arts.

Fred Collins previously Claims Manager of Eagle Star and, until retirement, active on a number of committees of the Association of British Insurers. A Chartered Insurance Practitioner he currently acts as an insurance consultant, on training matters in particular, and is a member of the Council of the Insurance Ombudsman Bureau.

Peter Jones is a solicitor and partner in the firm of John Howell and Co. of Sheffield where he specialises in children law. He was a member of the Legal Aid Advisory Committee from 1983 to 1992 and Chairman of the Legal Services Conference between 1986 and 1990. He is an Acting Provincial Stipendiary Magistrate and an Assistant Recorder.

Kate Markus was called to the Bar in 1981. She was a barrister in private practice until 1984; since then she has worked at Brent Community Law Centre. She was an executive member of the Law Centres Federation (LCF) from 1985 to 1993. From 1990 to 1992 she was Chair of the LCF. She is an Honorary Fellow in Community Law Practice at the University of Kent and Chair of the Public Law Project. She has been involved for many years in international human rights work.

Steve Orchard is a former civil servant and was appointed the Board's Chief Executive in January 1989 and a member of the Legal Aid Board in January 1992. He has wide experience of the legal system.

Penelope Pearce has many years experience working in legal education. She has been a member of the Council of National Academic Awards (Legal Studies) Board, a member of a number of Liverpool Law Society Committees and Executive Director for Equal Opportunities at Liverpool John Moores University. She was involved in the Academic Consultative Committee of the Law Society. She is Professor of English Law and an external examiner on law degree courses and the new Legal Practice Course. Professor Pearce is also a member of the Steering Group for the Access to Justice Course based at Liverpool 8 Law Centre.

George Pulman was called to the Bar in 1971 and took silk in 1989. He was Junior Counsel to the Crown (Common Law) from 1985 dealing with civil litigation and Judicial Review for Government Departments. He is authorised to sit as a Recorder in civil and criminal matters on the South Eastern Circuit. He has wide experience of multi-party actions, personal injury and disaster litigation and Judicial Review of administrative decisions.

David Sinker is a director of a number of companies, a Chartered Accountant and Justice of the Peace. He was an advisor to the National Board of Prices and Incomes as well as being a member of a Department of Environment Committee of Enquiry.

John Smith * is a former Head of Television Personnel for the BBC and former Assistant Managing Director of Associated British Ports plc. He is currently a Justice of the Peace and member of Industrial Tribunals.

Andrew Thomas was admitted as a solicitor in 1974 and is a partner with Lewis Silkin, where he has worked since 1972. He is currently the joint head of the Housing Association Department.

The following new members have been appointed to the Board, John Crosby from 5 April 1994, Jean Dunkley and Diana Payne from 1 May 1994 and Colin George from 3 May 1994:

John Crosby retired from full time employment with BAT Industries plc. in 1992. He held a number of senior personnel posts culminating in Director of Group Personnel. He is Chairman of Croydon College, a Governor of the Centre for International Briefing (Farnham Castle) and a member of both the Armed Forces Pay Review Body and the Employment Appeal Tribunal. He is a past President of the Institute of Personnel Management and served as a Council member of Voluntary Service Overseas for ten years.

Jean Dunkley lectured in Health and Social Policy at the University of Plymouth, and until recently was a non-executive Director of an NHS Trust. She has many years experience of consumer affairs and the voluntary sector, and was previously South West Area Officer, National Association of Citizen's Advice Bureaux. She has recently been appointed Director of Communications & Consumer Affairs of a Family Health Services Authority.

Diana Payne has been involved in the Citizens Advice Bureaux service for a number of years, and is currently Manager of the Central Milton Keynes Advice Bureau. She is also a magistrate.

Colin George has recently retired from Guinness plc. after 10 years as Group Personnel Director. Additionally he has been Managing Director, Guinness Enterprises. He is currently Chairman of the Open College and as well as other educational interests, acts as adviser to several senior executives on organisation and management development.

*** Until 2 May 1994**

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