

Trends in the Personal Injury & Clinical Negligence Market



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September 2005

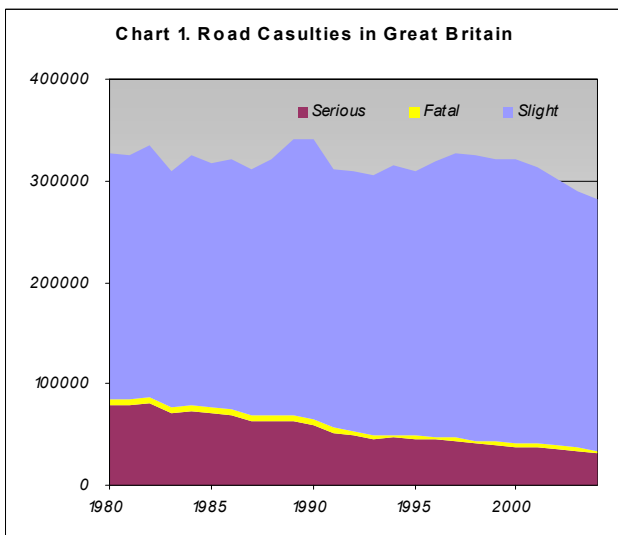
Introduction

This paper sets out a compendium of trends and statistical data (with sources) of the UK personal injury & clinical negligence market, with some international comparisons added, to be informative to professionals in the market. Those readers interested in further analysis are encouraged to proceed to the sources of data quoted, if they require.

Transport Accidents

Information of the Department of Transport (*Transport Statistics Bulletin, Road Casualties, Table 1*) indicates that of 280,840 road casualties in Britain in 2004, 3221 people were killed, 31,130 seriously injured, and the rest only slightly injured. By comparison, major injuries from rail travel in Great Britain are relatively small, being 349 in 2002/03 (*Table 8.9 TSGB*), and are not considered further in this paper.

A serious injury is defined as one requiring a patient to be hospitalised or with any of the following injuries: fractures, concussion, internal injury, crushings, severe cuts, severe general shock, or injuries causing death +30 days after accident. A slight injury is one such as a sprain, bruise or cut not judged to be severe or requiring medical treatment.



DfT Transport Statistics for Great Britain 2004 Table 8.1, Transport Statistics Bulletin Table 3

The number of serious road injuries continues to decline, and light injuries have also fallen, by more than 12% since 1997. Light injuries have increased in share from 74% of the total in 1980 to approaching 88% of the total in 2004.

In Europe there is a wide variation in accident injuries—fatal and non-fatal—as might be expected. Table 1 summarises figures for 2002.

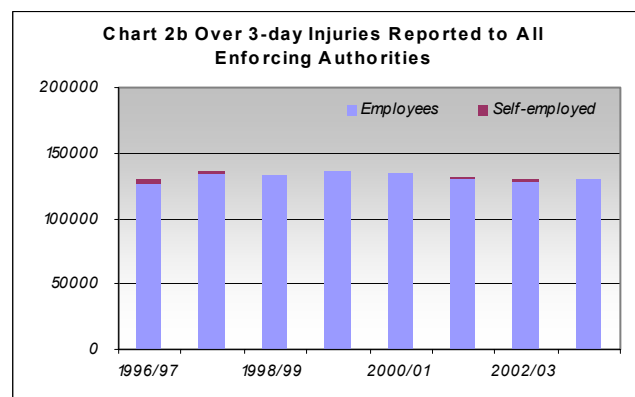
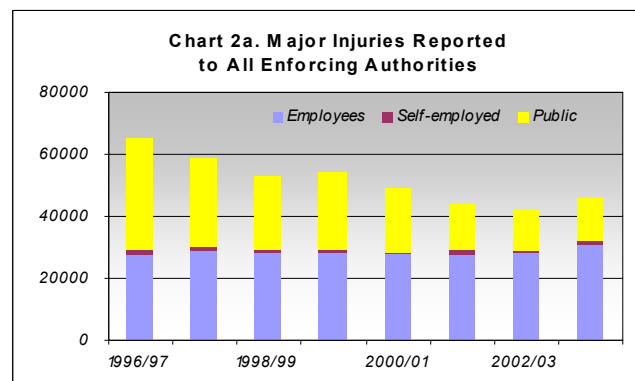
Table 1. European Road Accidents

	Light Injuries	Serious Injuries	Fatal
Belgium	56759	8230	1353
Denmark	4701	4084	463
Germany	388031	88382	6842
Greece	19851	2608	1634
Spain	120761	26849	5347
France	113748	24091	7655
Ireland	7794	1150	378
Italy	*	*	6736
Luxembourg	750	350	62
Netherlands	29664	11018	987
Austria	42056	8043	956
Portugal	51689	4757	1668
Finland	*	*	415
Sweden	20155	4592	560
UK	273436	37502	3581

Europa Transport CARE Community Road Accident Database
* Note: Split Serious/Light injury not available Italy & Finland.

Industrial Accidents

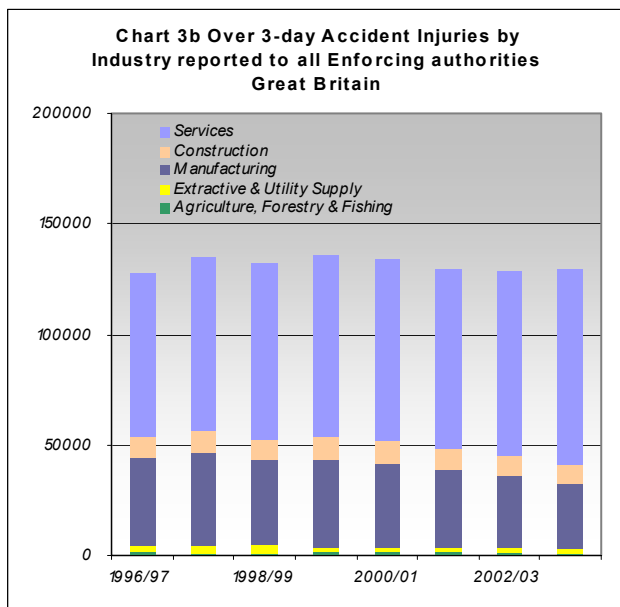
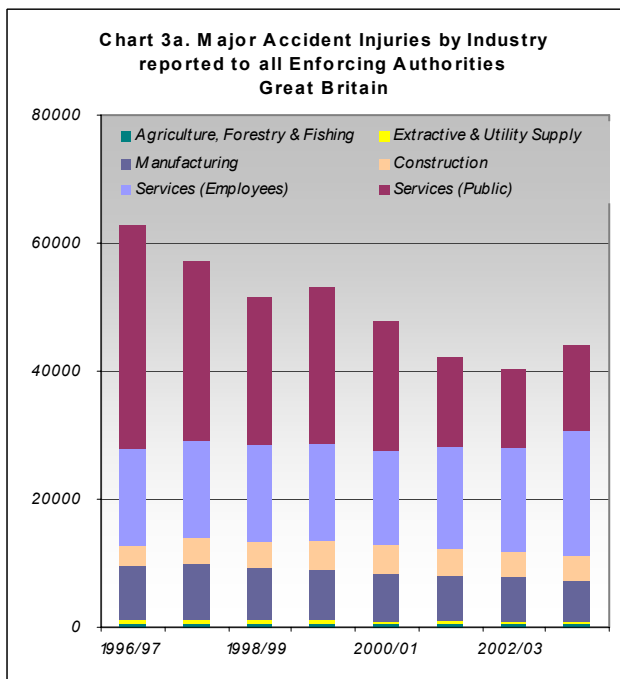
Charts 2a and 2b highlight data of the Health & Safety Executive reported to all enforcing authorities of injuries to employees, self-employed and members of the public (2003/04 provisional figures) :



HSE Key Facts Historical Injuries

Provisional figures for 2003/04 indicate that major injuries to employees, the self employed and members of the public rose on average over 8% on 2002/03, whereas the rise for over 3-day injuries was under 1%.

Charts 3a and 3b illustrate the industrial split of HSE data.



HSE Key Facts Historical Injuries

The rise in both major and over 3-day injuries reported to Enforcing Authorities in 2003/04 is owing to accidents at service industries, mostly to employees, but also to a lesser extent to members of the public at service industries. HSE figures for 2003/04 indicate that about 70% of injuries involve broken limbs, and a further 10% is split between cuts and joint dislocations. Table 2 provides a split of injuries by severity and occupation for 2003/04.

Table 2. Injuries to Employees by Occupation & Severity as reported to all Enforcing Authorities Great Britain 2003/04

	Fatal	Major	Over 3 day	Total
Managers & Senior Officials	10	1701	3716	5427
Professional Occupations	7	1791	4701	6499
Assoc Professionals & Technical	7	2403	12343	14753
Administration & Secretarial	1	952	3082	4035
Skilled Trade Occupations	44	5127	17443	22614
Personal Service	3	2104	10554	12661
Sales & Customer Service	2	1890	7365	9257
Process, Plant & Machine Ops	57	7898	36476	44431
Elementary Occupations	35	6610	32981	39626
Not known	2	190	482	674
All Occupations	168	30666	129143	159977

www.hse.gov.uk/statistics/industry/occ Table 12

It should be noted in the above industrial accident analyses however that potentially a significant degree of underreporting occurs, if related to Labour Force Survey estimates. The average for 1994—2004 has been of the order of more than 43% (See Supplementary Table 5 HSE Health & Safety Statistics Highlights 2003/04).

Table 3 shows the adjustment effect set against figures for other countries.

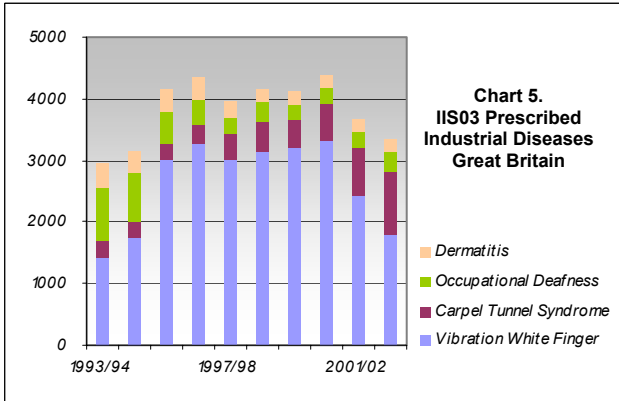
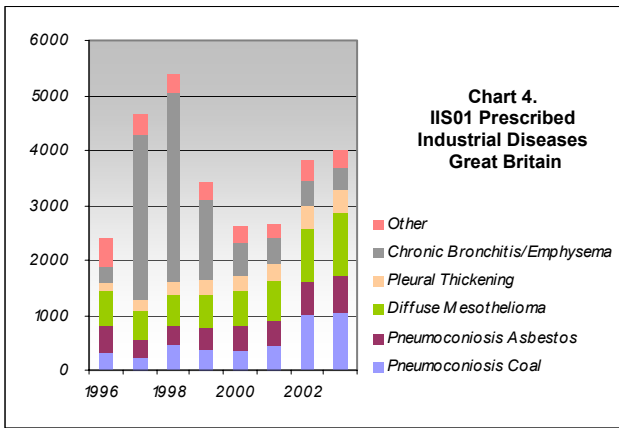
Table 3. European Over 3-Day Accidents at Work 2000

	Declared Injuries	Uprated Number	Percent Factor
Austria	72626	89967	81
Belgium	81420	81420	100
Denmark	22538	48969	46
Finland	48325	48325	100
France	631135	631135	100
Germany	1163825	1163825	100
Great Britain	112901	288178	39
Greece	11307	35765	32
Ireland	5154	9399	55
Italy	572437	628156	91
Luxembourg	9331	9331	100
Netherlands	25503	174973	15
Portugal	152032	164359	92
Spain	667596	667596	100
Sweden	19003	37056	51

Table 2 HSE Statistics of Workplace Fatalities & Injuries in Great Britain International Comparisons 2000—Eurostat E3/ESAW Table 5.

Industrial Diseases

Occupational ill health cannot be defined in such a straightforward way as industrial accidents, and there are a number of surveys of the effect, producing different estimates, including SWI (household survey of self-reported work-related illness), THOR (voluntary medical surveillance scheme in the Health & Occupation Reporting Network), RIDDOR (statutory reports by employers under HSE reporting) and IIS (Industrial Injuries Scheme for compensation under the DWP). The following charts illustrate trends in cases of some industrial diseases, based on IIS data:

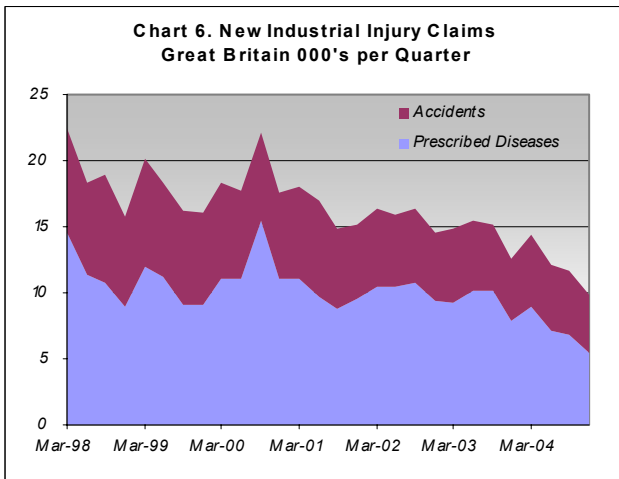


www.hse.gov.uk

In addition to the above, other occupational disorders reported on by HSE include musculoskeletal disorders (chiefly inflammation of hand and forearm tendons), and stress-related and psychological disorders. In respect of the latter, HSE report that the annual incidence of work-related health problems in Great Britain in 2003, as estimated from surveillance schemes (OPRA and SOSMI), was approximately 6,500 cases per year, although this almost certainly underestimated the true incidence.

Industrial Injuries Scheme

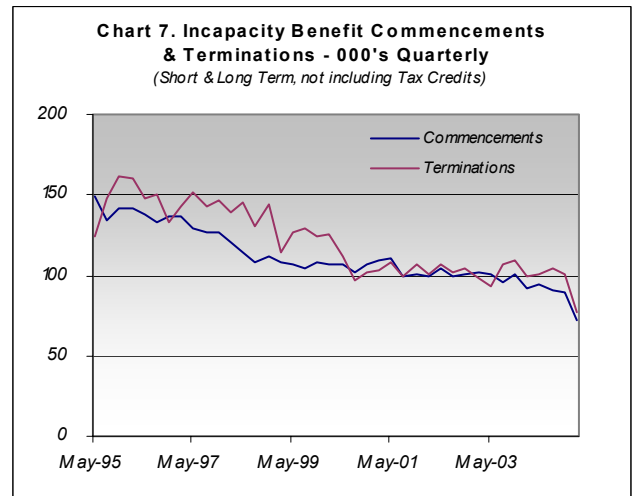
The scheme provides non-contributory, no-fault benefits for disablement caused by accidents or prescribed diseases. It covers employed earners as defined for National Insurance purposes. Chart 6 shows that new claims for Industrial Injuries Disablement Benefit continue to decline, particularly in respect of prescribed diseases.



DWP Resource Centre IIDB 1.5

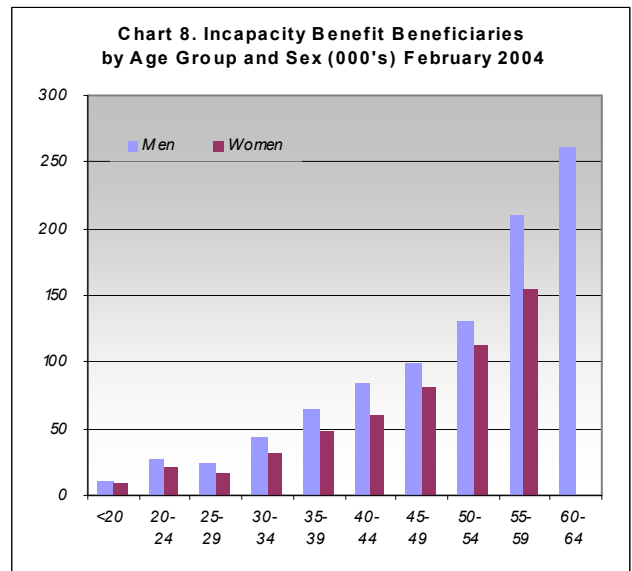
Incapacity Benefit

Incapacity Benefit replaced Sickness & Invalidity Benefits in 1995. Chart 7 relates to Short and Long Term benefits, but excludes Child Tax Credit.



DWP Resource Centre IB1.9, IB1.10
Note: Figures subject to a high degree of sampling error

Incapacity Benefit commencements and terminations continue decline. The total number of beneficiaries has declined from 1.8457m in 1995 to 1.4458m in 2005, although more than 70% of the reduction is owing to the removal from the statistics in 1997-99 of those over pension age. Chart 8 shows the distribution of beneficiaries by sex, and table 4 the distribution by type of disability.



DWP Resource Centre IB2.2

About 58% of beneficiaries are aged 50 or more.

A proportion of those disabled, who would otherwise claim Incapacity Benefit but for a lack of NI contributions receive Income Support. DWP data (IS2.7) indicates that claimants for Income Support with a disability premium have risen from 0.81m in February 1997 to reach 1.12m in February 2005.

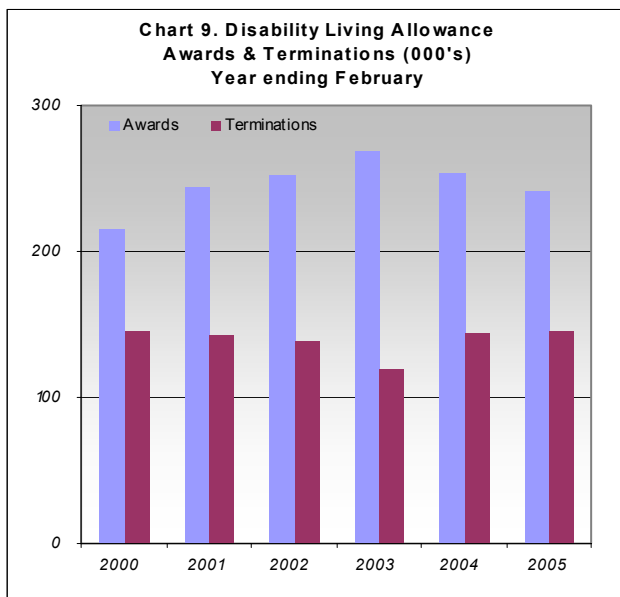
Table 4. Incapacity Benefit by Disability

	Number (000's)	Percent
Mental & Behavioural Disorders	457.4	34.9
Musculoskeletal System	355.9	27.1
Circulatory System	123.7	9.4
Injury, poisoning	95.2	7.3
Nervous System	91.9	7.0
Respiratory System	40.4	3.1
Neoplasms	25.4	1.9
Digestive System	24.5	1.9
Endocrine, Nutritional & Metabolic Diseases	22.3	1.7
Health Status & Health Services factors	17.7	1.3
Genitourinary System	11.2	0.9
Certain Infectious & Parasitic Diseases	10.6	0.8
Eye & Adnexa	10.4	0.8
Skin	10.1	0.8
Ear & Mastoid Processes	7.4	0.6
Congenital Malformations	4.4	0.3
Blood	2.6	0.2
Pregnancy & Childbirth	1.2	0.1
Symptoms nec	172.6	13.2
Not known	1.9	0.1
TOTAL	1486.8	100.0

DWP Resource Centre IB2.9

Disability Living Allowance (Care and Mobility)

The benefit is paid if help has been needed for three months because of a severe physical or mental illness or disability, or is likely to be needed for at least another six months. Chart 9 indicates that awards have recently declined and terminations risen. Table 5 summarises the split of allowance between care and mobility components.



DWP Resource Centre DLA 1.5

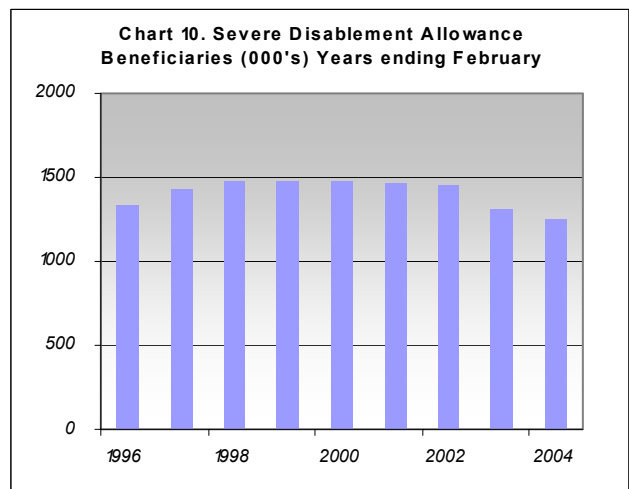
Table 5. DLA by Care Component (000's) February 2005

Care rate only	Higher	40.9
	Middle	108.4
	Lower	207.5
Mobility rate only	Higher	453.8
	Lower	100.7
Higher rate care & Mobility	Higher	418.1
	Lower	127.1
Middle rate care & Mobility	Higher	393.7
	Lower	332.2
Lower rate care & Mobility	Higher	361.3
	Lower	129.4
TOTAL		2673.1

DWP Resource Centre DLA 1.1

Severe Disablement Allowance

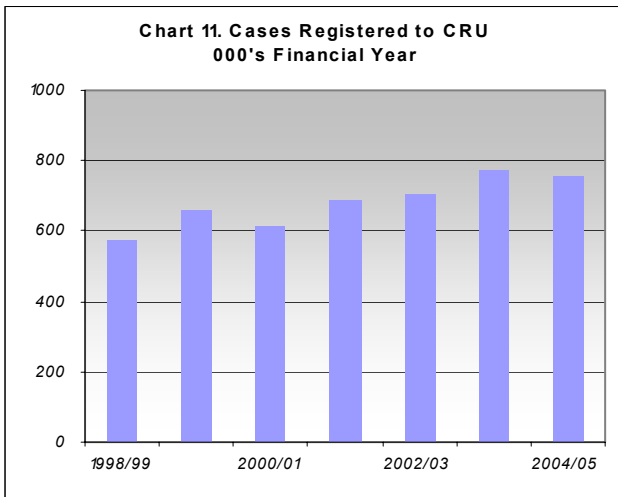
Since April 2001 new claims for Severe Disablement Allowance have been stopped, although if entitlement had been established before that date and a claimant is assessed as being 80% disabled then the benefit continues. Chart 10 confirms the decline in beneficiaries from 2001.



DWP Resource Centre SDA 1.1

Compensation Recovery Unit

Comparison of claims notified to CRU (CRU1's) with the data on road accidents, industrial accidents and diseases indicate that claims are received for most injuries, however slight, except perhaps for under-reporting of industrial diseases. Information of the Department of Health (*Report on Road Traffic Act 1999 for the financial year ending 31.03.01*) indicates that of 394,271 motor claims, 210,451 (53.4%) involved NHS care, but of these only 40,792 required admission to hospital (in-patient treatment). 178,940 (45.4%) claims did not involve NHS care. Chart 11 indicates historical CRU data, covering all CRU claims - motor, employer, public and clinical negligence. Tables 6a and 6b summarise CRU claims and settlements.



DWP Compensation Recovery Unit, Hansard written answers for 24.04.02 (pt 24)

Table 6a. Cases Registered to CRU

	2003/04	2004/05
<i>Motor</i>	374761	402924
<i>Employer Accidents</i>	79286	77765
<i>Employer Disease</i>	211924	175737
<i>Total Employer</i>	291210	253502
<i>Public</i>	91453	87247
<i>Clinical Negligence</i>	7121	7205
<i>Other</i>	5698	4997
<i>Total</i>	770243	755875

Table 6b. Settlements Recorded by CRU

	2003/04	2004/05
<i>Motor</i>	443632	445594
<i>Employer</i>	215733	254759
<i>Public</i>	119850	128879
<i>Clinical Negligence</i>	10878	11964
<i>Other</i>	3738	4253
<i>Total</i>	793831	845449

DWP CRU

In terms of the number of claims per annum, the clinical negligence sector is relatively small—the current level of claims in 2004/05 of 7205 representing only 0.95% of all CRU claims. This is lower than the 1.3—1.7% range highlighted in the DOH consultation paper by the Chief Medical Officer entitled “Making Amends” (June 2003, Page 59).

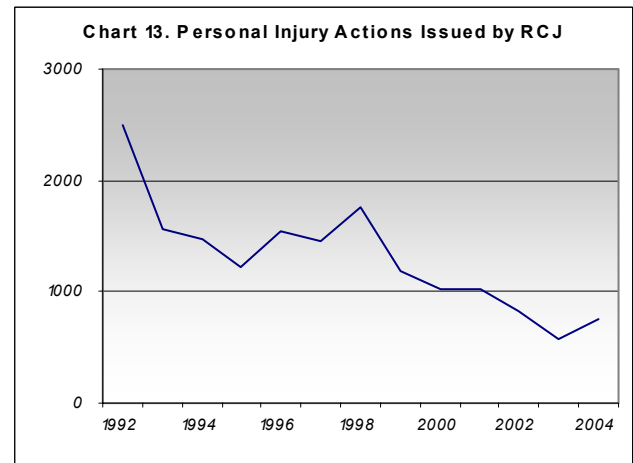
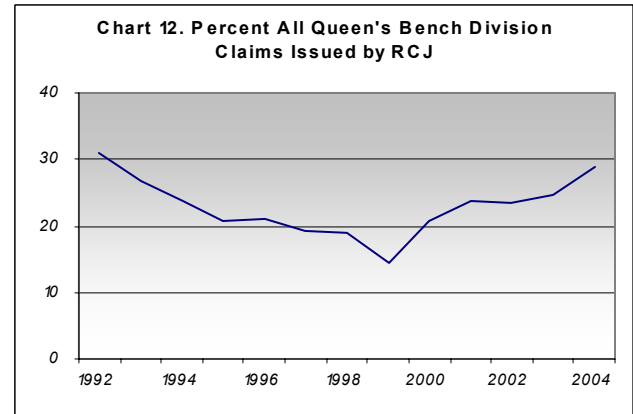
In terms of value, however, average case size is high, and the sector is of course significantly effected by cases for cerebral palsy. The report of the CMO referred to above indicates that while these account for just over 5% of clinical negligence cases in which damages were paid, they incurred 60% of all expenditure on medical litigation.

Judicial Statistics

Personal injury claims occur at both High Court and County Court level, the former for higher value claims and the latter for lower value claims.

Queen's Bench Division

Data of proceedings started is currently published only for claims lodged with the Royal Courts of Justice and not with District Registries. Chart 12 shows the proportion of all Queen's Bench Division claims taking place at the Royal Courts of Justice, and Chart 13 shows the number of personal injury actions issued by RCJ.



Judicial Statistics Tables 3.1, 3.2

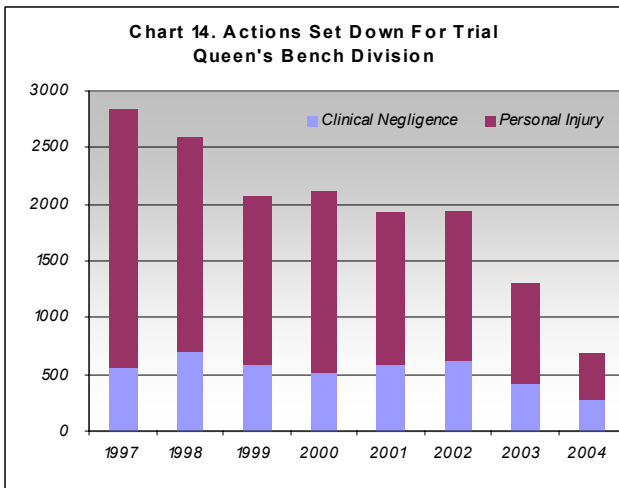
Currently about 29% of all Queen's Bench Division claims are lodged with RCJ. If this spread were applied to personal injury claims, then it might be expected that the 749 personal injury actions issued in 2004 at RCJ might translate to about 2590 claims for the whole of the High Court. There are no published statistics to back up this estimate however. Table 7 sets out actual claims at the RCJ in 2004 by size.

Table 7. Queen's Bench Division Proceedings started at RCJ 2004

	Personal Injury	Clinical Negligence
<i>£15,000—£50,000</i>	34	12
<i>> £50,000</i>	110	57
<i>Unliquidated</i>	605	315
<i>Total</i>	749	384

Judicial Statistics Table 3.2

The trend of actions set down for trial is shown at chart 14.



Judicial Statistics Tables 3.4 & 3.5

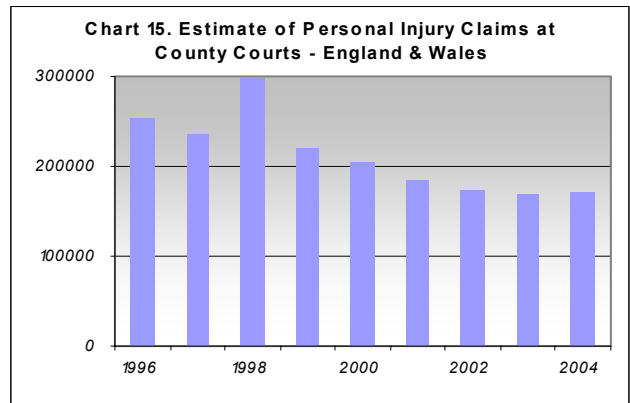
County Court

No figures are published relating to personal injury claims issued at County Courts in England & Wales. In 1999 the writer enquired of the Court Service concerning summons issued in the three years 1996-1998, prior to the introduction of the Civil Procedure Rules. An average for the three years was about 12.5% of money claims (the latter are tabulated at table 4.1 of Judicial Statistics). It is well-known however that since the introduction of CPS claims have declined, and it would not be unreasonable to assume that personal injury claims have declined at least in proportion to money claims.

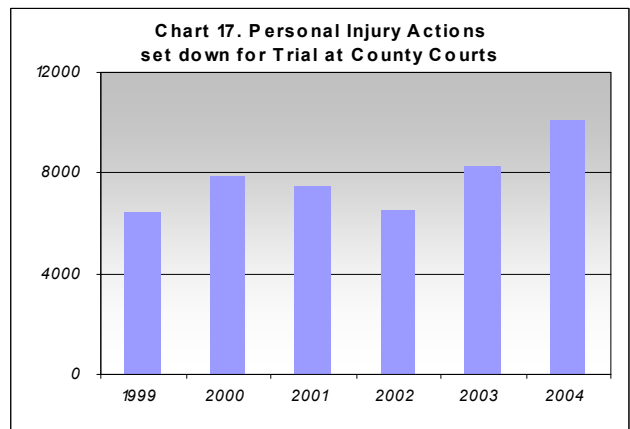
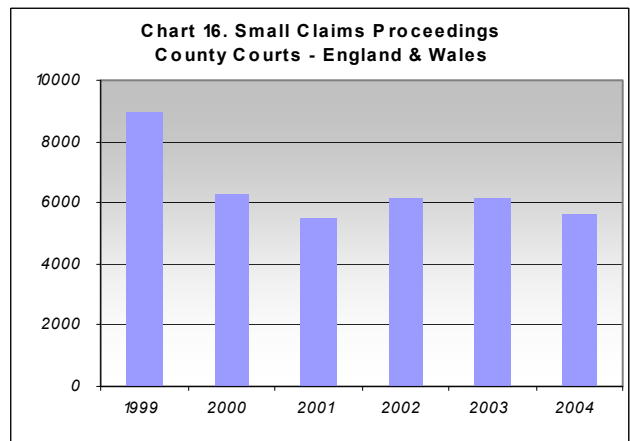
Chart 15 is an estimate of personal injury claims issued at County Courts on the basis of samples for years 1996-1998 and 12.5% of money claims for 1999 onwards. The estimate of personal injury claims at County Court is however significantly below the level of claims notified to the Compensation Recovery Unit.

Without the benefit of actual samples for the years 1999—2004, however, there are no means to determine the accuracy of the estimate in chart 15, and additional research is to be welcomed in this area.

Charts 16 and 17 set out small claims proceedings, and actions set down for trial at County Courts. Given the time elapsing between issue of claims and trials, and an imprecise estimate of the trend and size of claims it is not possible to comment on the trends of small claims and trials.

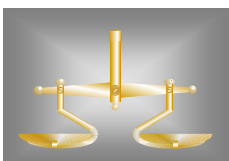


VOCAT International Estimate & Judicial Statistics Table 4.1



Judicial Statistics Tables 4.8 & 4.13

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