



# Challenging Authority

## Does Litigation Improve Public Services?



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### Background

Citizen redress, access to justice, and the impact of litigation on the quality of public services are central issues in public service performance. Does litigation provide a spur to better performance or does it detract from key elements of performance by the costs and demands on management time that it involves?

Judicial review enables people to challenge public authorities in the courts.

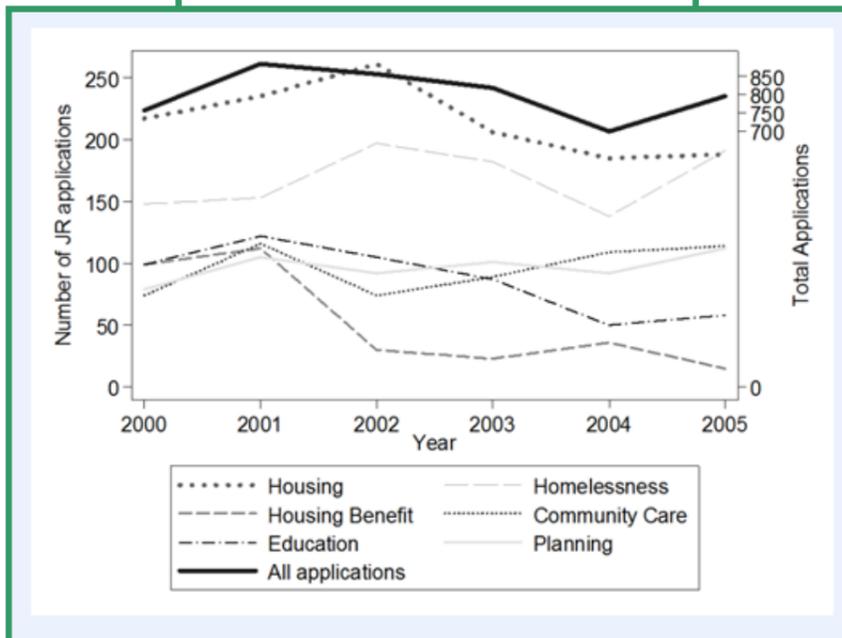
The growth in the use of judicial review in England and Wales and some high profile politically contentious judicial decisions has stimulated debate about the relationship between government and the courts in delivering public policy.

But there is little systematic evidence on the relationship between judicial review and performance.

### What We Did

We used a mixed-methods approach with three main elements:

- ❖ We constructed and analysed a data set of judicial review litigation against all local authorities in England & Wales within the period 2000-2005, its distribution, coverage, and relationship with performance ratings of the local authorities, as well as with their population characteristics;
- ❖ We interviewed and analysed the responses of officers at different levels and in different service areas in selected local authorities;
- ❖ We identified and analysed specific 'key' judgments and their impact.



**Figure 1**  
Judicial Review challenges against local authorities 2000-2005, by type

### Aims

Our basic research question was whether judicial review litigation leads to improvements in the quality of services provided by local authorities in England & Wales.

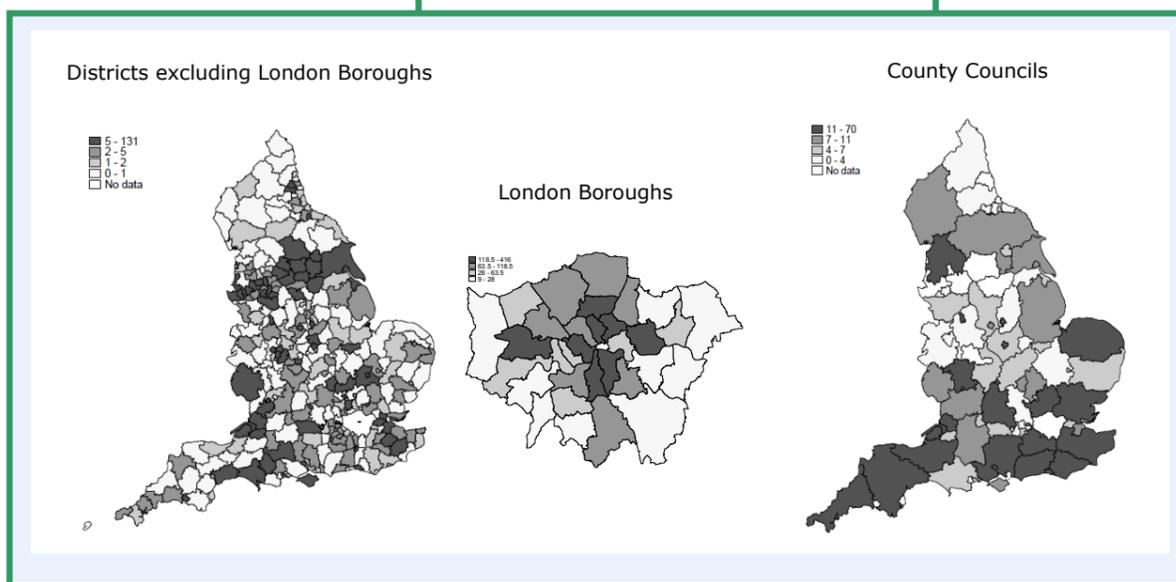
Our specific aims were to ascertain:

- ❖ the scale and scope of judicial review litigation against local authorities,
- ❖ how authorities responded to challenges and to judgments; and
- ❖ how particular court decisions influenced the quality of public services.

### Findings

We found that:

- ❖ 20% of authorities attracted 80% of the challenges and that the vast majority of authorities experienced two or fewer challenges a year; with most of the highly challenged authorities being in London;
- ❖ litigation and CPA performance ratings are closely connected. Other things being equal, authorities performing less well in CPA terms faced higher levels of challenge than those which perform better; but an increase in challenge tended to lead to improvements in CPA scores;
- ❖ interview respondents saw judicial review as having a bearing on the public reputation of authorities; they perceived that it could help clarify legal duties, and could give new legitimacy to the claims of marginalised groups.



Distribution of judicial review challenges across England by type of local authority

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