

<b>Title: Alignment of the Fees for Online and Paper Civil Money and Possession Claims</b> <b>IA No: MOJ072-R/2020</b>  <b>RPC Reference No: N/A</b> <b>Lead department or agency: Ministry of Justice (MoJ)</b> <b>Other departments or agencies: HM Courts and Tribunals Service (HMCTS)</b>	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 05/02/20			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Secondary legislation			
<b>Contact for enquiries:</b> mojfeepolicy@justice.gov.uk				
<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> RPC Opinion Status	

Cost of Preferred (or more likely) Option (in 2021/22 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
£0m	£0m	£0m	Not a regulatory provision

**What is the problem under consideration? Why is government action or intervention necessary?**

Court users are charged fees for claims brought before the civil courts. In some cases (under section 180 of the Anti-Social Behaviour, Crime and Policing Act 2014) fees can be higher than the cost of the service to HMCTS (enhanced fees). In the case of the enhanced fees considered in this IA, online claims are currently subject to fees set at lower levels than the equivalent paper fees. This discount was initially applied to incentivise the use of the online service. The online discount is no longer necessary as it has become the most common route by which claims are lodged. Aligning the fees at the higher level would further contribute to funding the costs of HMCTS, thus reducing the reliance on general taxpayers. Government intervention is required because it is the Government that sets the level of these fees.

**What are the policy objectives of the action or intervention and the intended effects?**

The policy objective is to align online and paper civil money claim fees at the current level of the paper fees. The intended effect is to remove any differences between court users who issue claims via different platforms and to contribute to funding the costs of HMCTS.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The following options are considered in this Impact Assessment (IA):

- Option 0: Do Nothing. Maintain the current fee structure.
- Option 1: Align the paper and online civil money claim issue and possession fees at the level of the current paper fees and align online and paper fees for issuing warrants of control at £83.

The Government's preferred option is to implement option 1 as this best meets the policy objectives.

<b>Will the policy be reviewed?</b> It will/will not be reviewed. <b>If applicable, set review date: N/A</b>						
Is this measure likely to impact on international trade and investment?			No			
Are any of these organisations in scope?			Micro No	Small No	Medium No	Large No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A		<b>Non-traded:</b> N/A	

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister: \_\_\_\_\_ Date: \_\_\_\_\_ 05.02.21

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Align the paper and online civil money claim issue and possession fees at the level of the current paper fees and align online and paper fees for issuing warrants of control at £83

## FULL ECONOMIC ASSESSMENT

Price Base Year 21/22	PV Base Year 21/22	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1	£8m	N/A
High		£21m	N/A
Best Estimate		£15m	N/A

### Description and scale of key monetised costs by 'main affected groups'

The best estimate of the ongoing cost to court users from aligning online and paper fees is estimated to be £15m (annual average in 2021/22 prices, in nominal terms, the additional cost is between £9m and £25m p.a. from 2022/23). As this represents a direct transfer from court users to HMCTS it is not included in the NPV.

### Other key non-monetised costs by 'main affected groups'

HMCTS is expected to incur costs from amendments to IT systems, staff guidance and public guidance. There may also be familiarisation and awareness costs incurred by individuals and legal services providers who use the affected court services. These costs are expected to be minor and so have not been monetised.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	1	£8m	N/A
High		£21m	N/A
Best Estimate		£15m	N/A

### Description and scale of key monetised benefits by 'main affected groups'

The ongoing benefit to the MoJ from aligning online and paper fees is estimated to be £15m (annual average in 2021/22 prices, in nominal terms, the additional benefits are between £9m and £25m p.a. from 2022/23). As above, this represents a direct transfer from court users to HMCTS and so is not included in the NPV.

### Other key non-monetised benefits by 'main affected groups'

Removing the online discount will help to simplify the fee structure. This is a benefit to court users for whom the fee structure should be easier to navigate.

Key assumptions/sensitivities/risks	Discount rate (%)
<ul style="list-style-type: none"> <li>We assume that users do not switch from online to paper applications.</li> <li>There may be some change to demand as a result of these fee increases. Because this demand response is uncertain, we have modelled three illustrative scenarios. Under the best estimate, the change in demand is equal to a quarter of the size of the fee increase, for the low estimate the change is 50% and for the high estimate there would be no change. For example, if fees increased by four per cent, demand would fall by one per cent in the best estimate, two per cent in the low estimate and zero in the high estimate.</li> <li>If the demand response differs from the above illustrative assumptions the estimated funding generated would be smaller/greater. If demand is much more price sensitive than the assumptions used, it is possible that this option could lead to a reduction in fee income.</li> <li>Volumes have been assumed to be equal to those of 2018/19, with the exception of 2021/22 where there may still be an ongoing impact from Covid-19. For this reason, a 30% reduction has been applied to volumes in this year only although this impact is very uncertain.</li> <li>As remissions are not widely available via the online service, remissions have not been included in the modelling.</li> <li>The implementation date is assumed to be May 2021.</li> <li>For claims between £10,000 - £100,000, the fees are a percentage of the claim and the weighted average fee paid in 18/19 is used.</li> </ul>	

## BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m: N/A			Score for Business Impact Target (qualifying provisions only) £m: N/A
Costs: N/A	Benefits: N/A	Net: N/A	

# Evidence Base

## A. Background

1. HM Courts and Tribunals Service (HMCTS) delivers a benefit for courts and tribunals users and the general public by providing a place where people can enforce and defend their rights. A large number of people use the services of HMCTS every year. Whether it be disputing parents in a family court, a vulnerable witness to a crime, or someone appealing a benefits decision, people interact with HMCTS at some of the most difficult times in their lives.
2. Fees for civil cases are an important source of funding for courts and tribunals, and a reasonable means of making resources available to secure access to justice. This is because an effective court service needs to be funded appropriately in order to protect access to justice in the longer term. Under s92 of the Courts Act 2003, the Lord Chancellor has the power to prescribe fees which helps to ensure he fulfils his statutory duty to ensure *an efficient and effective* courts system.<sup>1</sup>
3. While many court fees only seek to recover the costs to HMCTS, certain fees such as those subject to the proposal in this Impact Assessment (IA) are set above the cost of service ('enhanced' fees). Such fees can only be set with explicit parliamentary approval following the introduction of the 'enhanced power' provided in s.180 of the Anti-Social Behaviour Crime and Policing Act 2014.
4. Before setting a fee at an enhanced level, the Lord Chancellor must have regard to:
  - a. the financial position of the courts and tribunals including any costs not being met by current fee income; and
  - b. the competitiveness of the legal services market.
5. Money Claims Online (MCOL) is an internet-based service introduced in 2001, which allows both parties to make or respond to a money claim online. The fees for claims issued using MCOL were initially set lower than the fees for the same claim issued on paper in order to incentivise use of the online service. The development of its successor platform, OCMC (Online Civil Money Claim), is currently in the pilot stage, and forms part of the Government's £1bn investment to modernise the courts and tribunals system.
6. The County Court Business Centre (CCBC) handles county court claims for a specified amount of money made through MCOL. It also provides a service for 'bulk users' to electronically file large volumes of county court claims for money. Bulk users tend to be debt purchasing organisations, utility companies, social housing organisations, lenders and local authorities.
7. The Civil Proceedings Fees Order (CPFO) sets issue fees for money claims which are banded according to the value of the claim. Lower issue fees (when compared to the paper route) apply to claims issued online through MCOL (the "MCOL provision") and through the CCBC by bulk users using Secure Data Transfer (SDT) which are also banded by claim value. Claims with a value of £100,000 or more can only be issued on paper. For a comparison of these online and paper issue fees, please see Annex A.
8. In addition to lower issue fees, MCOL and CCBC users pay a lower fee for a warrant of control<sup>2</sup> of £77 compared to £110 for a paper claim. Claimants using the paper route must

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<sup>1</sup> S1(1) Courts Act 2003 – "The Lord Chancellor is under a duty to ensure that there is an efficient and effective system to support the carrying on of the business of the Senior Courts, the Court of Protection, the county court, the family court and magistrates' courts, and that appropriate services are provided for those courts." See also s6A Promissory Oaths Act 1868 and s180(3)(a) of the Anti-Social Behaviour Crime and Policing Act 2014.

<sup>2</sup> A warrant of control asks the court to instruct bailiffs to collect money owed by a debtor and identify the debtor's goods that may be sold.

also pay a £33 fee to re-issue warrants of control at a new address, whereas this fee is waived for CCBC users. Both online and paper users currently pay no fee for the re-issue of a warrant that had been suspended, and this will remain the case under the proposed fee regime. The only other area where online fees are cheaper than paper ones are Possession Claims Online (PCOL) where the online fee for a standard possession order is £325 compared to the paper fee of £355. Conversely County Court Online do not charge lower issue fees for unspecified money claims.

9. A consultation paper, “Alignment of the Fees for Online and Paper Civil Money and Possession Claims” was published on 20 November 2020. It invited comments on the proposals discussed above – that is on the removal of the online discount applied to issue fees for users of the County Court Business Centre (CCBC), Money Claim Online (MCOL), Possession Claim Online (PCOL), and Online Civil Money Claim (OCMC), and the fee discount and exemption which applies to certain enforcement fees.
10. The consultation period closed on 30 December 2020. We received 22 responses, the majority of which came from legal services companies and the third sector. A consultation response has been published alongside this impact assessment.<sup>3</sup>

## **B. Policy Rationale and Objectives**

11. The conventional economic approach to government intervention is based on efficiency or equity arguments. Government may consider intervening if there are strong enough failures in the way markets operate, e.g. monopolies overcharging debtors, or if there are strong enough failures in existing government interventions, e.g. outdated regulations generating inefficiencies. In all cases the proposed intervention should avoid generating a further set of disproportionate costs and distortions. Government may also intervene for reasons of equity (fairness) and for re-distributional reasons (e.g. reallocating resources from one group in society to another).
12. The primary rationale for intervention in this case is efficiency. As noted in paragraph 2, fees are an important source of funding for the courts and tribunals. Aligning specified money claim issue and possession fees at the higher rate will further contribute to funding the costs of HMCTS. The associated policy objective of protecting access to justice in the long term is to have a properly funded justice system supported by a simple and rational fee structure.
13. Having considered responses to the consultation, the Ministry of Justice (MoJ) has decided against aligning the fees for issuing warrants of control at the paper rate of £110 due to the issues that users experience with the enforcement of warrants of control. It has instead been decided that the fee will be aligned at £83 for both online and paper users. This figure has been arrived at by applying an inflationary uplift to the £77 fee, dated to August 2016, when this fee was last changed<sup>4</sup>.

## **C. Description of Options Considered**

14. To meet the policy objectives, the following options are considered in this IA:

- **Option 0 – Do Nothing. Maintain the current fee structure.**
- **Option 1 – Align the paper and online civil money claim issue and possession fees at the level of the current paper fees, and align both online and paper fees for issuing warrants of control at £83**

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<sup>3</sup> The response can be found at <https://consult.justice.gov.uk/>

<sup>4</sup> CPI inflation has been used to inflate the fee. This produces an uplift of 7.7%.

15. Option 1 is the Government's preferred option as it best meets the policy objectives.

### **Option 0**

16. Under the Do Nothing option the current fee structure would remain in place. Therefore, under this option, there would continue to be a difference between fees charged for the online and paper service.

### **Option 1**

17. Under this option, the issue fees for online applications in specified money (MCO, CCBC) and possession claims (PCOL) would be increased to align with the higher non-online fees so that there is a single standard fee for both online and paper claims.

18. Fees to issue a warrant of control will be aligned at £83 for both online and paper users.

19. The current exemption for CCBC users from paying to re-issue a warrant of control would also be removed. The fee will remain at its current level of £33. There will be no change with respect to the exemption for suspension of a warrant (for both paper and online users). The current and proposed fees are set out in **Annex A**.

## **D. Affected Stakeholder Groups, Organisations and Sectors**

20. The options assessed in this IA will primarily affect court users of the services where the fees would change. A list of all the main groups that would be affected is shown below:

- HMCTS users – those who use the services for which fees in Annex A are charged. Such court users include individuals, Local Authorities, and businesses;
- HMCTS – who operate the services;
- Taxpayers – who subsidise HMCTS, as overall HMCTS income falls below its overall costs;
- Legal services providers – who provide services to users of HMCTS;
- MoJ – who sponsor HMCTS (which provides the services for which fees are charged).

## **E. Cost and Benefit Analysis**

21. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.

22. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society might be from the proposals under consideration. IAs place a strong focus on the monetisation of costs and benefits. There are often, however, important impacts which cannot sensibly be monetised. These might be impacts on certain groups of society or data privacy impacts, both positive and negative. Impacts in this IA are therefore interpreted broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.

23. The costs and benefits of each option are compared to option 0, the counterfactual or “do nothing” scenario, where fees are maintained at their current levels. As the counterfactual is

compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).

## Methodology

24. The income estimates in this IA have been calculated using 2018/19 volumes and multiplying these by the increase in the relevant fee, with further sensitivity adjustments for both demand and volumes. All income estimates have been rounded to the nearest £million. The analysis assumes a date of implementation of May 2021.
25. The fee due will still vary with the value of the claim (see Annex A), with claims between £10,000 - £100,000 currently being charged a fee of 4.5% of the value of the claim if made online and 5% if made on paper. Because there will no longer be a difference between these fees under the preferred option, the modelling takes a weighted average of the fees paid in 2018/19 for these claim bands. There is no fee change to claims with a value of £100,000+ as only paper applications are available for these claims.
26. The NPV is calculated over a ten-year period. The fee changes are not included in the overall NPV as they represent a transfer payment between the individuals who use court services and HMCTS.

## Key Assumptions

27. The impacts described in this IA are based on modelling and assumptions. These are described below. The risks associated with these assumptions are described in section F.

## Demand

28. The expected additional funding for HMCTS from option 1 would be dependent on how court users respond to the fee change. Previous research has shown that, for individuals and SMEs (small and medium-sized enterprises), emotional factors often outweigh financial motivations to go court<sup>5</sup>. In such cases, falls in demand are small in relation to the degree to which court fees rise. However, large organisations pursuing multiple claims (which is the case for the bulk user group affected by this fee change) may be more sensitive to the change in fee.
29. A small piece of qualitative research carried out in 2013 included interviews with two debt recovery agencies and six large organisations making debt recovery claims, all of whom handle their litigation in-house<sup>6</sup>. These organisations reported that the main determinant in taking a case to court was whether a claim was likely to be decided in favour of the claimant and whether a judgement could be enforced. In such cases the fee would be recovered from the defendant. Therefore, while bulk court users are financially motivated, the fee is just one factor in the decision to take a case to court. Nonetheless, these organisations did report that a rise in fees could encourage the use of increasingly sophisticated methods to profile customers, ensuring that only the cases with the highest likelihood of success are pursued.
30. Question 6 of the consultation asked about the potential demand response as a result of the proposed alignment of fees. A number of responses indicated that increased fees would lead to a reduction in demand, but were unable to indicate the magnitude of any such decrease.
31. However, as the demand response to a fee increase is uncertain, we have modelled three scenarios with varying illustrative demand responses. In all three scenarios the proportional reduction in volume is less than the proportional change in the fee (inelastic demand) as

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<sup>5</sup> The role of court fees in affecting users' decisions to bring cases to the civil and family courts: a qualitative study of claimants and applicants, 2014. ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299804/role-of-court-fees-in-decisions-to-bring-cases-to-courts.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/299804/role-of-court-fees-in-decisions-to-bring-cases-to-courts.pdf))

<sup>6</sup> Potential Impact of change to court fees on volumes of cases brought to the civil and family courts, 2013. ([https://consult.justice.gov.uk/digital-communications/court-fees-proposals-for-reform/supporting\\_documents/feesresearch.pdf](https://consult.justice.gov.uk/digital-communications/court-fees-proposals-for-reform/supporting_documents/feesresearch.pdf))

while there are possible substitutes to going to court (e.g. mediation), having a court order allows a debt to be enforced once other options have been exhausted and the fee is just one factor is the decision to pursue a case through the courts or tribunals.

32. The high scenario assumes no demand response – that is, that volumes remain at the level of 2018/19 – while the other two model a reduction in demand in proportion to the increase in fees. The central scenario (best estimate) assumes that volumes will fall by 25 per cent of the percentage fee increase, while the low scenario assumes that volumes will fall by 50 per cent. For example, claims filed through MCOL would increase by 14 per cent, which would result in demand changes of: 0%, 3.5% and 7%, under each scenario respectively.
33. Given the lack of evidence on the magnitude of the potential demand response, it is possible that it could be different to any of the illustrative scenarios outlined above. Indeed, it is possible that fee income could fall as a result of a particularly strong negative demand response to the fee increases.
34. As discussed in paragraph **Error! Reference source not found.** below, the estimated income includes demand reductions in all but the high demand scenario.
35. In the case of warrants of control, several respondents to the consultation said that the current offering was largely unsatisfactory due to delays in enforcement and the overall standard of service provided by bailiffs. This was one of the larger increases both proportionately and absolutely, and so the MoJ has decided to apply an increase of 7.7% to the online fee and align the paper fee at this lower level of £83. The 7.7% figure was arrived at by applying CPI inflation to the fee back-dated to August 2016, when this fee was last changed.

### Volumes

36. 2018/19 case volumes have been used as the baseline for the modelling in this IA as this is considered the best predictor of volumes going forwards.
37. However, the number of money and possession claims issued have since been affected by the current pandemic and are still below trend. Civil workload receipts were 77% below their pre-Covid weekly average in April 2020 at the height of the first lockdown and remained 23% below in the four weeks ending 20<sup>th</sup> December<sup>7</sup>. Civil workload receipts have also been affected by the stay on possession claims, which was initially lifted on 20 September 2020, but re-imposed during the subsequent national lockdowns. This, along with the wider economic climate will continue to affect decisions by debt recovery agencies and similar organisations on whether to issue new claims.
38. Therefore, while the number of claims issued are picking up, it is unclear how long it will take for specified money claims and possession claims to return to pre-Covid 19 levels. It is likely that future volumes could be lower than those used here, particularly in the first year of the policy change. Given this uncertainty, we have applied a 30% reduction to the expected volumes in 2021/22 in all three scenarios.

### Control warrant re-issue volumes

39. The re-issue of warrants of control are handled by County Courts and treated the same irrespective of whether they originate from paper or online users. For this reason, the available volume data do not distinguish between these two user groups. Therefore, it has been necessary to use operational estimates to arrive at figures for the split between cases from CCBC and those from the paper route.

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<sup>7</sup> HMCTS Management Information, 14 January 2021. <https://www.gov.uk/government/statistical-data-sets/hmcts-weekly-management-information-during-coronavirus-march-to-december-2020>

40. We have used operational estimates to arrive at a figure for the proportion of CCBC re-issues arising from non-execution of warrants as it these for which the £33 fee will apply under the proposed fee structure. Combining these operational estimates allows us to estimate the total volume of CCBC re-issues that will attract a fee under the new structure.
41. As fees are not automatically up-rated with inflation, the real value of the additional income raised from the fee increase will fall over time. The GDP deflator has been used to calculate the real costs and benefits from the expected additional fee income – that is the income from the fee increase after inflation is accounted for.

### Remissions

42. Remissions (i.e., reductions in fees for certain court users) are not currently available to MCOL or for CCBC users. Under OCMC a Help with Fees (HwF) remissions application can be made retrospectively, although the system is still being set up for Litigants in Person. As most claims for HwF will be via the paper route, remissions have not been included in the analysis. In addition, remissions are not available to businesses who are the primary user group affected by this fee change. Therefore, where total income figures are reported in this IA these are gross estimates before any fee remissions.

### Switch to paper applications

43. We assume that applicants do not switch from using online to paper as a result of removing the online discount. In 2018/19, around 90% of specified money claims were issued online, the majority through the bulk centre which is an online only service. As the online service is now the default platform, we would not expect removing the discount to lead to a switch to paper applications.

### Estimated Fee Income

44. Table 1 gives the nominal annual estimated income from the fees to be changed using the three demand response scenarios described above. As fees do not keep track with inflation the annual average will fall over time when measured in 2021/22 prices. Income estimates are rounded to the nearest £million.
45. For the fee for re-issuing a warrant of control (fee 8.2), the removal of the exemption will cause the fee to rise from zero to £33 for online users. A rise of this nature requires a change to the methodology outlined in paragraph **Error! Reference source not found..** For this fee, the comparison is made between the cost of issuing a warrant of control, and a single re-issue. Under the current fee structure, a CCBC user would pay £77 to issue and nothing to re-issue a warrant. Under the proposed fee structure, they would pay £83 and £33 respectively. Therefore, for the purposes of calculating the demand reduction we have calculated the proportional fee increase using £77 as the current fee and £116 as the new fee. This gives a proportional rise of 51%, and demand responses of a fall in volumes of 13% under the central scenario and 25% under the low demand scenario.
46. Table 1 shows that the impact of implementing all the fee changes outlined in Annex A is expected to generate an additional £9m-£25m per annum (£6m-£16m in 2021/22) depending upon the demand response to the fee change.

**Table 1: Annual nominal estimated income from issue, enforcement and possession fees to be amended**

Net nominal additional income	Year										Average	
	21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31		
Estimated income at current fees	£141m	£219m	£219m	£219m	£219m	£219m	£219m	£219m	£219m	£219m	£219m	£212m



		Estimated additional income										
Demand	Low	£6m	£9m	£9m	£9m	£9m	£9m	£9m	£9m	£9m	£9m	£9m
	Best	£11m	£17m	£17m	£17m	£17m	£17m	£17m	£17m	£17m	£17m	£16m
	High	£16m	£25m	£25m	£25m	£25m	£25m	£25m	£25m	£25m	£25m	£24m

Based on 2018/19 volumes; 2021/22 figures are for 11 months and estimated income includes an illustrative 30% reduction in volumes. Income is before remissions.

47. Table 2 shows the additional income adjusted for expected inflation.

**Table 2: Real value of estimated income from issue, enforcement and possession fees to be amended**

Real value of additional income		Year										Average
		21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	
Estimated income at current fees		£141m	£215m	£210m	£206m	£202m	£197m	£193m	£188m	£184m	£180m	£192m
		Estimated additional income										
Demand scenario	Low	£6m	£9m	£9m	£9m	£9m	£8m	£8m	£8m	£8m	£8m	£8m
	Best	£11m	£17m	£16m	£16m	£16m	£15m	£15m	£15m	£14m	£14m	£15m
	High	£16m	£24m	£24m	£23m	£23m	£22m	£22m	£21m	£21m	£20m	£21m

Based on 2018/19 volumes; 2021/22 figures are for 11 months and estimated income includes an illustrative 30% reduction in volumes. Income is before remissions.

**Option 1: Align the paper and online civil money claim issue and possession fees at the level of the current paper fees and align both online and paper fees for issuing warrants of control at £83**

**Costs of Option 1**

Transitional costs

*HMCTS*

48. HMCTS is expected to incur minor costs from amendments to IT systems, staff guidance and information for the public. There may also be costs related to HMCTS staff having to familiarise themselves with the new fees. These costs are assumed to be negligible and have not been monetised.

*HMCTS users and the providers of legal services*

49. There may be familiarisation and awareness costs incurred by individuals and legal services providers who use the court services where the fees are being changed. These costs have not been monetised, but are expected to be minor.

Ongoing costs

*Users of HMCTS services*

50. The fee changes set out in Annex A is expected to be introduced on 1<sup>st</sup> May 2021. Under the best estimate we estimate that HMCTS service users will see their costs increase by £11m in 2021/22, the first eleven months of the fee change, and £17m per annum after that (averaged over the remaining 9 years of the appraisal period and in 2021/22 prices).

**Benefits of Option 1**

## Transitional Benefits

51. No transitional benefits are expected.

## Ongoing benefits

### *HMCTS & Taxpayers*

52. As a result of the overall fee changes, under the best estimate we estimate that HMCTS will benefit by £11m in 2021/22, the first eleven months of the fee change, and up to £17m per annum after that (averaged over the remaining 9 years of the appraisal period and in 2021/22 prices).

### Users of HMCTS services

53. Removing the online discount will help to simplify the fee structure. This is a benefit to court users for whom the fee structure should be easier to navigate.

### **Net impact of Option 1**

54. HMCTS is expected to incur small transitional costs from implementing the new fee levels. Individuals and legal service providers are expected to incur negligible costs from familiarising themselves with the new fee structure.

55. On an ongoing basis the overall changes in fees are expected to result in an increase in funding for HMCTS of £16m in 2021/22 prices (including the 30 per cent volume reduction applied to 2021/22 income). This benefit to the MoJ will be offset by the cost to HMCTS users, and therefore the ongoing net impact of this option is expected to be minimal.

## **F. Risks and Sensitivity Analysis**

56. As the impacts described in this IA are based on certain assumptions, there are also some associated risks. The biggest risk is that the policy leads to a drop in demand and this has been considered above. However, further work is presented below to assess the sensitivity of volumes changes to estimated income.

### **Volumes**

57. This IA assumes that the volume of both online and paper money claims over the next ten years will be the same as in 2018/19. However, claim volumes are inherently uncertain and the impact of Covid-19 only heightens as well as demonstrates this effect.

58. For this reason, we have used the 2018/19 volumes as they represent the best available indication of possible volumes given normal capacity. To account for the potential impact of Covid-19, we have applied an illustrative reduction of 30% to the estimated volumes in 2021/2022.

59. We have further modelled the impact of demand being 20 per cent lower than 2018/19 volumes, and 20 per cent higher than those volumes to illustrate the sensitivity of the income estimates to any variation in volumes. To do this, we take the volumes for our best estimate scenario and apply a further 20% reduction/increase as appropriate. In 2021/22, this is applied after the 30% reduction in volumes has taken effect. In subsequent years, it is applied directly to the 2018/19 volumes. Table 3 and Table 4 below show the expected income over the appraisal period for each of these scenarios.

**Table 3: Sensitivity to changes in fee volumes - nominal income (central scenario)**

Net nominal additional income		Year										Average	
		21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31		
Volume change on 2018/19	20% reduction	£9m	£14m	£14m	£14m	£14m	£14m	£14m	£14m	£14m	£14m	£14m	£13m
	No change	£11m	£17m	£17m	£17m	£17m	£17m	£17m	£17m	£17m	£17m	£17m	£16m
	20% increase	£13m	£20m	£20m	£20m	£20m	£20m	£20m	£20m	£20m	£20m	£20m	£20m

Based on 2018/19 volumes; 2021/22 figures are for 11 months and estimated income includes an illustrative 30% reduction in volumes. Income is before remissions.

**Table 4: Sensitivity to changes in fee volumes - real value of income (central scenario)**

Real value of additional income (£m)		Year										Average	
		21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31		
Volume change on 2018/19	20% reduction	£9m	£13m	£13m	£13m	£12m	£12m	£12m	£12m	£11m	£11m	£11m	£12m
	No change	£11m	£17m	£16m	£16m	£16m	£15m	£15m	£15m	£14m	£14m	£14m	£15m
	20% increase	£13m	£20m	£20m	£19m	£19m	£18m	£18m	£18m	£18m	£17m	£17m	£18m

Based on 2018/19 volumes; 2021/22 figures are for 11 months and estimated income includes an illustrative 30% reduction in volumes. Income is before remissions.

60. As Table 3 and Table 4 illustrate, raising the level of fees as set out in Annex A is expected to increase funding for HMCTS under all volume scenarios considered above. In real values, average annual additional funding contribution varies between £12m over ten years in the case of volumes being 20 per cent down on 2018/19 levels, to £18m for the case where volumes are 20% above 2018/19 levels. This analysis is based upon the best estimate scenario, which includes a separate demand response from claimants reacting to higher prices.

## G. Wider impacts

### Better Regulation

This measure is not classed as a regulatory provision under the Small Business Enterprise and Employment Act 2015 and so does not score against the department's business impact target.

### Potential implications for trade

61. There are no expected implications for international trade arising from the fee changes.

## H. Enforcement and Implementation

62. All fees are payable in advance of the service being provided. The sanction for non-payment is that the service, where appropriate, will not be provided and the application would not be permitted to proceed. This would continue to apply under the options being considered.

## **I. Monitoring and Evaluation**

63. Statistics on the number of civil claims are routinely collected and published by the MoJ. These will continue to be monitored.

## Annex A: Schedule of online and paper civil money claim fees

The tables below detail the fees affected by our proposals and their respective numbers as set out in the Civil Proceedings Fees Order (CPFO).

### Issue Fees

Fee 1.1 in the CPFO covers paper fees whereas fee 1.2 concerns proceedings in County Court Business Centre (CCBC) cases brought by Centre users or cases brought by Money Claim OnLine (MCOL) users, to recover a sum of money.

Both fees 1.1 and 1.2 are banded according to the value of the claim.

Fee Number (in CPFO)	Value of Claim	Paper form Fee	Online Claim Fee	Proposed Fee
1.1(a) and 1.2(a)	Up to £300	£35	£25	£35
1.1(b) and 1.2(b)	£300.01 to £500	£50	£35	£50
1.1(c) and 1.2(c)	£500.01 to £1,000	£70	£60	£70
1.1(d) and 1.2(d)	£1,000.01 to £1,500	£80	£70	£80
1.1(e) and 1.2(e)	£1,500.01 to £3,000	£115	£105	£115
1.1(f) and 1.2(f)	3,000.01 to £5,000	£205	£185	£205
1.1(g) and 1.2(g)	£5,000.01 to £10,000	£455	£410	£455
1.1(h) and 1.2(h)	£10,000.01 to £100,000*	5% of the claim	4.5% of the claim	5% of the claim

\*Fee 1.1(h) applies to claims which exceed £10,000 but do not exceed £200,000. Online claims can only be made up to the value of £100,000.

### Recovery of Land

Fee Number	Fee Description	Paper Fee	Online Fee (PCOL)	Proposed Fee
1.4	On starting proceedings for the recovery of land: a. in the High Court* b. in the County Court, other than where fee 1.4(c) applies; c. using the Possession Claims Online (PCOL) website.	£355	£325	£355

\*Fee 1.4(a) is not affected by our proposals

### Warrant of Control

Fee Number	Fee Description	Paper Fee	Online Fee (CCBC and MCOL cases)	Proposed Fee
8.1	On an application for or in relation to enforcement of a judgment or order of the County Court or through the County Court, by the issue of a warrant of control against goods	£110	£77	£83

	<p>except a warrant to enforce payment of a fine:</p> <p>a. in CCBC cases, or cases in which a warrant of control is requested in accordance with paragraph 11.2 of Practice Direction 7E to the Civil Procedure Rules (Money Claim Online cases);</p> <p>b. (b) in any other case.</p>			
8.2	<p>On a request for a further attempt at execution of a warrant at a new address following a notice of the reason for non-execution (except a further attempt following suspension and CCBC cases brought by Centre users).</p>	£33	£0	£33