

Equality Impact Assessment Initial Screening - Relevance to Equality Duties

The EIA should be used to identify likely impacts on:

- disability
- race
- sex
- gender reassignment
- age
- religion or belief
- sexual orientation
- pregnancy and maternity
- marriage and civil partnership
- caring responsibilities (usually only for HR polices and change management processes such as back offices)

1. Name of the proposed new or changed legislation, policy, strategy, project or service being assessed.

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| <ul style="list-style-type: none"> • Increase the small claims track limit from £5,000 to £10,000 |
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2. Individual Officer(s) & unit responsible for completing the Equality Impact Assessment.

Rachel Easom - Civil Justice Transformation.
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3. What is the main aim or purpose of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

Aims/objectives	Outcomes
<p>Civil cases are allocated to the small claims track, fast track or multi-track based on features including financial value and case complexity. Currently, the Civil Procedure Rules (CPR) allow judicial discretion to move complex cases into higher value tracks, but not to move simple cases of higher value into lower value tracks.</p> <p>The proposal will increase the small claims threshold, meaning higher value claims will in future fall within the small claims track.</p> <p>Judicial discretion will still apply at the case allocation stage, meaning only cases that can appropriately be dealt with in the small claims track should be treated as a small claim.</p>	<ul style="list-style-type: none"> • Lower court fees charged to court users for the cases that move to the small claims track. • Quicker and simpler processes which need less input from legal services providers. • Improved judicial and court efficiency and reduced costs.

4. What existing sources of information will you use to help you identify the likely equality impacts on different groups of people?

(For example statistics, survey results, complaints analysis, consultation documents, customer feedback, existing briefings, submissions or business reports, comparative policies from external sources and other Government Departments).

As part of our consultation process we invited stakeholders to advise us of any likely adverse impacts and how they may be mitigated. The responses we received from the consultation paper did not, in the main, mention any concern about equalities or diversity impacts from the proposal to increase the small claims track limit from £5,000 to £10,000. Just a couple of respondents raised a concern that this could impact on those who may be vulnerable due to a disability or who have English as a second language.

We anticipate a reduction in court users' court and legal fees from these proposals which may be of particular benefit to those on low incomes. Therefore, information regarding the demographic makeup of low income earners is described below. However, it should be noted that data on the general demographics and income of the population of the UK can only provide a broad indication of the characteristics of possible users of the County Court who are low income earners. It cannot reflect those who have used the courts specifically or who have cases in the small claims track, since court users are not required to provide personal information.

This information has been obtained from the publication "Households Below Average Income (HBAI) 1994/95-2009/10" by the Department for Work and Pensions. This indicates that that in relation to race, disability, marital status and age there is some household income disparity between different groups in the United Kingdom. Key findings are:

30 per cent of disabled working-age adults are in the bottom quintile and 22 per cent are in the second quintile, compared to 18 and 16 per cent respectively for non-disabled working-age adults. In comparison, there are only small differences in the bottom two quintiles between the disabled pensioners and non-disabled pensioners. No adjustment is made to disposable household income to take into account any additional costs that may be incurred due to illness or disability.

For working-age adults there are large differences by ethnic group, with those individuals in households with a White head of household having the lowest proportion in the bottom quintile and those in households with a Pakistani and Bangladeshi head of household having the highest proportion in the bottom quintile. There are also differences by ethnic group for the second quintile but these differences are smaller. There are similar differences by ethnic group for pensioners in the bottom two quintiles.

This shows that 18 per cent of both adult males and females are in the bottom quintile. 18 per cent of adult males are in the second quintile, compared to 20 per cent of adult females. The HBAI analysis aims to measure the living standards of an individual as determined by household income and is based on the assumption that both partners in a couple benefit equally from household income. Research has suggested that, particularly in low-income households, this assumption is not always true as males sometimes benefit at the expense of females from household income. The HBAI analysis by gender could therefore understate differences between males and females.

For those with children there are large differences by age group, with those individuals in households with the head of the family aged under 30 more likely to be in the bottom 2 quintiles. There are similar patterns for those in households without children.

Single people are more likely to be in the bottom two income quintiles.

5. Are there gaps in information that make it difficult or impossible to form an opinion on how your proposals might affect different groups of people? If so what are the gaps in the information and how and when do you plan to collect additional information?

Note this information will help you to identify potential equality stakeholders and specific issues that affect them - essential information if you are planning to consult as you can raise specific issues with particular groups as part of the consultation process. EIAs often pause at this stage while additional information is obtained.

Users of the County Court or High Court are not required to provide personal information about themselves and as such MoJ/HMCS has no data on the protected characteristics of people who use the County Court or High Court. Therefore we do not have any equalities information on those cases we expect to migrate into the small claims track as a result of the proposal.

Due to the limited data available we will be looking at options for monitoring the satisfaction levels of court users (e.g. through exit surveys and HMCTS complaints processes) to help understand the potential equality impacts.

6. Having analysed the initial and additional sources of information including feedback from consultation, is there any evidence that the proposed changes will have a **positive impact** on any of these different groups of people and/or promote equality of opportunity?

Please provide details of who benefits from the positive impacts and the evidence and analysis used to identify them.

The overall thrust of these proposals will be to reduce court fees for claimants and defendants whose cases move to the small claims track, benefiting them in aggregate by between £0 and £1 million per year, with a central estimate of around £0.5 million per year. This reduction in court and legal fees may be of particular benefit to those on low incomes. Therefore, for those who are likely to end up in the small claims track, we anticipate a positive impact on minority ethnic groups, single people, younger age groups, women with caring responsibilities and disabled people, particularly if they are not working as a result of their disability

Claimants and defendants may also benefit if they are able to reach case resolution quicker as a result of the proposal, given cases in the small claims track typically take less time to be resolved. Claimants and defendants may also benefit from shorter hearing times as on average small claims hearings last around 80 minutes whilst the fast track hearing average is nearly four hours.

7. Is there any feedback or evidence that additional work could be done to promote equality of opportunity?

If the answer is yes, please provide details of whether or not you plan to undertake this work. If not, please say why.

No, the feedback from consultation did not suggest that additional work should be undertaken.

8. Is there any evidence that proposed changes will have **an adverse equality impact** on any of these different groups of people?

Please provide details of who the proposals affect what the adverse impacts are and the evidence and analysis used to identify them.

All court users involved in claims up to £10,000 will be affected by these proposals. HMCTS has no records of equality concerns raised on the handling of cases which can be attributed to its track allocation.

However, the consultation responses raised a couple of concerns about the likely impact on those who may be vulnerable due to a disability or who have English as a second language. Such groups may be disproportionately affected by the proposals if they are more likely to seek representation, given that some legal costs may no longer be recoverable (compared to the fast track process) for winning parties.

Overall, in balance with Box 6 above, we consider the proposal to be a proportionate means of achieving a legitimate aim.

9. Is there any evidence that the proposed changes have **no equality impacts**?

Please provide details of the evidence and analysis used to reach the conclusion that the proposed changes have no impact on any of these different groups of people.

There is no evidence that the proposed changes will have a neutral impact on equality issues. Instead, it is anticipated that the proposals will be particularly beneficial to people on low incomes as a result of the lower court and legal fees in the small claims track.

10. Is a full Equality Impact Assessment Required? Yes No

If you answered 'No', please explain below why not?

NOTE - You will need to complete a full EIA if:

- the proposals are likely to have equality impacts and you will need to provide details about how the impacts will be mitigated or justified
- there are likely to be equality impacts plus negative public opinion or media coverage about the proposed changes
- you have missed an opportunity to promote equality of opportunity and need to provide further details of action that can be taken to remedy this

If your proposed new or changed legislation, policy, strategy, project or service involves an Information and Communication Technology (ICT) system and you have identified equality impacts of that system, a focused full EIA for ICT specific impacts should be completed. The ICT Specific Impacts template is available from MoJ ICT or can be downloaded from the Intranet at: <http://intranet.justice.gsi.gov.uk/justice/equdiv/equal-impact.htm>, and should be referenced here.

Whilst a couple of responses to the consultation felt that there may be some adverse equality impacts for those with a disability, or for those to whom English is not a first language, others felt that the most vulnerable will have difficulties whatever the threshold. The overall thrust of these proposals will be to reduce court fees for claimants and defendants whose cases move to the small claims track, which would be of particular benefit to those on low incomes. This would include people from minority ethnic groups, single people, younger age groups, women with caring responsibilities and disabled people, particularly if they are not working as a result of their disability.. We will be looking at ways of monitoring the satisfaction levels of court users.

11. Even if a full EIA is not required, you are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality

impacts. Please provide details of how you will monitor evaluate or review your proposals and when the review will take place.

A Post Implementation Review will be undertaken 3 to 5 years after the implementation of the proposals during which time we will be able to evaluate any further unexpected equality impacts. The Review will include consultation with equality groups, user insight through court surveys and monitoring HMCTS complaints processes.
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12. Name of Senior Manager and date approved

You should now complete a brief summary (if possible, in less than 50 words) setting out which policy, legislation or service the EIA relates to, how you assessed it, a summary of the results of consultation, a summary of the impacts (positive and negative) and, any decisions made, actions taken or improvements implemented as a result of the EIA. The summary will be published on the external MoJ website.
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This EIA relates to the proposal to increase the small claims track limit, as contained in the consultation paper 'Solving Disputes in the County Courts; creating a simpler, quicker and more proportionate system' policy. Court users are expected to benefit from lower court and legal fees (of particular benefit to people on a low income) and quicker hearings. Available data does not support the likelihood of adverse equalities impacts, therefore a full EIA is not considered necessary.

Name (must be grade 5 or above): Abigail Plenty

Department: Civil Justice & Legal Services Division, Access to Justice Directorate, Justice Policy Group
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Date: 26 January 2012
