

## 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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| <ol style="list-style-type: none"><li>1. A proposal to establish a single County Court for England and Wales;</li><li>2. A proposal to abolish the need for the Lord Chancellor's concurrence to High Court Judges sitting in the County Court.</li></ol> |
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2. Individual officer(s) & Unit responsible for completing the Equality Impact Assessment:

Meg Oghoetuoma Civil Justice and Legal Services
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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?

<b>Aims/objectives</b>	<b>Outcomes</b>
<p>A single County Court would be established meaning that there would be only one County Court exercising jurisdiction over the whole of England and Wales. The single County Court with no geographical jurisdictional boundaries would sit in different centres within various locations providing County Court users with the opportunity to use any County Court.</p> <p>The proposal seeks to:</p> <ul style="list-style-type: none"> <li>• Improve the allocation and transfer of cases between court centres and listing of cases for hearing by a Judge.</li> <li>• Improve the ability to process more administrative work through Business Centres</li> <li>• Provide greater information and choice to court users in the court allocation process.</li> </ul> <p>Under the proposed new arrangements, the requirement for the Lord Chief Justice to seek the concurrence of the Lord Chancellor when permitting High Court Judges to sit in the County Courts would be abolished. Judicial allocation would be the responsibility of the Judiciary without involving the Lord Chancellor.</p> <p>The proposal to abolish the need to seek the Lord Chancellor’s concurrence to High Court Judges sitting in the County Courts seek to:</p> <ul style="list-style-type: none"> <li>• Ensure that High Court Judges are able to sit in the County Court to hear cases quicker.</li> <li>• Provide flexibility in the deployment of High Court judges to the County Court</li> </ul>	<ul style="list-style-type: none"> <li>• To increase the efficiency and effectiveness of the County Court through improved transfers and listing arrangements and a flexible judicial deployment.</li> <li>• Provide better information to court users relating to case allocation decisions.</li> <li>• Better use of judicial and administrative resources in the courts.</li> <li>• Reduced waiting times and delays in the County Courts.</li> <li>• Increased access to justice for court users.</li> </ul>

4. What existing sources of information will you use to help you identify the likely equality 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)*

Users of the County 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.

The proposals were consulted on in the ‘Solving Disputes in the County Court’ consultation paper. This was sent to the Equality and Human Rights Commission and a copy was placed on the MoJ website. The paper posed the following question: ‘Do you have any evidence of equality impacts that have not been identified within the equality impact assessments? If so how could they be mitigated? No response was received from the Equalities Commission, and the feedback from respondents that chose to answer the question did not identify any equality impact on any group in relation to these measures.

However, we recognise that the measure to create a single County Court could result in increased travel times, which might impact on people with a disability and low income earners if their cases are transferred outside of their locality. Information regarding the demographic makeup of low income earners is described below.

Data on the general demographics and income of the population of the UK provides a broad indication of the characteristics of possible users of the County Court who are low income earners. 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 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<sup>1</sup> 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

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<sup>1</sup> Quintiles are income values which divide the population, when ranked by income, into five equal-sized groups.

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.*

We are not aware of any gaps in our information that makes it difficult or impossible to form an opinion on the impact of the proposals on equality issues. The consultation paper invited respondents to highlight any evidence of equality impacts and how they might be mitigated but no evidence in relation to these proposals were highlighted in the responses. We will be monitoring the impacts on the different groups of people, however, due to the limited data available on the protected characteristics of people using the County Court 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 beneficial to County Court users and HMCTS through increased efficiency in the way cases are allocated to the County Courts and transferred between court centres. The proposals will also enhance the administration of the County Courts through HMCTS Business Centres which has been set up to undertake administrative functions, needed to progress County Court money claims, more efficiently than in the courts.

Defendants and claimants should benefit from an improved allocation process which not only considers their preferred choice of court, but also provides information on, and takes into consideration, differences in court waiting times. If defendants and claimants are

willing to travel further, they should be able to benefit from an earlier court hearing. The details of the proposed allocation process are discussed below:

Under the single County Court structure, when a claim is defended, HMCTS will be able to consider the most appropriate court to deal with the claim: it will not be restricted to sending the case to the court closest to the defendant or claimant as now (which depends on the nature of the claim). In some cases, particularly in instances where there are long waiting times, HMCTS will be able to consider whether it would be quicker to hear the case in other nearby courts when initially suggesting a court.

The defendant and claimant would be sent an Allocation Questionnaire informing them of the suggested court at which the case will be heard. Under the proposal this would also include information on waiting times in the suggested court and other nearby courts. Court users would then be able to state their preferred choice of court in the Allocation Questionnaires, which they would be able to do based on better information.

If both parties disagree with the court initially suggested by HMCTS and agree on an alternative court, the case would be transferred to the court preferred by both parties. If there is disagreement between the two parties, the current procedure would continue to apply which, in most cases, gives preference to the defendant's local court. Given that the default court remains the defendant's local court, in the case in which both parties disagree with HMCTS choice of court, this proposal should leave court users no worse off than under the current system.

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.

Responses to the consultation paper did not highlight any potential adverse impact on any of the different equality groups of people.

We recognise that the transfer of cases outside a local court as a result of the removal of geographical boundaries could adversely affect people if their cases are transferred outside of their locality. For example, longer travelling times may lead to additional travel costs which could adversely affect 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).

There is also the potential cost of £40 for court users who request that their case be transferred to a court other than either the defendants local court or the court proposed by HMCTS. However, this application fee also applies to the current transfer procedures. Additionally, we expect the proposal to bring net benefits for these court users given that they will be able to exercise choice in whether or not to accept allocation to a non-local court, offsetting any travel costs with an earlier hearing.

Additionally, we will provide guidance to court staff to ensure that they consider these groups when allocating or transferring a case to another court for listing. In addition, HMCTS will continue to make reasonable adjustments for people with disabilities.

Feedback from the consultation did not suggest that the proposals will have any particular equality impact. Overall, we therefore 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 overall be beneficial to defendants and claimants through increased efficiency in the way cases are allocated to the County Courts and transferred between court centres.

10. Is a full Equality Impact Assessment Required? Yes  No  A full Equality Impact Assessment is not required at this stage.

(If no, please explain 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.

We will provide guidance to staff to ensure that they do not transfer cases outside the local courts of people within the equality groups (unless the individuals prefer this) and that they continue to make reasonable adjustments in line with any existing commitments that HMCTS have made to ensure that people within the protected groups are not disadvantaged. Section B of the current Allocation Questionnaires ask parties whether they have any reasons why the claim should be heard at a particular court and if so why. This section will allow people in the protected groups to cite their disability or any other reason such as low income or unemployment as the reason why the case should be heard in a particular court. Courts will then take these reasons into consideration in deciding the venue for hearing. Also, as specified in box 6, the default court remains the defendant's local court (in the majority of cases in which both parties disagree with HMCTS choice of court) so this proposal should leave court users at least no worse off than under the current system.

11. 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.

We have identified that the proposal to remove geographical jurisdictional boundaries from the County Courts might create difficulties for low income earners (such as minority ethnic groups), those with caring responsibilities and the disabled. To mitigate this, we will provide guidance to staff to ensure that they do not transfer cases outside the local courts for these groups of people, unless they indicate on their Allocation Questionnaire that they would prefer a non-local court. We will be monitoring the customer exit surveys and reviews of complaints received by HMCTS.

A Post Implementation Review will be undertaken 3 to 5 years after the implementation of the proposals during which time we will consult equality groups to evaluate any further unexpected equality impacts.

12. Name of Senior Manager and date approved

The measures set out in this document seeks to improve the efficiency and effectiveness of the County Court with the main objective of providing a civil justice system that is efficient and provides increased access to justice for court users.

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

Department: Civil Justice & Legal Services Division, Access to Justice Directorate, Justice Policy Group

Date: 26 January 2012