



Ministry  
of Justice

# **Court Fees: Proposals for reform**

## Part one consultation response: Cost Recovery

April 2014



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### **Part one consultation response: Cost Recovery**

Presented to Parliament

by the Lord Chancellor and Secretary of State for Justice

by Command of Her Majesty

April 2014



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## Introduction and contact details

This document is the post-consultation report for the consultation paper, Court Fees: Proposals for reform.

It will cover:

- the background to the report;
- a summary of the responses to the report;
- a detailed response to the specific questions raised in the report; and,
- the next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting **Zara Ferjani** at the address below:

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This report is also available on the Ministry's website: <http://www.justice.gov.uk>

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## Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

## Ministerial Foreword



The courts play a crucial role in our society. That is why it is so important that they are properly funded. Last year, we published proposals for reform of court fees which aimed to do precisely that: to place Her Majesty's Courts & Tribunals Service on a sound and sustainable financial footing.

We should not lose sight of the reasons why we need to take action. When we came into office we inherited spending plans that we could not afford. The country was spending beyond its means, and the economy was on its knees. We made clear that our first priority was reducing the fiscal deficit. That has required some tough choices to be made, and that is what we have done.

The evidence shows that the action we have taken is working. The economy is on the mend, and that is good news for everyone. But this is just the start. There is still more to be done to eliminate the deficit, bring spending into line with what we, as a country, can afford, and to ensure that recovery is sound, solid and sustainable over the long term.

Many of the respondents to the consultation did not agree with our proposals for reform. But I am satisfied that we must press ahead. No one could seriously argue that it is right for the taxpayer to continue to subsidise those who use the courts, by underwriting, year after year, unplanned deficits in court income. We need to get on top of this problem once and for all. This Government response sets out how we intend to do that.

In the meantime, we are continuing to look at the case for charging enhanced fees, which exceed the cost of proceedings, in certain circumstances, to reduce further the cost to the taxpayer of operating the courts system. We will be bringing forward our plans for reform in due course.

A handwritten signature in black ink, reading "Shailesh Vara". The signature is written in a cursive style and is underlined with a long horizontal stroke.

**Shailesh Vara**

**Parliamentary Under-Secretary of State, Ministry of Justice**

## Summary

### Introduction and context

1. The consultation *Court Fees: Proposals for reform* opened on 3 December 2013 and closed on 21 January 2014. The consultation was in two parts. Part one, entitled “Cost recovery” set out proposals to recover close to the full cost of the civil court system through fees, transferring more of the cost to the user and reducing the cost to the general taxpayer. Part two, “Enhanced charging”, proposed setting some fees above cost to better reflect the value of those proceedings to the court user.
2. This document sets out the Government’s response to the cost recovery proposals set out in part one of the consultation. A response to the enhanced charging proposals set out in part two of the consultation will be published in due course.

### Why reform is needed

3. The civil court system includes the civil, family and probate jurisdictions, the Court of Protection and the Court of Appeal (Civil Division). For many years, fees have been charged to access these courts. In recent years it has been the Government’s aim that the revenue from court fees should meet the costs of providing the civil courts system, excluding the cost of the remissions system, which provides a full or partial fee waiver for those unable to afford fees. In 2012/2013 the Ministry of Justice recovered only four-fifths of the cost of the civil court system, with a deficit of £125m.<sup>1</sup>
4. At a time when the Government has made reducing the fiscal deficit a top priority, and when the Ministry of Justice is committed to reducing its budget by a third in real terms by 2014/15, it is vital that options for reducing public spending are considered.
5. Under these circumstances, it is right that the Government explores whether those who use the courts and who can afford to pay should make a greater contribution towards their cost, so that nearly all of the cost of the civil courts is met through fees.
6. 162 responses were received to the consultation, some expressing views on both the cost recovery and enhanced charging proposals with others expressing views only on specific parts. A summary of the responses received to the 15 questions relevant to the cost recovery proposals considered in this response can be found at pp 24–39, with a full list of respondents at annex C. Responses were received from a wide range of bodies including from legal practitioners, court users, their representative bodies (e.g. the Law Society and Civil Court Users Association), charities, local government, and members of the public.
7. Although the consultation did not specifically seek views on the aim of full cost recovery some respondents commented on this. A number of respondents supported in principle the argument that users of the courts should pay for the service they

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<sup>1</sup> Re-stated figure from 2012/13 HMCTS annual accounts using revised costing approach set out in consultation document and updated to 2013/14 prices so as to align with the accompanying Impact Assessment.

receive where they can afford to do so, particularly in the current financial climate. Others repeated their previously stated opposition to the principle of full cost recovery on the basis that an effective court service plays a vital role in a democracy and that it should, at least in part, be funded by the general taxpayer. For example the Senior Judiciary stated that it “*does not support the policy of successive Governments that the justice system should be self financing*”. Many respondents also felt that fee rises could only be justified if matched with improvements to the quality of the service provided.

8. The Government recognises the importance of providing a high quality court service, fit for the twenty-first century and for its users. The reputation of the justice system is second to none and the quality of our judiciary is admired throughout the world.
9. The Government is committed to delivering a more effective, efficient and high performing court system. This is demonstrated by the recent announcement on new investment in the courts and tribunal administration. This one off investment will provide the administration of justice with a sustainable, affordable and fit for purpose infrastructure for the future, whilst simultaneously delivering an efficient and high performing service that meets both the needs and expectations of the public.
10. The Government also recognises the fundamental importance of the courts to the functioning of an effective democracy. It takes very seriously its obligation to ensure that when setting fees in the civil court system, it must ensure that access to the courts must not be denied.<sup>2</sup> As reducing the financial deficit is a top priority difficult choices must be made; so if income cannot be increased from, for example, charging higher fees to those who use the service and can afford to pay, it will be necessary to find savings elsewhere.
11. It is within this context, the Government considers that it is appropriate to ask users of the civil court system to pay fees which meet the cost of the service they receive, where they can afford to do so.

### **The fee remissions system**

12. In the consultation, and in this response, the Government refers to the existing system of fee remissions, which is in place to ensure that those who are unable to afford fees are not denied access to the justice system.
13. Following a public consultation, the fee remission system was amended in October 2013. The system applies across all courts and fee paying tribunals<sup>3</sup> and grants both full and partial remissions, with eligibility for remissions increasing as fee levels rise.<sup>4</sup> As such, the remissions system was designed to operate across a wide range of fee levels, rather than just those in existence at the time it was introduced. For example, those whose income is too high to receive a full remission are required to pay £5 towards their fee for each additional £10 of income they receive above the threshold. So a person earning £100 per month above the threshold would be required to pay £50 towards their court fee, irrespective of whether that fee was £50 or £500.

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<sup>2</sup> See section 92(3) of the Courts Act 2003.

<sup>3</sup> With the exception of the First-tier Tribunal (Immigration and Asylum Chamber).

<sup>4</sup> See the recent Ministry of Justice fee remission consultation and consultation response for more information <https://consult.justice.gov.uk/digital-communications/fee-remissions-court-tribunals>

14. A number of respondents to the consultation have criticised the remissions system, suggesting that it ought to be reviewed in light of the fee changes proposed. The Government considers that it would be premature to review its operation so soon after it was introduced, particularly as it was designed to operate effectively across a wide range of fees. While the Government considers that the remissions system offers the necessary protection for those unable to afford court fees, the effectiveness of the system will be reviewed after it has been in place for twelve months, as stated when it was introduced.

## Research

15. Two pieces of research commissioned by the Ministry of Justice to explore court users and their attitudes to fees were published alongside the consultation paper.<sup>5</sup>
16. Alongside this consultation response we have published a further research report on the role of court fees in the decision-making of individuals and small businesses that use the civil court system to resolve disputes.<sup>6</sup> That research found that most participants felt that existing court fees were affordable, and did not influence their decisions to bring cases to court.
17. Participants were asked about their views on hypothetical changes to court fees. In response many participants reported that the court fee increases tested in the study were affordable and would not have deterred them from bringing their case to court. The hypothetical fee amounts tested were generally higher than or similar to the fees proposed in part one of the consultation, other than for money claims with a value of between £5,000 and £8,000 where the hypothetical fees were slightly lower than the proposed fees.<sup>7</sup> However, some civil claimants making specified money claims reported that they would weigh up whether the likely cost of court proceedings would be worthwhile against the value of the claim they were hoping to recover.
18. A number of respondents commented that the research referred to in the consultation was undertaken on too small a scale to draw any firm conclusions about the attitudes of court users to fees. A number of business users of the bulk centre for money claims suggested that fee increases would be likely to reduce the number of cases that they pursue. This is a result of their decision making being based on an assessment of the likelihood of recovering a debt and whether it would be cost effective to pursue a particular case.
19. We have considered these responses alongside our research. If a case is successful the applicant will be able to transfer the cost of the court fee to the defendant in costs. Given that business users tell us that they will only pursue cases as a last resort and where they are likely to both win their case and recover the debt, we consider that it is reasonable to assume that their behaviour is unlikely to change significantly as they will expect to recover the higher court fee alongside the debt. We have therefore

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<sup>5</sup> See Ministry of Justice (2013) *Potential impact of changes to court fees on volumes of cases brought to the civil and family courts* and Franklyn R, (2013) *Public attitudes to civil and family court fees*, Ministry of Justice.

<sup>6</sup> Pereira I, et al, (2014), *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*, Ministry of Justice.

<sup>7</sup> The hypothetical money claim fee amounts tested in the study were set at approximately 5% of the value of the claim.

modelled the impact of our changes on the assumption that volumes will not change. However, we have also modelled a potential fall in the volume of cases of up to 10%, to show how income would change in the event that volumes do fall (see accompanying Impact Assessment).

## Impact of reforms

20. We have published a revised Impact Assessment alongside this consultation response. Key changes to the Impact Assessment have included; updating the caseload used to predict income to our internal 2014/15 forecast; ensuring all fees are in 2013/14 prices; refining our business impact analysis to include the potential cash flow costs incurred by businesses. We have also expanded our assessment of the impact on small and micro business in response to both comments from the Regulatory Policy Committee and consultation responses. We estimate that the cost recovery proposals will generate an additional £105m per annum in fee income.
21. We have also assessed the equality impact of the proposals in accordance with our obligations under the Equality Act 2010, taking into account the responses received to the consultation. An equalities statement can be found at annex B.

## The proposals

22. The fee levels set out in the consultation document were stated in 2012/13 prices. In estimating the cost of the civil court system in 2014/15, we have used the actual costs of the system in 2012/13 (the most recently available figures) as our starting point. While HM Courts & Tribunals Service have reduced costs in some areas, we estimate that the total cost of the civil court system is likely to increase to a small extent, taking into account inflationary pressures and caseload trends. We have therefore uplifted the 2012/13 actual costs of the civil court system by the consumer price index rate of inflation rate for 2013/14 of 2.7% to try to ensure that the Government's objective of cost recovery is met. As a consequence, it has been necessary to adjust some of the fees, which were in 2012/13 prices to 2013/14 prices, to reflect this change in the cost base. We will keep our cost base under review to ensure that fee levels continue to reflect costs.
23. The Government's intended approach to each of the proposals contained in the consultation is set out below. Annex A provides a full list of fees that will be charged following this consultation response.

## A unified approach to fees

24. The consultation set out that, in assessing costs for the purpose of setting fees, the Government had reviewed its accounting policies for the first time in 10 years. The revised approach brings two significant changes to the way in which fees are calculated. First, we have moved away from considering the costs of the family, probate, and civil courts separately for the purpose of setting fees. This reflects the fact that many administrative processes, courts and other activities are shared between the jurisdictions and will increasingly be so in the future, thus making such distinctions increasing artificial. Therefore, in setting fees we have grouped the costs of similar activities (e.g. issuing a case) across jurisdictions, rather than within each jurisdiction.

25. Second, we have changed the way in which we assess the cost of a particular process. The cost of any court process can be divided into two categories: the direct costs of a case, e.g. administrative and judicial time spent on that case; and, the indirect costs, e.g. the costs of providing court and administrative buildings, IT, management etc. Our previous costing system allocated both direct and indirect costs by the amount of administrative and judicial time taken by a particular type of case. So, for example, cases which required more judicial time were allocated a significantly higher proportion of IT and headquarter costs than those which required less, despite the fact that such costs were unlikely to increase proportionately to the time a case takes. Our new approach continues to allocate the direct judicial and administrative costs by the time a particular type of case takes, but takes a simpler approach to allocating the indirect costs such as IT and estates, so that they are divided equally among all cases entering the system. This approach is intended to ensure that all users contribute equally to the costs of running the courts, while paying more according to the amount of judicial and administrative time their case type or stage takes.
26. Although the consultation did not specifically seek views on the change to the way in which we calculate costs, a number of respondent, especially those who represent users of the civil, as opposed to the family courts, objected to the change in costing approach. The objections received referred to the 2012/13 HM Courts & Tribunals Service's annual accounts which showed that fees charged in civil cases recovered 100% of their costs whereas family fees only recovered 50%.<sup>8</sup> They therefore considered that any increase to civil fees could not be justified, as, based on those accounts, the income could only be used to subsidise the shortfall in the family courts.
27. The Government does not agree with this assessment. The change in methodology sees baseline costs change, so that areas of activity under the old methodology that may have previously been recovering their full cost may no longer do so under the new one, as costs have shifted. It therefore deems that the change in costing approach and the resulting fee changes are justified. Under any fee charging system it is necessary to group together the cost of a number of specific processes and overheads to give an average cost for the purpose of setting a fee. Under the new system similar activities across a range of jurisdictions have been grouped together to give an average cost, rather than being grouped together within their jurisdiction. Where processes and activities are similar, the government considers it appropriate to group together costs, particularly when trying to simplify the fee charging process.
28. When allocating costs to activities, some, such as judicial and administrative time, are more easily allocated to specific types of activities or processes. Others, such as the costs of running and maintaining the court estate are more complex to allocate. It is, of course, arguable that a case which has a long hearing should attract more of the estate related costs because they spend more time physically in a court. However, a case which has little or no time before a judge still incurs estate costs as it needs to be processed and administered in a court or administrative building. Therefore estate costs are not just allocated by reference to the time a case spends before a judge.

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<sup>8</sup> HM Courts & Tribunals Service Annual Report and Accounts, page 24, Income; HM Courts & Tribunals Service Annual Report and Accounts, page 86, Fees and Charges.

29. In order for any case to be effective, it relies on the existence of a fully effective court system, therefore all users benefit from the whole court infrastructure, even if their case is resolved quickly. In other areas, IT and management overheads are very unlikely to increase in proportion to the length of time a case takes therefore it is arguable that costs should not be apportioned in this way. The Government considers that, although there are many ways in which costs could be divided, its new approach to apportioning costs is appropriate as it ensures that all court users make a fair contribution towards the indirect costs of running the courts, while better reflecting the way the courts operate today and will operate in future.
30. The result of the change in costing methodology is that more of the indirect costs of the system (IT, estates etc) now fall onto all of those who issue a case, resulting in an increase in the issue cost in many types of cases, including civil and probate cases. Under cost recovery proposals, fee increases in those areas are necessary to meet these increased costs.

### **Introduction of a single issue fee for non-money cases**

31. The consultation paper invited views on the introduction of a generic issue fee of £270 for all non-money cases to create a simpler fee structure. This fee reflects the fact that the process of issuing a case is a generic one across the civil court system and has been calculated as the average cost of issuing a non-money case in the County and Family Courts. This fee will be £280 in 2013/14 prices, with a 10% reduction for online claims. It was proposed to charge the fee in all cases with the exception of certain types of family law cases (see paragraph 49 for further details) and in insolvency debtor petitions.
32. A majority of respondents expressing a firm view on this proposition were in favour the principle of a single issue fee for non-money cases as it was logical and would be easier for court users to understand. Some reservations about the extent of the fee increase in certain types of cases, particularly in relation to possession claims (for rent or mortgage arrears), which are currently £100, were made, with particular note that such cases are often brought by social landlords. Others objected on the basis that they were opposed in principle to grouping civil and family fees together for the purpose of setting fees.
33. Having carefully considered the comments made, the Government has decided to press ahead with the change. Although it is recognised that in some instances the fee rise is high, it considers that the benefits brought by a simplified approach with a fee which reflects the average cost of issuing such proceedings justifies the change. Fee remissions will be available for those with low capital and income and in cases such as possession claims, it is expected that the court fees would be passed on to the debtor as part of any cost award.
34. The fact that higher fees would be passed on to the debtor was highlighted in some responses, with concern expressed that this would simply increase their debt burden. The Government considers that it is appropriate to recover the cost of these proceedings through fees and as such it is unavoidable that the higher fees will be transferred to the losing party in the form of costs. If a creditor incurs those costs through being forced to pursue a case to the courts, it is just that they should be expected to be met by the debtor.

## Money claims

35. The consultation proposed increases to money claims with a value over £1,500 so that the total income from all money claims issued equals their full cost. The consultation also stated the intention to retain the current tiered fee structure which charges more to issue a higher value claim than one of low value. This approach ensures that the fees charged for the smaller claims do not exceed the value of the claim and therefore deny access to justice. The consultation also proposed that fees for online and bulk applications should be the same so that they both offer a 10% discount over paper applications. The latter proposal would result in fee increases for all bulk applications to online levels reflecting the fact that they are to be processed via online channels in future.
36. Most respondents who answered the question supported the continuation of the 10% discount for online applications and the decision not to increase fees for low value claims so that they remained accessible. They also supported the retention of a tiered fee structure so that the fees for lower value claims remained affordable. Those who supported the changes also noted that it would provide more simplicity in the fee structure and that the fees could encourage users to consider resolving their disputes outside the court process.
37. Users of the bulk centre and their representative bodies opposed increasing bulk fees to online levels, suggesting that higher fees would result in a reduction in volumes as more claims would not be cost effective to pursue. As set out in paragraphs 14–18 above, the research we have conducted to date suggests that business users generally bring claims based on assessment of the cost effectiveness of recovering the debt, and also on the likelihood of the debt being recovered. As 77% of bulk centre claims fall in the lower value bands (below £1,500) and as we have sought to minimise fee rises for the lowest value claims (increase of £10 or less) we would expect the impact on volumes to be minimal. However we have modelled a fall in volumes in our sensitivity analysis in the Impact Assessment accompanying this consultation.
38. Some respondents who objected to the fee changes proposed for money claims appear to have provided their answer in consideration of both the increases proposed to achieve cost recovery and the more substantial increases proposed under the enhanced charging proposals. It is therefore difficult to assess to what extent their comments apply to the smaller increases proposed under cost recovery. A number of respondents noted that the higher fees would be transferred to the losing party as higher cost awards, which ran contrary to the drive to reduce costs in civil proceedings.
39. Having considered carefully the points raised in the consultation responses, the Government has decided to press ahead with the fee rises proposed. All money fees will also be updated to 2013/14 prices. The table below sets out the fees that will be charged. The Government consider that fees remain relatively modest in comparison to the value of the claim being pursued and the tiered fee structure has been calculated so that it enables the full cost of money claims to be recovered whilst ensuring that the fee for lower value claims does not exceed the value of the claim. The fees charged also reflect the cost of the allocation process, where a separate fee will no longer be charged, resulting in a saving for many low level claims that proceed beyond the issue stage. Aligning the fees for bulk and online users provides a simpler fee structure and also reflects the move towards online processing of bulk claims.

The Government considers that it is unavoidable that higher fees will be transferred to the losing party in the form of costs. If a creditor incurs those costs through being forced to pursue a case to the courts, it is right that they should be met by the debtor.

	Current			New	
	Paper	Bulk	Online	Paper	Bulk & online
Does not exceed £300	£35	£15	£25	£35	£25
Exceeds £300 but does not exceed £500	£50	£30	£35	£50	£35
Exceeds £500 but does not exceed £1,000	£70	£55	£60	£70	£60
Exceeds £1,000 but does not exceed £1,500	£80	£65	£70	£80	£70
Exceeds £1,500 but does not exceed £3,000	£95	£75	£80	£115	£105
Exceeds £3,000 but does not exceed £5,000	£120	£85	£100	£205	£185
Exceeds £5,000 but does not exceed £15,000	£245	£190	£210	£445	£410
Exceeds £15,000 but does not exceed £50,000	£395	£310	£340	£610	£550
Exceeds £50,000 but does not exceed £100,000	£685	£550	£595	£910	£815
Exceeds £100,000 but does not exceed £150,000	£885	n/a	n/a	£1,115	n/a
Exceeds £150,000 but does not exceed £200,000	£1,080	n/a	n/a	£1,315	n/a
Exceeds £200,000 but does not exceed £250,000	£1,275	n/a	n/a	£1,515	n/a
Exceeds £250,000 but does not exceed £300,000	£1,475	n/a	n/a	£1,720	n/a
Exceeds £300,000, or not limited	£1,670	n/a	n/a	£1,920	n/a

## Post-issue fees

40. At present, additional fees are charged to those who pursue specific types of cases within the civil court system (largely money claims) where their cases proceed beyond the issue stage.

## Allocation and listing fees

41. If a case is contested, a judge must assign it to the appropriate case management track. Users are usually required to complete a directions questionnaire and a fee is usually charged when the questionnaire is submitted. Fees vary according to the complexity of the case and its track (small, fast or multi). Listing fees are charged at the same time as, or close to the hearing fee and covers the cost of the administrative process involved in considering and setting down a case for a hearing.
42. The Government consulted on removing both of these fees to streamline the administrative process, instead including the cost of the allocation process into the issue fee and the cost of the listing process into the hearing fee. Around two thirds of those who expressed a view supported the removal of both fees on the basis that doing so would simplify and reduce the cost of case administration. The minority of respondents who opposed removal of the fee did so on the basis that staged fees encouraged court users to settle early, as impending additional fees caused an applicant to question whether it was appropriate to proceed with the case. Objections were also made by some who were of the view that those who had simple cases would in effect be “subsidising” those whose cases progressed further.
43. Having considered the responses, the Government intends to press ahead with removing both of these fees. Processing fees can be time consuming and incurs costs for both court users and HM Courts & Tribunals Service. Although it is recognised that additional fee points can help users to consider whether they need to continue with their case, the Government is of the view that the simplified fee structure resulting from this change offers the greater overall benefits.

## Hearing Fees

44. At present hearing fees are charged in all civil cases on the small claims, fast and multi tracks. The Government consulted on retaining hearing fees at current levels in small track claims, which are currently below full cost. Increasing to full cost would, in some cases, mean charging more than the value of the claim itself. Most respondents who answered the question supported retaining small claim track hearing fees at current levels, noting that it was important that the fees to recover lower value debts did not exceed the value of the claim and thus enabled access to justice. Of those who argued against the increase, some were in favour of higher fees on the basis that fees should be set at cost.
45. In light of the responses received, the Government intends not to increase small claim track hearing fees at current levels, but will update the fees to 13/14 prices.
46. Following the change in methodology for apportioning costs, the fees currently charged in fast and multi track hearing claims are now above cost. The Government sought views on retaining these fees at their current levels. As retaining these fees at current levels involves charging above cost, the Government has decided that this proposal should be considered alongside the other enhanced charging proposals set out in part two of the consultation. As such, it will announce its intention regarding these fees in the part two consultation response, to be issued in due course.
47. The Government also sought views on whether the current process offering a refund of a hearing fee, where early notice is given that a hearing is not required, should be abolished. This was on the basis that the process is administratively complex and that it was unaware of any evidence that hearing fee refunds encourage early settlement or enable vacated court facilities to be easily re-allocated to other cases.
48. Although some respondents agreed with the proposal on the basis that it would simplify processes and might encourage early settlement, the majority felt that it would be unfair to charge for a service not received and that removal of the refund would discourage parties from settling in advance of a hearing. A number of respondents pointed out that in many courts the hearing fee is requested a significant time in advance of a hearing and that as a result settlement can occur significantly in advance of a hearing but after the fee is paid. A number of respondents suggested that abolishing the hearing fee refund would need to be considered alongside changes to the date on which the fee is requested, so that this is much closer to the hearing.
49. The Government acknowledges the concerns raised by respondents that, if hearing fees are requested early in the process, refunds should be available. It also recognises that as the listing fee is now included in the hearing fee, the courts will have incurred costs several weeks before the hearing, irrespective of whether it is cancelled. In all the circumstances, the Government is minded to remove hearing fee refunds as they are costly to administrate. However, it recognises that before doing so, more work needs to be done to ensure that the hearing fee need not be paid until much closer to the hearing date. If payment of the hearing fee is required shortly before a hearing, the arguments in favour of a refund are significantly reduced as the parties will have had ample opportunity to settle before the fee is due and because the court will have incurred costs in listing and managing the case. As the practice for requesting payment of a hearing fee currently differs across courts, the Government does not propose to remove the hearing fee refund at present. Instead HM Courts &

Tribunals Service will consider how it can best arrange for hearing fees to be paid closer to the hearing date, and will assess whether any procedural rule changes may be required to support the change. Once any necessary operational changes are in place, the Government will proceed to remove the hearing fee refund.

## Family proceedings

### Private law family proceedings

50. Private law family cases include issues such as divorce, child residence and contact orders and ancillary relief cases. As set out at paragraph 30, the cost of issuing a private law family case is £280 as it is classified as a non-money issue. If we were to charge full cost in family cases, we would need to charge the £280 issue fee and a further hearing fee where applicable, likely to be in the region of £940.
51. At present a fee of £215 is charged for most applications under the Children Act for issues such as child residence and contact orders, with a small number of cases charged at £170 or £180. The Government sought views on not increasing these fees to full cost levels, but instead charging £215 for all cases where a fee of £170 or £180 is currently charged. This is to simplify the fees and avoid confusion for court users (see full list of fees at annex A for details).
52. The Government also proposed that the fee of £255 charged in ancillary relief proceedings (financial settlements following divorce) should not increase and sought views on the removal of the £75 which is currently charged for non-molestation and prohibited steps orders, which are often referred to as domestic violence injunctions.
53. The majority of respondents supported the Government's view that it would be inappropriate to increase fees in these family cases to full cost levels, agreeing that such cases are often brought by people going through difficult circumstances, and where the issues can be time consuming and complex to resolve. Strong support was received for the removal of the fee for domestic violence injunctions, which it was considered would provide great assistance to those in times of considerable distress. The standardisation of the £215 fee also received broadly supportive comments, with many agreeing that a less confusing fee structure would be beneficial. A small number of respondents noted that even small fee increases could have an adverse impact. A number of respondents representing civil court users did not support the proposals on the basis that they felt that civil users would be subsidising the family courts. A minority of respondents felt that fee rises should be considered in family law cases so that they better reflect the cost of the service, with one respondent noting that current fee levels were often cheaper than mediation and therefore did not provide the right incentive to resolve issues outside the courts.
54. In light of the support received for these proposals, the Government intends to amend these family fees in line with the consultation proposals. The Government notes the concerns about the impact of even small fee rises, but is confident that the fee remission system will enable those who cannot afford fees to access the justice system. The Government supports the use of mediation and believes that using out of court routes to resolve disputes is preferable where safe and appropriate.

## Public law proceedings

55. The consultation sought views on the reduction of the fee charged in section 31 public law proceedings (care cases brought by local authorities) to a single fee of £2055 (in 13/14 prices). This fee represents the full cost of these proceedings under the new costing methodology and would replace the more complex current fee structure (£3320 issue, £2155 hearing, with a £1360 refund if the case is resolved at an early stage).
56. The change to a simpler single fee and the fee level was widely supported by those who answered the question, with the exception of some civil court users who repeated their objection to the methodology for apportioning costs in response to this question. In light of the support received for this fee change and the administrative advantages it provides both for the courts and for local authorities, the Government will press ahead with the proposed fee.

## Divorce

57. The Government sought views on retaining the fee for a divorce petition at £410, which is above its cost of £280. As retaining this fee at its current level would involve charging above cost, and as part two of the consultation has proposed further increases to this fee, the Government has decided that this proposal falls more properly to be considered alongside the other enhanced charging proposals set out in part two of the consultation. As such, it will announce its intention regarding this fee in the part two consultation response, to be issued in due course.

## General applications

58. General applications are additional processes that can be issued by a court user alongside a case. They are used widely across the civil court system and can be made at any time before or during the course of proceedings. Examples of general applications can include applications from parties to amend pleadings, to file further documents, to set aside judgments, to adjourn proceedings or an application to join additional parties to a case.
59. In line with its aim of simplifying fees as far as possible, the Government sought views on charging the same general application fees across the civil court system including in family proceedings where, in addition to general applications, applications are also made during proceedings under the Children Act. Those applications would currently attract the £215, £170 or £180 Children Act fee. The fees proposed were £50 (increase from £45) for an application made by consent or without notice, which usually do not require a hearing and £150 (from £80) for an application on notice, which usually require a hearing. The latter fee would also apply in Children Act applications made within proceedings. In 2013/14 prices the fees would be £50 and £155.
60. A significant majority of respondents who expressed a view supported the general application fee proposals and in particular the administrative benefits and simplicity brought by a unified fee in all proceedings. Some comments were received about the extent of the increase to the fee for an application on notice. For example, one respondent argued that this fee could be charged for simple applications, such as applications for adjournments to attend a medical appointment, which would be excessive. Applications on notice are charged a higher fee as it is anticipated that

they typically, although not always result in a hearing, and will therefore usually attract higher costs. In the case of the example given, where an application for an adjournment is made on medical grounds the expectation would be that an application could be made by consent and therefore attract the lower fee, if all parties consent to the adjournment. In family proceedings, the question of when an application under the Children Act is made within proceedings and when it constitutes new proceedings was raised as potentially confusing for applicants. The Government will ensure that its guidance for court users is updated to provide clarity on when the general application fee will apply.

61. Given the significant support in response to this proposal, the Government intends to proceed with the changes proposed to general application fees.

## Judicial Review

62. The consultation sought views on increases to the fees charged in judicial review proceedings so that they better reflected the cost of those proceedings, proposing to increase those for an application for permission from £60 to £135 and from £215 to £680 for a hearing or oral renewal, with the hearing fee not charged where an oral renewal application is successful. The fees would be £140 and £700 in 2013/14 prices.
63. The proposals were supported by just under half of those who expressed a firm view on the basis that it was right that the fees should cover the cost of proceedings. Those in support felt that taxpayers should not be subsidising the cost of weak or frivolous claims and considered that the fees would ensure that those bringing judicial reviews had a more proportionate share of the financial risk of the proceedings.
64. Others felt that the proposed level might be too high. Those who opposed the fees were concerned that on their own, or when considered in light of other judicial review reforms<sup>9</sup> they would deter applicants and thus be detrimental to the important function which judicial review provides as a check on the Executive. Of particular concern was the potentially inhibitive effect the proposals could have on judicial review as a key public law route to challenge decisions, noting that judicial review plays an important part in the system of checks and balances on the state and in holding the Executive to account. Some others opposed to the fee increases argued that the fees were too high, particularly for an oral renewal application.
65. The Government has considered the comments provided carefully and agrees that judicial review is an important part of the system of checks and balances, but believes it is right that those who bring claims should bear a proportionate amount of the financial implications of that decision. The Government's view is that the system of remissions will protect access to justice for individuals and believes that the fees proposed will be within the means of other potential claimants, for example, business or charitable organisations. Those whose claim succeeds would expect to recover their costs, including any fee paid from the losing body. However, the Government has noted the concern expressed about the level of the oral renewal fee. In order to

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<sup>9</sup> 'Judicial Review – proposals for further reform: the Government response' (<https://consult.justice.gov.uk/digital-communications/judicial-review>) and 'Judicial Review: proposals for reform – Government response' (<https://consult.justice.gov.uk/digital-communications/judicial-review-reform>).

address those concerns it proposes to charge £350 for an oral renewal, with a further £350 charged if permission is granted and the case proceeds to a hearing. This will mean that those found to have an arguable case will continue to pay no more than had permission been granted in the first instance, while lowering the cost of an oral renewal application.

## Probate

66. Probate is the service whereby the courts give a person or persons the authority to administer a deceased person's estate, where the estate has a value of over £5,000 and does not concern jointly held assets. The consultation sought views on an increase to the fee for an application for grant of probate from £45 to £150, to reflect the cost of the service under the new costing methodology, while keeping the additional personal application fee of £60 the same. The probate fee would be £155 in 2013/14 prices.
67. A number of respondents suggested that higher fees should be charged for higher value estates, in proportion to their value. Several responses were received from probate practitioners, many of whom objected on the basis that the personal probate fee was not rising. They felt that it was unfair that those who used a legal representative, and therefore created less work for the probate registries, should face increases whereas personal applicants would not be paying more. This response misunderstands the proposals. A personal probate applicant pays the probate application fee plus the personal probate application fee. Therefore all applications for probate would be paying the increased fee. Those using a solicitor would pay £155, whereas those making personal applications would pay a total of £215.
68. Some respondents questioned the need for a fee rise when recent annual accounts had shown that probate fees were recovering the cost of the service. Others questioned the justification for fee rises against a perceived decline in the quality of the service provided.
69. The Government has considered the responses carefully. As set out in paragraph 29 the fee change is necessary to recover the costs of the service following the change in costing methodology. The Government has noted the suggestion that probate fees should rise according to the value of the estate, but as one of the objectives of the consultation is to simplify fees, it does not feel that introducing a more complex fee structure aligns with that goal. Many of the objections to the fee rise appear to have been made based on a misunderstanding that personal applicants would not be paying higher fees. In all the circumstances the Government considers that it is appropriate to press ahead with the proposed rise, to ensure that the fees meet cost. Fee remissions are available for those who are unable to afford fees, and in many instances the fees will be met from the estate of the deceased.
70. A response to the consultation also noted that the fee for a copy document of £10, which was set out in annex A of the consultation, was not matched by the probate standing search fee, which is £6. All searches include the provision of a copy of the document, and it was pointed out that if the standing search fee did not match the fee for a copy document users could request a search in order to obtain a copy document at a lower price. The Government considers that having the standing search fee at a lower level to the fee for a copy document would indeed have this unintended consequence and as a result will increase the standing search fee to £10.

71. The Government recognises the need for the courts to continue to review and improve the service they provide. To that end, the Probate Service has changed some of its processes as part of its ongoing modernisation process to meet the changing needs of its customers and in order to look for more efficient ways of working. Following consultation with probate practitioners the service reinstated the sealing of grant copy wills in January 2014. Last year the Probate Service issued 261,000 grants of representation. In total 161,000 of those grants were issued to probate practitioners of which 98.7% were issued within the target of 7 working days. Performance data for personal applications has also remained high at 97.6% issuing within the 8 week target.

### **Court of Appeal (Civil Division)**

72. The consultation paper proposed charging fees for the Court of Appeal at below full-cost levels. The Government set out plans to increase the fees for permission to appeal from £235 to £465 (£480 in 2013/14 prices), and for hearing fees from £465 to £1,090. The Government reasoned that charging fees at their full cost-level (approximately £850 for permission to appeal and £11,230 for a hearing) could discourage some from accessing the Court of Appeal and therefore considered it inappropriate to charge the full costs of these proceedings to those who use it. The Government also proposed to introduce a charge for a renewed application for leave to appeal in Court of Appeal of £1,090 with no further hearing fee charged if leave to appeal is granted.
73. The consultation also sought views on introducing fees for some processes in the Court of Appeal where they are currently not charged. To better reflect the cost to the court service of processing an additional application, applications made with an appellant's notice or by way of an application notice, the Government proposed to introduce a fee of £465 (equal to the fee charged for the permission to appeal). The Government also proposed to introduce the standard fee of £50 or £150 (£155 in 2013/14 prices) for general applications.
74. Approximately forty per cent of respondents offered a firm view on the proposals. There was considerable support for the Government's proposal not to charge full cost for the proceedings. Those respondents who supported the proposed fees noted the current ease in which litigants in person proceed to the Court of Appeal and expressed the view that the fee may discourage unmeritorious claims. Setting the fee at below full-cost recovery while increasing it was also noted amongst some respondents as proportionate and unlikely to affect access to justice compared to the actual full-cost level.
75. A number of respondents expressed the opposing view that the fee levels proposed could discourage appeals and therefore restrict access to justice. Some parties noted that, while they supported the introduction of a fee for a renewed application for leave to appeal, they felt that the £1090 hearing fee was excessive, with the Senior Judiciary suggesting that the fee should be split so that half was paid for a renewed application and the other half if a hearing was granted. Others noted that the proposed fee of £465 for additional applications would be excessive in certain types of cases, for example when an application for an extension of time was made. Other respondents suggested that if the general application fee were to be applied, it would be helpful to be clear about the type of cases that would attract this fee rather than the additional application fee.

76. After careful consideration of all the responses received, the Government has decided to maintain the fee level at below full cost for both applications and hearing fees to the Court of Appeal. The Government has noted the comments received regarding the extent of the proposed fee rise, but believes that the fees proposed for an application for permission and a hearing are proportionate, particularly when compared with the cost of the proceedings. The hearing fee proposed matches that charged for multi-track hearings in the civil courts and the Government can see no reason why significantly more costly Court of Appeal hearings should attract a lower fee. The fee remission scheme will be available for those unable to afford the fee and those with successful claims could expect to recover their fees as part of any cost awards.
77. While the Government considers that the £480 permission fee should be charged for most additional applications, it agrees that this fee would be excessive for applications for extensions of time, and instead proposes to charge the lower general application fees in such cases (see table below). Having taken into account the comments provided, the Government also proposes to charge only half of the hearing fee for a renewed application for leave to appeal (£545) with the remaining half charged if permission is granted. This will ensure that those cases where permission is granted following a renewed application will pay no more than had permission been granted at first instance. Introducing a fee for this process ensures that those who bring such applications think carefully about the merits of their case before doing so.
78. The Government remains of the view that a fee should be charged for general applications made in the Court of Appeal in line with other courts. In order to provide clarity on when the fee would apply, it has sought to define the list of what is considered a general application in the Court of Appeal. Under the new proposals, a fee of £50 will be incurred if the applications (see table below) are without notice or by consent and a fee of £155 will be incurred where an application is made on notice or involves an oral hearing.

	<b>Fee without notice or where the application is made by consent</b>	<b>Fee on notice</b>
Applications to amend the appellant's notice at permission to appeal stage	£50	--
Applications to amend the respondent's notice	£50	£155
Applications to approve consent order	£50	--
Adjournment requests	£50	£155
Request for a hearing before a Master or Deputy Master following the dismissal of a case on the papers	--	£155
Application for extension of time	£50	£155

### **Court of Protection**

79. The Court of Protection is a specialist court which makes specific decisions, or appoints other people to make decisions, on behalf of people who lack the capacity to do so for themselves.

80. The Government sought views on revising the fee-charging structure to reflect the differing levels of complexity in applications made to the court, replacing the single application fee of £400 with a lower fee of £220 for a simple application, (which would generally be dealt with by authorised court officers) but retaining the current fee for other applications (more likely to involve judicial input). It also proposed the extension of the higher application fee to applications made objecting to the registration of Enduring or Lasting Powers of Attorney. Those fees would be £410 and £220 in 2013/14 prices. The £500 hearing fee would be retained in all cases, but the consultation proposed that it should be charged in advance of the hearing to align with practice across all other courts, rather than after the final order as at present. This fee would be £515 in 2013/14 prices. Finally, the consultation proposed that the general application fee be introduced in this court to align with practice across other courts.
81. The proposed lower fee of £220 for simple applications received strong support, with many respondents feeling that this better represented the nature of such cases. A number of respondents highlighted the need to provide a clear definition of a “simple” application to provide clarity for users.
82. The proposal to charge the hearing fee before the hearing also received a favourable response from many who noted the simplicity that this would provide. Those who objected did so on the basis that it may not be until after an order is made by the court that a party has access to the funds to pay the fee, perhaps from the finances of the protected person who is the subject of the case.
83. Those in favour of the proposal to charge fees for objections to the registration of Enduring or Lasting Powers of Attorney noted that the fee would help prevent “fishing” exercises. However, many respondents opposed the fee on the basis that in many instances, an individual may be duty bound to object or intervene in the interests of the protected party and should not face a fee for doing so as this may act against the interests of the vulnerable individuals that the court is there to protect. In a similar vein, although there was some support for general application fees, many expressed a concern about their impact, particularly on litigants in person who may be unfamiliar with court processes and therefore find themselves subject to additional fees during the course of proceedings.
84. The Government is mindful of the fact that the Court of Protection deals with cases involving some of the most vulnerable members of society and the need to ensure that any fee structure does not deter applications that need to be made or that they do not otherwise inhibit the work of the court.
85. In light of the support received, it will press ahead with the introduction of a lower fee for simple applications. The table below sets out how a simple application will be defined in future and therefore which cases will attract the lower fee. It will also introduce the £410 application fee for objections to the registration of Enduring or Lasting Powers of Attorney. While noting the comments regarding the paramount importance of ensuring that concerns are raised to the Court, the Government considers that the availability of the fee remission scheme will mean that those unable to afford fees will still be able to bring a case. This, coupled with the fact that under the current Court of Protection Rules the general rule is that in property and financial affairs matters costs are paid from the protected person’s (P’s) estate will minimise any disincentive not to come to court.

86. The Government will also press ahead in moving the hearing fee payment point to before the hearing on the basis that this fee is often not recovered when requested after the order is made. While many supported this, the Government has noted the concerns about the ability of a person acting on behalf P to find the funds, particularly as they may not have access to P's finances until after an order is made. However, the remissions scheme in the Court of Protection contains special features which enable a remission application to be made either on the basis of P's financial circumstances, or that of the applicant, depending on the type of case being sought. If an applicant is unable to apply on their own details but cannot access P's affairs, they may, instead, apply for a remission under the exceptional circumstances provision. The fee remission scheme in the Court of Protection also enables a fee to be refunded up to three months after the final order, meaning that if a fee would have been granted on the basis of P's circumstances, it can be refunded once the applicant has access to P's financial affairs. Taking all of these factors into account, the Government does not consider that moving this fee charging point will inhibit applications to the court.
87. The Government will also introduce fees for general applications within the court but will only charge the lower £50 fee for all such applications in response to the concerns raised about the introduction of the fee. In response to some of the points raised in the consultation response, we have considered that it would not be appropriate to charge a general application fee in all circumstances. Respondents will be aware of the continuing work relating to transparency in the Court and for this reason it is not considered appropriate to charge a fee for applications relating to hearings under Rules 90, 91 and 92. Neither do we consider it appropriate to charge a fee in relation to applications where P ceases to lack capacity. Paragraph 88 below sets out the specific types of applications where the fee will not be applied.

### **Applications where the £410 would be applicable**

- Application relating to statutory wills codicils settlements and other dealings with P's property (practice direction 9D)
- Applications relating to the registration of lasting powers of attorney
- Applications relating to the registration of enduring powers of attorney
- Applications relating to the use or operation lasting powers of attorney
- Applications relating to the use or operation enduring powers of attorney
- Applications for permission
- Applications relating to P's personal welfare
- Applications made under section 21A of the Mental Capacity Act (Deprivation of Liberty Safeguards)
- All other originating applications
- Appeals against a decision of the court

### **Applications where the £220 fee would be applicable**

88. The simple application fee would be charged in those applications relating to the appointment of a property and affairs deputy, applications where the deputy was applying for additional powers and New Trustee applications. These applications are usually non contentious, do not require judicial time and are dealt with by Authorised Officers of the Court, who are civil servants experienced in Court of Protection matters. Property and Affairs applications account for 94.5% of the court's work.

- Application relating to property and affairs including an application to appoint a deputy for property and affairs
- Application by currently appointed deputy relating to the deputy's powers and duties in connection with making decisions in relation to P's property and affairs
- Applications to appoint or discharge a trustee (practice direction 9G)

### **Part 10 Applications – Applications within proceedings**

89. No general application fee will be charged in the following circumstances:

- Applications relating to Hearings in accordance with Rules 90, 91 or 92 of the Court of Protection Rules
- Applications relating to the transfer of P's property under the control or ownership of another person when 'P' ceases to lack capacity
- Applications relating to the appointment of a litigation friend for 'P' or a protected party
- Applications relating to reconsideration of a court order made without a hearing or without notice to any person

### **Civil Magistrates' Court Fees**

90. The consultation set out that the fees currently charged for civil matters in the Magistrates' Courts were at full cost recovery and did not propose any amendments. No comments were received in relation to Magistrates' fees and the fees will therefore simply be subject to the update to 2013/14 prices.

### **Enforcement**

91. As set out in the consultation, due to ongoing changes in enforcement processes and the fact that some enforcement processes are undertaken by enforcement officers in the criminal courts, the Government will undertake a separate review of the costs of enforcement processes and its fees. Those fees will therefore remain unchanged.

## Next steps

1. The Government intends to introduce the fee changes set out in this consultation response by way of Statutory Instrument under the negative resolution procedure. The SI will be laid to come into force on 22 April 2014, to align with the introduction of the Single Family and County Court.
2. Changes to fees in the Court of Appeal will not be implemented on this date as procedure rule changes are required before their introduction. They will therefore be amended once the necessary rule changes are in place. The Court of Protection fee changes will be also be made after 22 April to ensure that we properly reflect the nuances of the fee changes proposed in the fees order and public guidance. As set out in paragraph 48 above, any change to the system of hearing fee refunds will be implemented at future date.

## Responses to specific questions

A total of 162 responses to the consultation paper were received. Of these, around one third were from solicitors, law firms or barristers, with a further 29 from legal representative bodies. Smaller volumes of responses were received from the judiciary and its representative bodies (12), the voluntary sector (5), the public sector (10), business (6), the mediation and arbitration sector (4) and representative groups (4). A list of respondents is attached at **annex C**.

### **Question 1: What do you consider to be the equality impacts of the proposed fee increases (when supported by a remissions system) on court users who have protected characteristics? Can you provide evidence or sources of information that will help us to understand and assess those impacts?**

***Note – the answers to this question respond to both the cost recovery and the enhanced charging proposals***

1. Of the 162 respondents to the consultation, 76 offered a response to this question with the remaining 86 offering 'No Comment', 'No Answer', or leaving responses blank. Of the 76 responses, 39 believed that either the remission system was not adequate enough to support the proposed fee increases or the increase would inhibit access to justice commenting that:
  - They would inhibit access to justice especially for those who are on the margins of qualifying for remission;
  - Fee increases would prove to be a disincentive to those that struggle to pay the current fees;
  - The remission system is already too complicated to navigate for many users.
2. For example one legal representative body noted:

"The major concern about fee increases is that many people will not be able to afford court proceedings but will not qualify for remissions."
3. A voluntary representative body highlighted:

"The increase in fees, coupled with the impact of the legal aid reforms, will hit people with mental health problems particularly hard [...] These proposals will have a disproportionate impact on people with mental health problems, who are more likely to be living on low incomes."
4. Another legal representative body noted:

"The fee remission scheme is already cumbersome and difficult to comply with especially for those with learning disabilities and no legal aid is available for this type of issue."

5. The following court users with protected characteristics were cited amongst respondents to be negatively impacted by the increase of fees:
  - Those with Mental Health issues;
  - Immigrants;
  - Users on low to medium income;
  - The disabled.
6. Others who commented more positively in relation to the equality impacts noted that:
  - The equality impacts were acceptable;
  - A fair remissions scheme would address any equality impacts;
  - The equality statement correctly identifies the equality impacts of the policy.
7. For example, one association noted:

“It appears that (when supported by a remission system) there should be very little impact on equality for Court users from the proposed Court fee increases.”
8. Another respondent noted:

“We cannot see any equality impacts whatsoever.”
9. With a further noting  

“The [body] cannot see any circumstances in which the proposed fee increases would have any inequality impacts when supported by the fees remissions system”.

**Question 2: Do you agree with the premise of a single issue fee of £270 for non-money cases?**

10. We received 160 responses to this question. 42 respondents agreed with the premise of a single issue fee of £270 for non-money cases. 37 respondents disagreed with the proposal; while 81 offered no firm view. Those in support of the proposals commented that:
  - A single fee would make it clearer to court users, simplify the process and reduce administrative burdens;
  - Having one set fee is much more straightforward and will prevent court staff repeatedly answering questions about fees from court users. The proposals would be appropriate for a standard fee to be charged to reflect shared costs.
11. For example one law firm noted:

“£270 does not seem unreasonable in the circumstances, in particular in light of the need to increase the Courts’ income, and is not so high that it should limit access to justice or encourage parties to litigate in other jurisdictions where a choice of forum applies.”
12. A solicitor noted:

“That it is financially necessary for those using the civil court system to contribute to the cost of the service where they can afford to do so. We also accept that where possible that contribution should be linked with the value of the claim. In a non-

monetary claim however, it is impossible to place a value on the importance of the matter to a claimant. What price can be placed on the importance to a claimant of an application for access to a child, for example? For this reason, we agree that a standard fee for all non-monetary cases is a sensible proposition. Further, we consider the proposed fee of £270 to be appropriate in these circumstances.”

13. A solicitor also noted:

“There appears to be no reason to oppose the proposed single issue fee of £270 for non-money cases. This makes calculation of costs for a Claimant when considering the issue of claims of a non-money nature clear, and would, hopefully, prevent the wrong fee being sent to the Court in error, causing possible waste of Court time and resources in returning the fee and/or Proceedings.”

14. The 37 respondents who disagreed with the proposal argued that:

- The proposal would be a substantial increase from the current fee;
- There should be a scale of fees so that those with more complex or more valuable cases pay more on issue than those with low value cases;
- The proposal could be a potential barrier to access to justice

15. For example, a business representative noted:

“We would argue that the flat £270 fee is excessive for a possession claim. Furthermore we do not believe that a one fee fits all approach is appropriate.”

16. A judge noted that:

“There is a proposal to raise possession claim fees. The current procedure required to secure an order is streamlined and straightforward and there would a real argument that any substantial increase in the fees payable to secure the order would be disproportionate to the actual cost to the court service so as to amount to a penalty. Increasing fees for rent possession claims would have a serious effect on social landlords who bring the overwhelming majority of such claims. Increased fees will also increase both public and private landlords’ losses since most proceedings are brought for rent arrears.”

17. A voluntary body noted:

“We do not agree with a standard issue fee at full cost as this has a proportionate effect on our beneficiaries who are more likely to be on low incomes and who may wish for example to apply for orders for reasonable adjustments and declarations in disability discrimination claims but will not necessarily qualify for fee remission.

It is essential that the system protects the fundamental principles of equality of arms and the Government’s stated intention to “ensure that access to justice is protected.”

**Question 3: Do you agree with the proposed fee levels for money claims? In particular, do you agree with the proposal to charge the same fee for claims issued through the Claims Production Centre that would be charged for applications lodged online?**

18. We received 158 responses to this question. 35 respondents agreed with the proposed fee levels for money claims. 38 respondents disagreed with the proposal; while 85 offered no firm view. Those in support of the proposals commented that:
- The proposal would be fair and simple;
  - That the proposed fee levels did not seem unreasonable;
  - The proposal would encourage claimants to issue claims in ways that would achieve saving.
19. For example, a law firm noted:
- “It is fair and makes commercial sense to apply a single fee at a modest level for the shared costs and to offer incentives to use methods which are cheaper for the courts to administer.”
20. Another law firm noted:
- “The proposed fee levels do not seem unreasonable in the circumstances, in particular in light of the need to increase the Courts' income”
21. A District Judge noted:
- “We see no adverse impact if discounts are given to proceedings issued on line”.
22. The 38 respondents who disagreed with the proposal argued that:
- The proposal is excessive;
  - The proposal would damage the ability of creditors to mount legal action against those that have caused them loss;
  - The figures could prevent proper claims being brought and hinder justice.
23. For example a business representative noted:
- “Increase is excessive and I was under the impression that the transfer to bulk centre was to keep costs low.”
24. A public body noted:
- “I do not see why those who issue through the CPC should have to pay an increase. It is their expertise and outlay that helps to keep the CPC generally working smoothly and at a profit. If the government wants users to use IT channels then to propose an increase to those committed to the service is blatantly wrong.
- The proposals for increases generally are excessive and I feel that those who use the Courts' time and service should pay with the successful party being able to recover the costs whatever the balance.”
25. A solicitor noted:
- “Considering a Judgment is no guarantee you will get the money it would be better if an additional fee were charged on a percentage of the money actually recovered which in a lot of small claims is nothing.”

**Question 4: Do you agree with the removal of the allocation and listing fees in all cases?**

26. We received 160 responses to this question. 50 respondents agreed with the removal of the allocation and listing fees in all cases. 23 respondents disagreed with the proposal; while 87 offered no firm view. Those in support of the proposals commented that:

- Payments of those fees can cause hardship for those struggling with the cost of litigation;
- The proposal will reduce administration and bureaucracy;
- The proposal would render the court process simpler and more straightforward for litigants in person.

27. For example a solicitor noted:

“Allocation is a simple boxwork process inherent in the post-CMC processing. Allocation and listing fees were not envisaged at the inception of the Woolf reforms. There was no case for them then, and there has been no change since”.

28. A law firm noted:

“We agree with the removal of allocation fees and listing fees in all cases, as in a number of instances, matters once issued do not require allocation, even when a Defendant acknowledges the claim, with an intention to defend. A Claimant can then spend further monies on allocation fees, only for the claim to settle post-allocation. Previously when an Allocation fee had been paid, the Defendant was then liable for payment of this in settling the claim, thus making it more expensive for the Defendant.”

29. A specialist legal body noted:

“Additional points for charging cause unnecessary complexity and can be a source of confusion”.

30. The 23 respondents who disagreed with the proposal argued that:

- Parties need to be encouraged to settle, the removal of allocation and listing fees does not assist;
- Allocation and listing is a useful tool for ensuring the proper allocation of resources to the claim made;
- Those litigants whose cases do not progress to allocation and listing would subsidise those whose do.

31. For example a solicitor noted;

“I think that you could have to pay extra fees as extra steps are taken in litigation”.

32. One solicitor noted:

“We do not agree with the removal of allocation and listing fees for the following reasons:-

Removing these fees will “front load” cases on issue, which means that those who use the court service and primarily obtain default judgment, will subsidise defended cases and those that proceed towards trial.

In practice, many CPC users do not recover court fees from their Defendants or are unable to do so given the Defendant’s financial circumstances. One unintended consequence of this policy may be that the additional costs are reflected elsewhere in our clients’ businesses.”

**Question 5: Do you agree that small claims track hearing fees should be maintained at their current levels, which are below cost?**

33. We received 159 responses to this question. 58 respondents agreed that small claims track hearing fees should be maintained at their current levels. 14 respondents disagreed with the proposal; while 87 offered no firm view. Those in support of the proposals commented that:

- The current levels are commercially appropriate and zero-increase is helpful;
- The proposal will promote access to justice;
- The proposal will provide affordable justice.

34. For example a solicitor noted;

“The small claims track provides an important route for parties with comparatively low value but important claims that they may not have access to if the fees were increased.”

35. A specialist legal representative noted:

“The accessibility to the court system through the small claims track regime plays an important role in upholding the rule of law. The parties to small claims track proceedings are the court users most likely to have limited financial resources and it is right that small claims track hearing fees should remain below cost.”

36. A voluntary body noted:

“We the fact that the government is not proposing to increase hearing fees for small claims. Even if the allocation and listing fees are abolished, it is very important that the small claims procedure remains easily accessible and that litigants are not prevented from seeking legal resolution because of fees that might exceed the value of the claim. The rule of law requires justice to be accessible to all.”

37. The 14 respondents who disagreed with the proposal argued that:

- All fees must cover costs;
- Small Claims Track Hearing fees should be increased to encourage parties to settle.

38. For example a financial representative noted;

“We would argue that the cost should be equivalent to the service provided”.

39. A public body noted:

“Small Claims track should mirror the cost; what would assist is to allow successful parties to recover their costs”.

**Question 6: Do you agree that fast track and multi-track hearing fees should be maintained at their current levels, which are above cost?**

40. We received 158 responses to this question. 43 respondents agreed that fast track and multi-track hearing fees should be maintained at their current levels. 28 respondents disagreed with the proposal; while 87 offered no firm view. Those in support of the proposals commented that:

- The current fee will cover the cost, due to inflation;
- The current practice is fair

41. For example one judicial representative noted:

“That consideration might be given to distinguishing between High Court and County Court multi-track fees since litigation in the High Court is more costly than that pursued in the County Court.”

42. A public body noted:

“This is effectively the quid pro quo for maintaining fees for cases in the small claims track at below cost.”

43. A legal representative body noted;

“The [body] agrees that fast track and multi-track hearing fees should be kept at the current levels: they are a sufficient deterrent for most frivolous and vexatious claims, and there is no evidence that they adversely affect access to justice.”

44. The 28 respondents who disagreed with the proposal argued that:

- The fees should be at cost level;
- It is right for the taxpayer to benefit disproportionately and in excess of court costs.

45. For example, a solicitor noted:

“It is wrong of the government to profit from the court system. If multi-track fees and fast track fees are already above cost, they should certainly not be increased further. Fees should not be set so as to gain a profit from the essential administration of justice.”

46. A voluntary representative body noted:

“In fast and multi-track cases, it is important to ensure that people with mental health problems can afford to bring cases. We are aware that disability discrimination and other discrimination claims may be transferred to fast or multi-track and it is difficult for litigants to fund the cost of those fees. Additionally, we are aware that counterclaims by tenants facing loss of their homes may be also subject to fast or multi-track listing.”

47. A solicitor noted:

“The principle of full-cost recovery is fair; surcharging fast track and multi-track is taxation”.

**Question 7: Do you agree with proposals to abolish the refund of hearing fees when early notice is given that a hearing is not required?**

48. We received 157 responses to this question. 24 respondents agreed to abolish the refund of hearing fees when early notice is given that a hearing is not required. 57 respondents disagreed with the proposal; while 76 offered no firm view. Those in support of the proposals commented that:

- The administrative costs of processing a refund of a hearing fee far outweighs the benefit;
- This proposal simplifies the present structure;
- This proposal will encourage settlement.

49. A legal representative body noted:

“The [body] agrees with the proposals to abolish the refund of hearing fees: there is no justification for that refund, and abolishing it will reduce the administrative costs of the court.”

50. A judicial body noted:

“Abolishing the refund of a hearing fee might remove an incentive for a hearing not to take place”.

51. The 57 respondents who disagreed with the proposal argued that:

- This would be completely unfair and come across as profiteering;
- There would be no incentive to mediate or settle;
- The proposal would exceed full-cost recovery.

52. For example a solicitor noted:

“That perceived unfairness that the public pays for something they don't get. However, an administration fee could be deducted before the refund.”

53. A business group noted:

“That the hearing fee is the fee for the hearing to proceed. If the hearing does not go ahead it is just and equitable that the fee is refunded. Cancellation of the hearing itself means that the court is free to progress other work which will have its own fee structure.”

54. A solicitor noted:

“That this is another bar to encourage settlement and seems inequitable when the applicant has not had the benefit of the Court time he is charged for”.

**Question 8: Do you agree with proposals to retain the current fee levels for private law family proceedings and divorce, and the proposal to no longer charge a fee for non-molestation and occupation orders?**

55. We received 156 responses to this question. 52 respondents agreed with the proposal to retain the current fee levels for private law family proceedings and divorce, and the proposal to no longer charge a fee for non-molestation and occupation orders. 13 respondents disagreed with the proposal; while 91 offered no firm view. Those in support of the proposals commented that:

- This will greatly assist both the solicitor and the Court in dealing with what are normally emergency applications. It will reduce the administrative burden of having to fund the fee in advance;
- That court users are vulnerable and it is right that access to the courts should be made easier to them.

56. For example a business group noted:

“That these fees should not increase as participants are already having difficulty finding sufficient funding.”

57. A public body noted:

“That there should be no disincentive to make these applications”.

58. A specialist legal representative body noted:

“That for those migrants who benefit from them, orders such as non-molestation orders and occupation orders may be materially relevant to applications for permission to enter or remain or rights of residence. We welcome any measure that makes it easier for a person to obtain a non molestation order or occupation order so that she or he may be secure from abuse.”

59. The 13 respondents who disagreed with the proposal argued that:

- The divorce fee is too high as the process is carried out by paper / box work in the main;
- People who are going through a divorce should not have to pay over the odds for a service when they often suffer financially.

60. For example a voluntary body noted:

“Fees should not make divorce prohibitively expensive and should not represent a barrier for people to transition out of relationships characterised by low relationship quality or high levels of conflict. Both the emotional and financial costs to people going through divorce are high, and every effort should be made to make the transition as smooth as possible.”

**Question 9: Do you agree with the standardisation of the fee for Children Act cases, and with the proposal that there should only be one up-front fee for public law family cases?**

61. We received 156 responses to this question. 49 respondents agreed with the standardisation of the fee for Children Act cases, and with the proposal that there should only be one upfront fee for public law family cases. 7 respondents disagreed

with the proposal; while 100 offered no firm view. Those in support of the proposals commented that:

- Upfront fees create more certainty for clients;
- The proposal simplifies the process for private children cases and is not too onerous.

62. For example a public body noted:

“The abolition of staged payments would save significant resources for the Local Authority and the Court as there is a lot of work in identifying and paying the fees. The financial saving would also be welcome as the current fees for care proceedings are significant.”

63. Another public body noted:

“That this simplifies the present structure; reduces administration costs and produces a saving which can be used for front line Children's Services within the overall context of diminishing resources for local authorities.”

64. The 7 respondents who disagreed with the proposal argued that:

- Public law family cases should also have a separate fee charged for final hearings.

65. For example a law firm noted:

“That staged fees may reduce ongoing litigation”.

### **Question 10: Do you agree with the standardisation of general application fees and fees for applications within family proceedings?**

66. We received 156 responses to this question. 52 respondents agreed with the standardisation of general application fees and fees for application within family proceedings. 12 respondents disagreed with the proposal; while 92 offered no firm view.

67. Those in support of the proposals commented that:

- The proposal would be simpler and provide standardisation;
- The standardisation of general application fees will make it easier for Court staff to administer and easier for litigants to understand.

68. For example a judicial body noted:

“That it would mean that citizens were able to calculate the required fee with more certainty and there would be a saving for the court service which would have fewer fees to collect; and less frequently enabling improved efficiency and a better service being provided.”

69. A specialist legal representative noted:

“That the effect of these proposals; would be that applications in family proceedings would cost the equivalent amount of general applications in other types of civil proceedings.”

70. The 12 respondents who disagreed with the proposal argued that:

- The fees could be disproportionate for simple applications that would attract the on notice fee.

71. For example a judicial body noted:

“That some of these applications are very simple and involve very little time. More to the point however such a fee can be disproportionate to the case as a whole. This fee of £150 would for instance apply to the smallest value small claim in which someone wanted to apply for an adjournment due to hospital commitment. That can not be fair. The present fee is already substantial in those cases.”

### **Question 11: Do you agree with the proposed fee levels for judicial review cases?**

72. We received 157 responses to this question. 28 respondents agreed with the proposed fee levels for judicial review cases. 36 respondents disagreed with the proposal; while 93 offered no firm view. Those in support of the proposals commented that:

- Judicial review should be a rare and a last recourse;
- At present too many applications are made which are without merit. A fee increase may deter some of these.

73. For example, a legal representative body noted:

“That [the body] believe that charging the full cost for a judicial review is fair to all court users. Judicial review should only be applied for when appropriate and should not be seen as a routine activity. There is some concern that this is currently not always the case. Ensuring that the full cost is paid will protect other court users from effectively subsidising spurious applications.”

74. A public body noted:

“It is agreed that a fee increase to reflect the full cost would be appropriate given the numbers of judicial reviews”.

75. The 36 respondents who disagreed with the proposal argued that:

- This could deter applicants especially when legal aid is reduced
- The Government should be able to be challenged where necessary to protect against abuse of power. This right is important for all citizens - successful cases affect many more people than just the individual litigant.
- Increasing fees would further damage access to justice.

76. For example, a solicitor noted:

“That the proposed increase for a JR hearing fee from £215 to £680 is an increase of over 316%. Given the public interest in the judicial review process being accessible and affordable, this seems excessive and unreasonable.”

77. A solicitor noted:

“That any increase in the fee for judicial review cases is undesirable as it will inevitably limit access to justice”.

**Question 12: Do you agree with proposals to increase the fee for an application for grant of probate to full-cost levels?**

78. We received 159 responses to this question. 23 respondents agreed with proposals to increase the fee for an application for grant of probate to full-cost levels. 50 respondents disagreed with the proposal; while 86 offered no firm view. Those in support of the proposals commented that:

- It is reasonable for the fee to equate to full-cost levels;
- Fees were drastically cut in the 1990s and have not increased since.

79. For example a solicitor noted:

“That there is no reason not to charge full-cost; but the personal application fee seems low. Having been asked to administer oaths prepared at the Registry many seem defective, inaccurate and unsatisfactory, so the although the current fee may cover the cost, it isn't covering the cost of the Registries doing the job properly.”

80. A law firm noted:

“That they have no issue with increasing this fee and suggest that consideration should be given to returning to the previous system when the fee was based on the size of the estate - the larger the estate, the larger the fee. Those with larger estates can afford to make a contribution to the costs of running the Courts Service beyond the Probate Registries. Some might regard this as indirect taxation, but it would be a simple and effective way to generate income to fund other parts of the Courts Service from those who can afford it.”

81. A law firm noted:

“That they have no objection to fees increasing in line with the value of the estate or with larger estates paying the cost of the probate application in full. However, £150 is a high fee for a small estate. Perhaps there could be a remission for estates below £25,000? Also, it seems unlikely to me that the additional costs of a personal application are only £60. Perhaps it would be fairer to have a lower general fee and a higher fee for a personal application (now 30% of applications for probate).”

82. The 50 respondents who disagreed with the proposal argued that:

- The proposal will lead to a reduction in applications. A reduction in applications will lead to less fee income;
- The proposal would unduly penalise clients who use solicitors to assist in the Probate application process; it will also affect a solicitor's ability to provide a cost effective service to clients.

83. For example, a solicitor noted:

“That the costs of personal applications will often exceed the £60: this seems unfairly to pass the extra cost onto non personal applications. In particular I understand from

various forums that the quality of the oaths prepared by probate staff for personal applicants to complete is often not good”.

84. For example, a solicitor noted:

“This would be out of proportion to the service being given at the present time. The standard and efficiency of the service being given has deteriorated over the recent year, with long delays, matters not being dealt addressed. The paper work being sent out by the court is of a very low standard the Grants are not sealed leaving the wills open to fraud nor are the Grants being secured. It would be inappropriate to increase the fee unless the service was improved substantially.”

### **Question 13: Do you agree with the proposed fee levels for cases taken to the Court of Appeal?**

85. We received 157 responses to this question. 27 respondents agreed with the proposed fee levels for cases taken to Court of Appeal. 40 respondents disagreed with the proposal; while 90 offered no firm view. Those in support of the proposals commented that:

- It is far too easy for litigants in person to proceed to the Court of Appeal, and increasing the fee level might concentrate the mind;
- This appears to be a good compromise between full recovery and discouraging potentially important appeals;
- The proposed fees appear reasonable given the proposed fees for other hearings in the lower courts.

86. For example, a legal representative body noted:

“That [the body] accepts the need for court fees to remain realistic. It agrees that charging the full cost of an appeal may deter parties from taking appropriate cases to appeal. The proposed new fee levels (£465 for permission and £1,090) appear unlikely to affect access to justice”.

87. A judicial body noted;

That [the body] agrees that an additional fee should be incurred where there is an application for an oral permission hearing. This serves the legitimate aim of deterring unmeritorious or spurious applications and reflects the substantial additional resources involved in an oral hearing and the production of a reasoned judgment do not agree that all oral permission to appeal hearings should attract the full appeal fee.

88. The 40 respondents who disagreed with the proposal argued that:

- The level of fees could deter a party from appealing a judgement;
- The proposal to increase fees would further damage access to justice.

89. A solicitor noted:

“That whilst the need for an increase in fees is understood, the increase appears excessive, and does not compare favourably with other jurisdictions. It is likely that, taken together with all of the other fee proposals, this may encourage parties to litigate elsewhere”.

90. A specialist legal representative noted:

“That the proposed fees are a substantial increase on the current levels, particularly the hearing fee, which causes concern that they will act as an obstacle to individuals, and deter or prevent a proposed appeal, even if there is a legitimate basis for such an appeal. This would of course have adverse consequences on the justice system as a whole”.

**Question 14: Do you agree with the Government’s proposed changes to the fees charged in the Court of Protection?**

91. We received 147 responses to this question. 23 respondents agreed with the proposed changes to the fees charged in the Court of Protection. 34 respondents disagreed with the proposal; while 90 offered no firm view. Those in support of the proposals commented that:

- The proposal is a much more reasonable fee for non-contentious probate applications and the fees for people who wish to object will help prevent ‘fishing’ exercises;
- The application fee of £400 currently is too high.

92. For example, a solicitor noted:

“That it makes sense to have a reduced fee for simpler, non-contentious applications. The requirement to pay an application fee before the hearing could cause some applicants financial hardship, and so you may wish to have a deferral arrangement in place in such cases.”

93. A solicitor noted:

“That the majority of applications to the Court are non-contentious, and dealt with by court officers, rather than by judicial involvement. The reduction of the Deputyship application fee to £220 is therefore welcomed.”

94. The 34 respondents who disagreed with the proposal argued that:

- New fees in respect of a vulnerable section of society do not seem appropriate;
- The proposal will stifle justice and prevent development of the law.

95. A voluntary representative body noted:

“That [the body] are aware that many people are left with no alternative than to be litigant in person. This is because they are unable to afford a solicitor to represent them and yet, they are expected to deal with complex legal matters. For this reason, [the body] rejects the proposed introduction of new fees.

It is also important to note that many people would not be able to afford to pay the fees if it is charged prior to the hearing as they are dependent on releasing the finances which are involved in the case to pay it”.

96. A specialist legal representative noted:

“That the jurisdiction of the Court of Protection is supervisory and it is important that parties are not discouraged from making applications for the benefit of the protected party by the need to pay an initial fee. The body considers that the present regime for the hearing fee being due following an invoice should be retained.

**Question 15: Do you have any further comments to make on the Government's cost recovery plans?**

97. A solicitor commented:

"We are currently facing a considerable problem with litigants in person. Many of these people are able to claim a remission of fees and bring cases in effect simply because they can with no risk of being ordered to pay costs (if they don't have the money, how can they pay costs). There should be a fee payable in all cases, persons who are entitled to a fee remission should have a fee reduction so that they have "skin in the deal". On a more general note, robust early case management would have a hugely beneficial impact on the work level of the courts".

98. A business representative commented:

"There appears to be no mention made in respect of enforcement costs. The cost of enforcement has increased significantly over the past 5 years but results of effective enforcement have declined. It is often not easy or sometimes not possible to get updates from Courts when applications have been made. We are paying for a service that is not effective or fit for purpose. Enforcement should mean exactly that and there should be other punitive measure legitimately available to Creditors".

99. A business group commented:

"The government needs to balance the needs of the general public against it's cost recovery plans. Access to justice must be maintained. UK taxpayers/working people may feel discriminated against when they pay tax and also have to pay court fees that non-working people would be exempt from. Any fees increases should be minimal".

100. A voluntary representative body commented:

"The government should as far as possible seek to ensure that ordinary people are not unfairly disadvantaged by the court system. As it stands the court fee and other processes mean the rich and powerful can better access justice than the poor and needy. Restrictions need to be placed on local authorities and other government bodies using tax payer's money to bring cases against the public. Banks and other corporations need to pay more for their over-use of the court system at tax-payers expense".

101. A business group commented:

"We support the principle of continued access to justice in a period of fiscal constraint. And, as per the MoJ's assumptions, we do not believe that increased court fees will necessarily be a barrier to cases being taken through the courts.

Clearly the impacts of these proposals can not be quantified purely in terms of the number of actual possessions, given the disparities between claims issued, orders being granted and subsequently enforced. And it is those customers whose accounts cure relatively early in the litigation process where the impacts will be most keenly felt. Following discussions with our members, the enhanced fee proposals could in some cases see legal fees debited to customers' accounts increase by 40-50%. This may impact on some customers' ability to fully return their mortgage onto sustainable terms.

At the other end of the process where an order is enforced, such fees will result in either an erosion of the customer's equity (where the possession sale results in a

surplus), or an increased shortfall debt for which the customer will be liable (where the possession sale does not clear the mortgage debt)".

102. A law firm commented:

"We would support the over-arching principle of moving towards full recovery in some areas (eg commercial litigation) provided that the potential increase in revenue is ring-fenced to ensure an improvement in the quality of service provided by the court service, and the speed and availability of that service which has noticeably deteriorated.

The court service should continue to be subsidized by taxation revenue for proceedings that relate to issues of public or personal interest where the interests of justice demand that court fees should not be a deterrent to seeking redress. So there are matters such as non molestation applications where there should be no fees and areas such as public law where a subsidized service may be appropriate.

It is important to ensure that disabled and disadvantaged members of society are not paying higher fees simply because of the higher value of their claims and are not deterred from pursuing their claims by court fees that increase according to the severity of their injury".

## Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles:

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

## Annex A – Full list of current and new fees

### Civil Proceedings Fees Order 2008

		Current	New	Further information (if required)
	<b>MONEY CLAIMS: ISSUE FEE</b>			
1.1(a)	Does not exceed £300	£35	£35	
1.1(b)	Exceeds £300 but does not exceed £500	£50	£50	
1.1(c)	Exceeds £500 but does not exceed £1,000	£70	£70	
1.1(d)	Exceeds £1,000 but does not exceed £1,500	£80	£80	
1.1(e)	Exceeds £1,500 but does not exceed £3,000	£95	£115	
1.1(f)	Exceeds £3,000 but does not exceed £5,000	£120	£205	
1.1(g)	Exceeds £5,000 but does not exceed £15,000	£245	£455	
1.1(h)	Exceeds £15,000 but does not exceed £50,000	£395	£610	
1.1(i)	Exceeds £50,000 but does not exceed £100,000	£685	£910	
1.1(j)	Exceeds £100,000 but does not exceed £150,000	£885	£1,115	
1.1(k)	Exceeds £150,000 but does not exceed £200,000	£1,080	£1,315	
1.1(l)	Exceeds £200,000 but does not exceed £250,000	£1,275	£1,515	
1.1(m)	Exceeds £250,000 but does not exceed £300,000	£1,475	£1,720	
1.1(n)	Exceeds £300,000, or not limited	£1,670	£1,920	
	<b>MONEY CLAIMS (CCBC): ISSUE FEE</b>			
1.2(a)	Does not exceed £300	£15	£25	
1.2(b)	Exceeds £300 but does not exceed £500	£30	£35	
1.2(c)	Exceeds £500 but does not exceed £1,000	£55	£60	
1.2(d)	Exceeds £1,000 but does not exceed £1,500	£65	£70	
1.2(e)	Exceeds £1,500 but does not exceed £3,000	£75	£105	
1.2(f)	Exceeds £3,000 but does not exceed £5,000	£85	£185	
1.2(g)	Exceeds £5,000 but does not exceed £15,000	£190	£410	
1.2(h)	Exceeds £15,000 but does not exceed £50,000	£310	£550	
1.2(i)	Exceeds £50,000 but does not exceed £100,000	£550	£815	

		Current	New	Further information (if required)
	<b>MONEY CLAIMS ONLINE: ISSUE FEE</b>			
1.3(a)	Does not exceed £300	£25	£25	
1.3(b)	Exceeds £300 but does not exceed £500	£35	£35	
1.3(c)	Exceeds £500 but does not exceed £1,000	£60	£60	
1.3(d)	Exceeds £1,000 but does not exceed £1,500	£70	£70	
1.3(e)	Exceeds £1,500 but does not exceed £3,000	£80	£105	
1.3(f)	Exceeds £3,000 but does not exceed £5,000	£100	£185	
1.3(g)	Exceeds £5,000 but does not exceed £15,000	£210	£410	
1.3(h)	Exceeds £15,000 but does not exceed £50,000	£340	£550	
1.3(i)	Exceeds £50,000 but does not exceed £100,000	£595	£815	
	<b>RECOVERY OF LAND: ISSUE FEE</b>			
1.4(a)	High Court	£465	£480	
1.4(b)	County Court	£175	£280	
1.4(c)	County Court (online)	£100	£250	
	<b>OTHER FEES</b>			
1.5	Any other remedy (High Court)	£465	£480	
	Any other remedy (County Court)	£175	£280	
1.6	Filing proceedings against an unnamed party	£45	£50	
1.8(a)	Permission to issue proceedings	£45	£50	
1.8(b)	Assessment of costs (under Part 3, Solicitors Act 1974)	£45	£50	
	<b>JUDICIAL REVIEW</b>			The fees proposed at 1.9(a), (b) and (c) would also apply to fees 1.1, 1.2 and 1.3 (respectively) in the Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011
1.9(a)	Permission to apply	£60	£140	
1.9(aa)	On request to reconsider at a hearing a decision on permission	£215	£350	
1.9(b)	Permission to proceed	£215	£700	Where fee 1.9(aa) has been paid and permission is granted at a hearing, only £350 of fee 1.9b is payable
1.9(c)	Permission to proceed (claim not started by JR procedure)	£60	£140	

		Current	New	Further information (if required)
	<b>GENERAL FEES: HIGH COURT AND COUNTY COURT</b>			
	Allocation fee: Small claims track (exceeding £1,500)	£40	£0	This fee is no longer charged
	Allocation fee: Fast track and multi-track	£220	£0	This fee is no longer charged
	Listing fee	£110	£0	This fee is no longer charged
2.1(a)	Hearing fee: Multi-track case	£1,090	£1,090	
2.1(b)	Hearing fee: Fast-track case	£545	£545	
2.1(c)(i)	Hearing fee: Small claims case (does not exceed £300)	£25	£25	
2.1(c)(ii)	Hearing fee: Small claims case (exceeds £300 but not £500)	£55	£55	
2.1(c)(iii)	Hearing fee: Small claims case (exceeds £500 but not £1,000)	£80	£80	
2.1(c)(iv)	Hearing fee: Small claims case (exceeds £1,000 but not £1,500)	£110	£115	
2.1(c)(v)	Hearing fee: Small claims case (exceeds £1,500 but not £3,000)	£165	£170	
2.1(c)(vi)	Hearing fee: Small claims case (exceeds £3,000)	£325	£335	
2.2	Appellant's/respondent's notice (High Court)	£235	£240	
2.3(a)	Appellant's/respondent's notice (County court-small claims)	£115	£120	
2.3(b)	Appellant's/respondent's notice (County court-other claims)	£135	£140	
2.4	General application (on notice)	£80	£155	
2.5		£45	£50	
2.6	Application for summons or order for witness to attend court	£40	£50	
2.7	Application to vary a judgement or suspend enforcement	£40	£50	
2.8	Issue of a certificate of satisfaction	£15	£15	
	<b>BANKRUPTCY/INSOLVENCY</b>			
3.1(a)	Petition for bankruptcy (presented by debtor)	£175	£180	
3.1(b)	Petition for bankruptcy (presented by creditor/other person)	£220	£280	
3.2	Petition for an administration order	£175	£280	

		<b>Current</b>	<b>New</b>	<b>Further information (if required)</b>
3.3	Any other petition	£220	£280	
3.4(a)	Request for a certificate of discharge from bankruptcy	£70	£70	
3.4(b)	Copy of a certificate of discharge from bankruptcy	£5	£10	
3.5	Insolvency – other application	£155	£280	
3.6	Winding up fee	£155	£160	
3.7	Voluntary winding up fee	£35	£50	
3.8	Notice of intention to appoint administrator	£35	£50	
3.9	Submission of nominee's report	£35	£50	
3.1	Filing insolvency documents	£35	£50	
3.11	Application within proceedings (by consent/without notice)	£35	£50	
3.12	Application within proceedings (with notice)	£70	£155	
3.13	Search of bankruptcy and company records (County Court)	£45	£45	
	<b>COPY DOCUMENTS</b>			
4.1(a)	Copy of a document (10 pages or less)	£5	£10	
4.1(b)	For each subsequent page	50p	50p	
4.2	Copy of a document in electronic form (for each copy)	£5	£10	
	<b>DETERMINATION OF COSTS (Senior/County Court)</b>			
5.1	Where the party filing the request is legally aided	£195	£200	
5.2(a)	Amount does not exceed £15,000	£325	£335	
5.2(b)	Exceeds £15,000 but does not exceed £50,000	£655	£675	
5.2(c)	Exceeds £50,000 but does not exceed £100,000	£980	£1,005	
5.2(d)	Exceeds £100,000 but does not exceed £150,000	£1,310	£1,345	
5.2(e)	Exceeds £150,000 but does not exceed £200,000	£1,635	£1,680	
5.2(f)	Exceeds £200,000 but does not exceed £300,000	£2,455	£2,520	
5.2(g)	Exceeds £300,000 but does not exceed £500,000	£4,090	£4,200	
5.2(h)	Exceeds £500,000	£5,455	£5,600	
5.3	Issue of default costs certificate	£60	£60	
5.4	Appeal (detailed assessment proceedings)	£205	£210	
5.5	Request/application to set aside a default costs certificate	£105	£110	

		Current	New	Further information (if required)
	<b>DETERMINATION (IN THE SENIOR COURT) OF COSTS OCCURRED IN THE COURT OF PROTECTION</b>			
6.1(a)	Where the amount of costs does not exceed £3,000	£110	£115	
6.1(b)	All other cases	£220	£225	
6.2	Appeal (detailed assessment proceedings)	£65	£65	
6.3	Request/application to set aside a default costs certificate	£65	£65	
	<b>ENFORCEMENT (HIGH COURT)</b>			
7.1	Sealing a writ of control/possession/delivery	£60	£60	
7.2	Application for order for debtor/other person to attend court	£50	£50	
7.3(a)	Application for third party debt order/appointment of a receiver	£100	£100	
7.3(b)	Application for a charging order	£100	£100	
7.4	Application for a judgement summons	£100	£100	
7.5	Request/application to register a judgement or order	£60	£60	
	Permission to enforce an arbitration award			
	Certified copy of a judgement or order for use abroad			
	<b>ENFORCEMENT (COUNTY COURT)</b>			
8.1(a)	Issue of warrant of control against goods (non-CCBC)	£100	£100	
8.1(b)	Issue of warrant of control against goods (CCBC cases)	£70	£70	
8.2	Request for attempt of execution of warrant at new address	£30	£30	
8.3	Application to require judgement debtor to attend court	£50	£50	
8.4(a)	Application for a third-party debt order	£100	£100	
8.4(b)	Application for a charging order	£100	£100	
8.5	Application for a judgement summons	£100	£100	
8.6	Issue of a warrant of possession/warrant of delivery	£110	£110	
8.7	Application for an attachment of earnings order	£100	£100	
8.8	Consolidated attachment of earnings/administration order	*	*	*10p in every £1 (or part of £1) of the money paid in respect of debts due to creditors

		<b>Current</b>	<b>New</b>	<b>Further information (if required)</b>
8.9	Application for enforcement of an award of a sum of money or any other decision made by any court, tribunal, body or person*	£40	£40	*(decisions taken anywhere outside the High Court or a county court)
8.1	Request for an order to recover a specified road traffic debt	£7	£7	
8A.1	Request for service by a bailiff	£100	£100	
	<b>SALE (COUNTY COURT)</b>			
9.1	Removing goods to a place of deposit	*	*	*The reasonable expenses incurred
	Advertising a sale by public auction	*	*	This fee is no longer charged
9.2	Appraisalment of goods	*	*	*5p in every £1 (or part of £1) of the appraised value was 9.3
9.3	Sale of goods	*	*	*15p in every £1 (or part of £1) of the amount realised by the sale, or such other sum as the district judge may consider to be justified
9.4	No sale – execution withdrawn, satisfied or stopped	*	*	*10p in every £1 (or part of £1) or the value of the goods seized, the value to be the appraised value where the goods have been appraised or such other sum as the district judge may consider to be justified
	<b>FEES PAYABLE IN THE HIGH COURT ONLY</b>			
10.1	Bills of sale	£25	£25	
10.2	Official certificate of the result of a search (for each name)	£45	£45	
10.3	Search, in person, of court records (per 15 minutes)	£7	£10	
	<b>JUDGE SITTING AS AN ARBITRATOR</b>			
10.4(a)	Appointment of a judge of the Commercial Court	£2,390	£2,455	
10.4(b)	Appointment of a judge of the Technology & Construction Court	£1,860	£2,455	
10.5(a)	Hearing before a judge of the Commercial Court	£2,390	£2,455	
10.5(b)	Hearing before a judge of the Technology & Construction Court	£1,860	£2,455	
	<b>ADMIRALTY</b>			
11.1	Issue of a warrant for the arrest of a ship or goods	£220	£225	
11.2	Sale of ship or goods (minimum fee)	£200	£205	(Minimum fee)
	<b>PLUS:</b> for every £100/fraction of £100 up to £100,000	£1	£1	

		Current	New	Further information (if required)
	<b>PLUS:</b> for every £100/fraction of £100 exceeding £100,000	50p	50p	
11.3	Entering a reference for hearing by the Registrar	£70	£70	
	<b>PAYABLE IN HIGH COURT AND COURT OF APPEAL ONLY</b>			
12.1	Affidavit	£11	£11	
12.2	For each exhibit referred to	£2	£2	
	<b>PAYABLE IN THE COURT OF APPEAL ONLY</b>			
13.1(a)	Application – permission to appeal/extension of time	£235	£480	
13.1(aa)	On request to reconsider at a hearing a decision on permission	*	£545	* New fee. If permission granted only £545 of fee 13.1(c) is payable
13.1(b)	Permission to appeal is not required or has been granted	£465	£1,090	
13.1(c)	Appellant/respondent filing an appeal questionnaire	£465	£1,090	
13.2	On filing a respondent's notice	£235	£480	
13.3	On filing an application notice	£235	£480	
	Additional application	*	£480	*New fee
	General application (on notice)	*	£155	*New fee
	General application (by consent/without notice)	*	£50	*New fee

### Family Proceedings Fees Order

		Current	New	Further information (if required)
	<b>FEES TO BE TAKEN IN FAMILY OR HIGH COURT</b>			
	<b>ISSUE FEES</b>			
1.1	Where no other fee is specified	£245	£245	
1.2	Application for divorce/nullity of marriage or civil partnership	£410	£410	
1.3	Application for matrimonial or civil partnership order	£365	£365	
1.4	Forced marriage protection order	£75	£75	
1.5	Amendment of application for matrimonial/civil partnership order	£95	£95	
1.6	Answer to application for matrimonial/civil partnership order	£245	£245	Contested divorce

		<b>Current</b>	<b>New</b>	<b>Further information (if required)</b>
1.7	Application for an order of assessment of costs	£40	£50	
1.8	Application for parental order	£215	£215	
	<b>PROCEEDINGS UNDER THE CHILDREN ACT 1989</b>			
2.1(a)	Parental responsibility (section 4(1)(c) or (3), 4A(1)(b) or(3))	£215	£215	
2.1(b)	Parental responsibility (section 4ZA(1)(c) or (6))	£215	£215	
2.1(c)	Guardians (section 5(1) or 6(7))	£215	£215	
2.1(d)	Section 8 orders (section 10(1) or (2))	£215	£215	
2.1(e)	Enforcement orders (section 11J(2))	£215	£215	
2.1(f)	Compensation for financial loss (section 11O(2))	£215	£215	
2.1(g)	Change of child's surname, or removal from jurisdiction while child arrangements order in force (section 13(1))	£215	£215	
2.1(h)	Special guardianship orders (section 14A(3) or (6)(a), 14C(3) or 14D(1))	£170	£215	
2.1(i)	Secure accommodation order (section 25)	£180	£215	
2.1(j)	Change of child's surname, or removal from jurisdiction while care order in force (section 33(7))	£180	£215	
2.1(k)	Contact with child in care (section 34(2), (3), (4) or (9))	£180	£215	
2.1(l)	Education supervision order (section 36(1))	£180	£215	
2.1(m)	Variation or discharge etc of care and supervision orders (section 39)	£180	£215	
2.1(n)	Child assessment order (section 43(1))	£180	£215	
2.1(o)	Emergency protection orders (sections 44, 45 and 46)	£180	£215	
2.1(p)	Warrant to assist person exercising powers under emergency protection order (section 48)	£180	£215	
2.1(q)	Recovery order (section 50)	£180	£215	
2.1(r)	Cancellation, variation or removal or imposition of condition of registration of child minder or day carer (section 79K)	£180	£215	
2.1(s)	Warrant to assist person exercising powers to search for children or inspect premises (section 102)	£180	£215	
2.1(t)	Applications in respect of enforcement orders (paragraph 4(2), 6(2), 7(2) or 9(2) of Schedule A1)	£95	£95	
2.1(u)	Amendment of enforcement order by reason of change of address (paragraph 5(2) of Schedule A1)	£95	£95	

		Current	New	Further information (if required)
2.1(v)	Financial provision for children (paragraph 1(1) or (4), 2(1) or (5), 5(6), 6(5), (7) or (8), 8(2), 10(2), 11 or 14(1) of Schedule 1)	£215	£215	
2.1(w)	Approval of court for child in care of local authority to live abroad (paragraph 19(1) of Schedule 2)	£180	£215	
2.1(x)	Extension of supervision order (paragraph 6 of Schedule 3)	£180	£215	
2.1(y)	Extension or discharge of education supervision order (paragraph 15(2) or 17(1) of Schedule 3)	£180	£215	
2.1(z)	Paragraph 8(1) of Schedule 8 (appeals concerning foster parents)	£180	£215	
2.2(a)	Application for proceedings under Section 31 of Act	£3,320	£2,055	
	Hearing for proceedings under Section 31 of Act	£2,155	£0	This fee is no longer charged
2.3	Appeal relating to 2.1(a) to 2.1(s) (v) to (y) and 2.2)	£215	£215	
	Appeal relating to 2.1(h)	£170		
	Appeal relating to 2.1(i) to 2.1(r), 2.1(v) to 2.1(x) and 2.2	£180		
2.4	Appeal against a contribution order	£180	£215	
	<b>ADOPTION AND WARDSHIP</b>			
3.1	Application/permission to apply for adoption	£170	£170	
3.2	Application for a placement order (under Section 22)	£455	£455	
3.3	Application to the High Court	£170	£170	
	<b>PROCEEDINGS UNDER THE CHILDREN AND ADOPTION ACT 2006</b>			
4.1	Application for warning notice to be attached to a contact order	£50	£50	
	<b>APPLICATIONS IN PROCEEDINGS</b>			
5.1	Application (without notice)	£45	£50	
5.2	Application for decree nisi, conditional order, separation order	£50	£50	
5.3	Application (on notice) (unless otherwise listed)	£80	£155	
5.4	Application for a financial order	£255	£255	

		Current	New	Further information (if required)
	<b>APPEAL</b>			
6.1	Filing an appeal notice from a district judge, one or more lay justices, a justices' clerk or an assistant to a justices' clerk	£125	£125	
6.2	Appeal (Section 20, Child Support Act 1991)	£160	£165	
	<b>SEARCHES</b>			
7.1	Search of central index of decrees absolute/final orders	£65	£65	
7.2	Search of central index of parental responsibility agreements	£45	£45	
7.3	Search of index of decrees absolute/final orders	£45	£45	
	<b>COPY DOCUMENTS</b>			
8.1(a)	Copy of a document (10 pages or less)	£5	£10	
8.1(b)	For each subsequent page	50p	50p	
8.2	Copy of a document in electronic form (for each copy)	£5	£10	
	<b>DETERMINATION OF COSTS</b>			
9.1	Where the party filing the request is legally aided	£195	£200	
	Where the amount of the costs claimed:			
9.2(a)	Amount does not exceed £15,000	£325	£335	
9.2(b)	Exceeds £15,000 but does not exceed £50,000	£655	£675	
9.2(c)	Exceeds £50,000 but does not exceed £100,000	£980	£1,005	
9.2(d)	Exceeds £100,000 but does not exceed £150,000	£1,310	£1,345	
9.2(e)	Exceeds £150,000 but does not exceed £200,000	£1,635	£1,680	
9.2(f)	Exceeds £200,000 but does not exceed £300,000	£2,455	£2,520	
9.2(g)	Exceeds £300,000 but does not exceed £500,000	£4,090	£4,200	
9.2(h)	Exceeds £500,000	£5,455	£5,600	
9.3	Issue of default costs certificate	£60	£60	
9.4	Appeal (detailed assessment proceedings)	£205	£210	
9.5	Request/application to set aside a default costs certificate	£105	£110	
	<b>REGISTRATION OF MAINTENANCE ORDERS</b>			
10.1	Application for a maintenance order to be sent abroad	£45	£50	
10.2	Application for a maintenance order to be registered 1950 Act or the Maintenance Orders Act 1958	£45	£50	
	<b>FINANCIAL PROVISION</b>			
11.1	Application for an order for financial provision	£215	£215	

		Current	New	Further information (if required)
	<b>ENFORCEMENT</b>			
12.1	Application to question a judgment debtor or other person	£50	£50	
12.2	Application for a third party debt order/appointment of a receiver	£100	£100	
12.3	Application for a charging order	£100	£100	
12.4	Application for a judgment summons	£100	£100	
12.5	Application for an attachment of earnings order	£100	£100	
	<b>ENFORCEMENT IN THE FAMILY COURT</b>			
13.1	Application for enforcement of a judgment or order	£100	£100	
13.2	Request for attempt at execution of a warrant at a new address	£30	£30	
13.3	Issue for a warrant of possession or a warrant of delivery	£110	£110	
	<b>ENFORCEMENT IN THE HIGH COURT</b>			
14.1	Sealing a writ of control/possession/delivery	£60	£60	
14.2	Request/application to register a judgement or order	£60	£60	
	Permission to enforce an arbitration award			
	Certified copy of a judgement or order for use abroad			
	<b>SERVICE</b>			
15.1	Request for service by a bailiff of document (see order for exceptions)	£110	£110	
	<b>SALE</b>			
16.1	Removing goods to a place of deposit	*	*	*The reasonable expenses incurred
	Advertising a sale by public auction	*	*	This fee is no longer charged
16.2	Appraisement of goods	*	*	*5p in every £1 (or part of £1) of the appraised value
16.3	Sale of goods	*	*	*15p in every £1 (or part of £1) of the amount realised by the sale, or such other sum as the district judge may consider to be justified
16.4	No sale – execution withdrawn, satisfied or stopped	*	*	*10p in every £1 (or part of £1) or the value of the goods seized, the value to be the appraised value where the goods have been appraised or such other sum as the district judge may consider to be justified
	<b>AFFIDAVITS</b>			
17.1	Taking an affidavit/affirmation/attestation upon honour	£10	£11	
17.2	For each exhibit referred to and required to be marked	£2	£2	

## Magistrates Courts Fees Order 2008

Fees charged in family proceedings are now only in the Family Proceedings Fees Order (see above for details).

		Current	New	Further information (if required)
1.1	Application for JP to perform function not on court premises	£50	£50	
	<b>APPEALS</b>			
2.1	Application to state a case for the opinion of the High Court	£500	£515	
2.2	Appeal (deduction from earnings order)	£95	£100	
2.3	Appeal – proceedings under Schedule 5, Licensing Act 2003	£400	£410	
2.4	Appeal (no other fee specified)	£200	£205	
	<b>CERTIFICATES AND CERTIFIED DOCUMENTS</b>			
3.1	Request for certificate of refusal to state a case	£100	£105	
3.2	Request for a certificate of satisfaction	£15	£15	
3.3	Request for a certified copy of a memorandum of conviction	£60	£60	
3.4	Request for certificate/certified document (no fee specified)	£60	£60	
	<b>LIABILITY ORDERS</b>			
4.1	Council tax proceedings	£3	£3	
4.2	Application for liability order (Child Support Act 1991)	£40	£40	For each liability order
	<b>COPY DOCUMENTS</b>			
5.1(a)	Copy of a document (10 pages or less)	£5	£10	
5.1(b)	For each subsequent page	50p	50p	
5.2	Copy of a document in electronic form (for each copy)	£5	£10	
	<b>LICENCES</b>			
6.1	Request for licence/consent/authority (no other fee specified)	£25	£25	
6.2	Application for renewal/variation of an existing licence	£25	£25	
6.3	Application for the revocation of licence (no other fee specified)	£25	£25	
	<b>OATHS</b>			

		Current	New	Further information (if required)
7.1	On taking attestation of a constable or special constable	£10	£10	
7.2	For every oath (etc) where no other fee is specified	£25	£25	
	<b>OTHER CIVIL PROCEEDINGS</b>			
8.1	Commencing proceedings where no other fee is specified	£200	£205	
8.2(a)	Application for leave/permission to commence proceedings (no other fee specified)	£100	£105	
8.2(b)	Proceedings where leave/permission has been granted	£100	£105	
8.3	Contested hearing	£500	£515	
	<b>WARRANTS</b>			
9.1	Application for a warrant of entry	£18	£20	
9.2	Application for any other warrant (no other fee specified)	£75	£75	
	<b>COMMITMENT</b>			
10.1	Application for a warrant of commitment	£240	£245	
10.2	Warrant of commitment (Child Support Act 1991)	£240	£245	

### Non Contentious Probate Fees Order 2004

		Current	New	Further information (if required)
1	Application for a grant of probate	£45	£155	
2	Personal application fee	£60	£60	
3.1	Duplicate/second grant for same deceased person	£20	£20	
3.2	Grant for an estate exempt from Inheritance Tax	£10	£10	
4	Application for the entry or extension of a caveat	£20	£20	
5	Application for a standing search	£6	£10	
6	Deposit of wills	£20	£20	
7	Inspection of will/other document retained by the registry	£20	£20	
	<b>COPY DOCUMENTS</b>			
8(a)	Copy of a document (10 pages or less)	£6	£10	
8(b)	For each subsequent page	£1	50p	
8(c)	Copy of a document in electronic form (for each copy)	£6	£10	
8(d)	Search of the index	£4	£4	

		Current	New	Further information (if required)
	<b>OATHS</b>			
9.1	For each deponent to each affidavit	£6	£11	
9.2	For marking each exhibit	£2	£2	
10	Determination of costs	*	*	*See Civil Courts Order Section 5
11	Settling documents	£12	£12	

### Court of Protection Fees Order 2007

		Current	New	Further information (if required)
	Simple application fee	*	£220	*New fee
	Application fee (all other applications)	£400	£410	
	Appeal fee	£400	£410	
	Hearing fee	£500	£515	
	Copy of a document (10 pages or less)	£5	£10	
	For each subsequent page	50p	50p	
	General application (on notice or by consent/without notice)	*	£50	*New fee

## Annex B – Equality Statement

### 1. Policy objective:

- 1.1 The Ministry of Justice's (MoJ's) policy is that fees in HM Courts & Tribunals Service reflect the full cost of the services provided, while protecting access to justice for the less well off and reducing the taxpayer subsidy for the civil court system. The policy objectives for these reforms are to ensure that fee income covers 100% of the cost of providing services, minus the income foregone from the remission system; except in specific cases where a policy decision has been made to continue to charge either above or below cost.
- 1.2 The proposals also seek to simplify the current fee structure to make it easier to understand and more straightforward to administer.
- 1.3 The Government believes that this policy offers a fairer deal to the taxpayer, as their contribution is targeted where it is most needed.

### 2. Equality duties

- 2.1 Section 149 of the Equality Act 2010 ("the EA") requires Ministers and the Department, when exercising their functions, to have 'due regard' to the need to:
  - Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the EA;
  - Advance equality of opportunity between different groups (those who share a relevant protected characteristic and those who do not); and
  - Foster good relations between different groups (those who share a relevant protected characteristic and those who do not).
- 2.2 Paying 'due regard' needs to be considered against the nine "protected characteristics" under the EA – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.
- 2.3 The MoJ has a legal duty to consider how the proposed policy proposals are likely to affect those people with protected characteristics and take proportionate steps to mitigate or justify the most negative ones and advance the positive ones.

### 3. Summary

- 3.1 Consideration has been given to the impact of the proposals against the statutory obligations under the EA. These are outlined below.
- 3.2 **Direct discrimination:** our assessment is that the introduction of fees proposed in the preferred option are not directly discriminatory within the meaning of the EA as they apply equally to all claimants irrespective of whether or not they have a protected characteristic; we do not consider that the proposals would result in people being treated less favourably because of their protected characteristic.

- 3.3 **Indirect discrimination:** our assessment, based on the information available, is that the changes in fees under the preferred option are unlikely to amount to indirect discrimination under the EA since they are unlikely to result in anyone sharing a protected characteristic being put at a particular disadvantage, compared to those who do not share that protected characteristic. Furthermore, the Government considers the preferred option to be a proportionate means of achieving the legitimate aims of the policy objective set out above. Whilst the proposals may have some implications for individuals with protected characteristics seeking access to justice, the proposed fee changes will affect different equality groups differently, in so far as they have varying income profiles. It is accepted that as some of the equalities groups are disproportionately represented in lower income brackets, more individuals in these groups would be affected if it were not for the mitigating effect of the remissions scheme.
- 3.4 **Discrimination arising from disability and duty to make reasonable adjustments:** in so far as this policy/legislation extends to claimants with disabilities, we believe that the policy is proportionate, having regard to its aim. We will continue to provide reasonable adjustments for claimants with disabilities to ensure appropriate support is given.
- 3.5 **Harassment and victimisation:** We do not consider there to be a risk of harassment or victimisation as a result of these proposals.
- 3.6 **Advancing equality of opportunity:** We have considered the implications of the reforms for the advancement of equality of opportunity on those who share a particular characteristic, where those needs are different from the needs of those who do not share that particular characteristic. For example, where consultation responses have stated that particular fee increases may deter those with protected characteristics from issuing court proceedings. While the analysis below indicates that claimants with the protected characteristics of race and disability may be more likely to issue specific types of court proceedings, it also indicates that claimants with those protected characteristics are more likely to qualify for full or partial fee remission and that eligibility for remissions among those groups increases at the highest levels of court fee. We have therefore considered the extent to which the proposed changes are compatible with the need to promote equality of opportunity and consider that where relevant, the proposed reforms to court fees do not undermine attainment of that objective. Furthermore, removal of the domestic violence fee should benefit women more than men since women are more likely to be victims.
- 3.7 **Fostering good relations:** we consider that the proposals have no relevance to this obligation.

#### 4. Methodology for Analysis

- 4.1 To assess whether the preferred option has a differential impact on the protected groups (outlined above) a population pool has been defined. Guidance from the Equality and Human Rights Commission (EHRC) states that this assessment should define the pool as being those people who may be affected by the policy (adversely or otherwise) and that the pool should not be defined too widely.
- 4.2 We have defined the population pool as those who commence proceedings and therefore pay fees in the civil and family courts. The key fees set to increase are

issue fees for money claims, the application and hearing fees for judicial review, the grouped single issue fee and the fee for bringing an appeal at the Court of Appeal. Fees set to decrease or be removed are allocation and listing fees for civil claims, some public law<sup>10</sup> fees and the fee to issue proceedings seeking a non-molestation or occupation order (referred to as domestic violence fees from hereon in).

- 4.3 Due to the limitations in the data available in some cases, we have had to make assumptions about the likely impact on people with protected characteristics based on the type of cases they may be pursuing.

## 5. HM Courts & Tribunals Service Remissions System

- 5.1 The HM Courts & Tribunals Service (HMCTS) remissions system is designed to protect access to justice irrespective of the level of fee to be paid. It is also well-targeted and affordable, assisting those genuinely unable to afford a fee. In addition, the eligibility for a fee remission is based on an individual's ability to afford the fee in question, wherever it is charged.

- 5.2 In the table below we set out eligibility rates for full and partial remissions by the protected characteristics of age, disability, sex and race. The modelled impacts presented are based on the 2010/11 Family Resources Survey (FRS). While this includes much of the information required to assess eligibility for fee remissions, not all details are available (for example, the survey's question on capital is optional and is likely to be less accurate). In addition, as we have limited data on the characteristics of court users we have assumed that any adult in England & Wales is equally likely to go to court. In reality certain groups are more likely than others to go to court and eligibility within these groups is likely to vary. Whilst we acknowledge the limitations of this approach, we consider it the best available.

Protected Characteristics		Estimated Eligibility for Full and Partial Remissions under indicative fee levels				
		£100	£250	£500	£1,000	£2,000
Age	16–24	64%	70%	76%	83%	86%
	25–44	26%	30%	37%	49%	60%
	45–64	22%	26%	32%	41%	50%
	65+	44%	50%	57%	61%	63%
Disability	Disabled	53%	58%	64%	69%	72%
	Not Disabled	27%	32%	39%	48%	57%
Race	White	31%	36%	42%	51%	59%
	BAME	46%	51%	57%	67%	74%
Sex	Male	31%	36%	43%	52%	60%
	Female	35%	39%	45%	54%	61%

- 5.3 Our modelling shows that, in general, eligibility for full and partial remissions increases as fees increase. In particular,
- **Age** – those who are 16-24 are most likely than other age groups to be eligible for either a full or partial remission at each indicative fee level. In addition, those who are 65+ years of age are more likely to be eligible for either a full or partial remission than those between 25 and 64 years of age.

<sup>10</sup> Public law cases are generally brought by local authorities, and cover matters such as care orders, supervision orders and emergency protection orders.

- **Disability** – People with a disability are more likely to receive either full or partial remissions than non-disabled people, with those eligible for either a full or partial remissions increasing from 53% to 72% as the fee increases from £100 to £2000.
- **Race** – Those from a BAME group are more likely to be eligible for either a full or partial fee remission than those from a white ethnic group at each indicative fee level, with eligibility for either a full or partial fee remission rising from 46% at £100 fee to 74% at £2,000 fee.
- **Sex** – whilst eligibility rates are similar, females are slightly more likely to be eligible for either a full or partial fee remission at every fee level.

## 6. Potential equalities impacts of cost recovery proposals on users in the civil court system and mitigations

- 6.1 Due to the nature of the proposals included in this consultation, any impact on different groups will primarily be financial. Data on court users who will be affected by the proposal has been collected where possible. However, the Government acknowledges that it does not collect comprehensive information about court users generally, and specifically information regarding protected characteristics. This makes it difficult to determine the impact of the cost recovery package as a whole on those in the population pool with protected characteristics. For this reason, we have analysed the equality impacts of the proposals by each key affected fee group.
- 6.2 Information provided in consultation responses reflected the assumptions that we had made in the consultation equalities statement about the protected characteristics of court users in certain types of cases.

Key fee groups affected:

*Money Claims:*

- 6.3 In order to ensure that total income from money issue fees recovers their total costs, we are increasing the issue fee for money claims over £1,500.
- 6.4 We assume that 88% (see Business Impacts section of consultation response Impact Assessment) of all specified money claim cases are issued by businesses, such as banks, credit card companies and utility companies. We assume that the remainder are issued by individuals but due to a lack of data surrounding claimants we cannot say whether these individuals have protected characteristics. In any case, we consider the remission system to protect against any adverse equality impacts from the proposals (see section 5).
- 6.5 We assume that 20% of all unspecified money claim cases are issued by businesses. Within unspecified money claims a proportion of claims are for personal injury cases, which means the claimants may have a disability; therefore it could be the case that more people with disabilities are affected by the increase in money claim fees.
- 6.6 However, the remission scheme offers a degree of protection to those with a disability as certain disability benefits are excluded from the capital and the income test. Indeed, our analysis at section 5 indicates that those who are disabled are more likely than non disabled people to be eligible for either a full or partial fee remission. In addition, if unspecified money claimants are successful in pursuing

their claim, their costs (including court fees) are normally transferred to the losing party.

#### *Generic Issue Fee*

- 6.7 The generic issue fee of £280 will be charged to all civil non-money claimants. In the Business Impacts section of the consultation response Impact Assessment we estimate that between 40% and 50% of these cases are brought by business claimants. We assume that the remainder are issued by individuals but due to a lack of data surrounding claimants we cannot say whether these individuals have protected characteristics. In any case, we consider the remission system to protect against any adverse equality impacts from the proposals (see section 5).

#### *Divorce*

- 6.8 Part one of the consultation sought views on whether to keep the fee for a divorce petition at its current level of £410, which is above cost. That proposal is now being considered alongside all other enhanced charging proposals and the government's intention will be announced in its response to part two of the consultation. The equalities impact of any decision on divorce fees will therefore be considered in the part two consultation response.

#### *Judicial Review:*

- 6.9 The government will increase fees for judicial review to full-cost levels, involving an increase from £60 to £140 for an application and £215 to £700 for a hearing. £350 will be charged for an oral renewal, with a further £350 charged if permission is granted and the case proceeds to a hearing, rather than the full £700 hearing fee.
- 6.10 In 2012, around 80% of case applications for permission to apply for Judicial Review (JR) were for immigration and asylum.<sup>11</sup> It is therefore reasonable to assume that these proposals have the potential to adversely affect more people with the protected characteristics of race and religion/belief.
- 6.11 However, legal aid funding is available for JR applicants. Whilst we acknowledge that data on legal aid eligibility for JR is limited, we estimate that in 2012, around 30% of JR cases issued were legally aided.<sup>12</sup> Additionally, our analysis indicates that those from BAME groups are more likely to be eligible for either a full or partial fee remission than those from a white ethnic background (see section 5 above). Taken together, this should mitigate any adverse equalities impacts of the proposal.

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<sup>11</sup> Data from Chapter 4 of Court Statistics (quarterly) July to September 2013.

<sup>12</sup> See MoJ Final Stage Impact Assessment (IA No. MoJ 210) for Judicial Review: proposals for further reform", published on 5 February 2014. Note, the figure of 30% should be treated as a maximum. In practice, as a result of the LASPO reforms, the number of legally aided JRs is likely to fall. LASPO reduced the scope for legal aid by i) requiring the case to have potential to produce a benefit for the individual, their family or the environment; and ii) excluding certain repeat immigration cases.

### *Domestic Violence*

- 6.12 In the case of proceedings seeking a non-molestation or occupation order, we will no longer charge any fees at all in order to assist victims of domestic abuse.
- 6.13 National statistics<sup>13</sup> indicate that women were more likely than men to have experienced intimate violence across all the different types of abuse. We therefore assume that women are more likely to issue domestic violence proceedings and will benefit from removal of the domestic violence fee.

### *Court of Appeal Fees*

- 6.14 We propose to increase fees in the civil division of the Court of Appeal to £480 for permission to appeal, £545 for an oral hearing of permission to appeal and £1,090 for a hearing (only £545 would be payable for a hearing where an oral hearing of permission to appeal has taken place). Currently fees are set at £235 for permission to appeal and £465 for hearing, once permission is granted.
- 6.15 In 2012, 1,181 appeals were filed in the Court of Appeal on civil cases, a similar number to the previous year: 196 (17%) of these were from the Asylum and Immigration Tribunal.<sup>14</sup> Using the 2010/11 Family Resources Survey (as we have done for estimating remissions eligibility in section 5) we estimate that around 11% of the population in England and Wales are from a BAME group.<sup>15</sup> As we expect that a high proportion of Immigration and Asylum cases are brought by those from a BAME group, there is a risk that the Court of Appeal proposals will adversely affect more people with the protected characteristics of race and religion/belief.
- 6.16 However, our analysis indicates that those from a BAME group are more likely to be eligible for either a full or partial fee remission than those from a white ethnic background (see section 5 above). In addition, whilst the fees are increasing, they are being set below full cost. Financial models suggest that permission to appeal costs £850 and a hearing costs around £11,230. Taken together, these should mitigate any adverse quality impacts from the proposal.

### *Other fees:*

- 6.17 There are a number of other fee increases proposed, which are set out in full at Annex A. Due to data limitations, we have not been able to make any assumptions on the potential impacts of a fee increase in these areas. However, we consider the remission system to protect against any adverse equality impacts from the proposals (see section 5).

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<sup>13</sup> Focus on: Violent Crime and Sexual Offences, 2011/12, Statistical Bulletin.

<sup>14</sup> Data from Chapter 5 of Court Statistics (quarterly) January to March 2013.

<sup>15</sup> This figure broadly corresponds with the 2011 Census data, in which around 87% of UK residents described themselves as belonging to a white ethnic group.

## Annex C – List of respondents

3PB Barristers  
Access Law LLP  
Administrative Law Bar Association (ALBA)  
Anthony Collins Solicitors  
Association of District Judges  
Association of Lawyers for Children  
Association of Personal Injury Lawyers (APIL)  
The Bar Council  
Carolyn Bagley (Solicitor)  
Barrister, 12 King's Bench Walk Chambers  
Belmont & Lowe  
Berwins Solicitors Limited  
Birkett Long LLP Solicitors (x2)  
Blandy & Blandy LLP Solicitors  
Butcher & Barlow Solicitors  
BNI Solicitors  
Bray & Bray Solicitors  
Bridge McFarland Solicitors  
Bristol Wessex Billing Services Ltd  
The Chancery Bar Association  
Chartered Institute of Arbitrators  
Chartered Institute of Legal Executives (CILEX)  
Chief Bankruptcy Registrar of the High Court  
Children's Services and Education (St Helens Council)  
City of London Law Society  
Civil Court Users Association  
Civil Justice Council  
Civil Mediation Council  
Civil Subcommittee of HM Council of Circuit Judges  
Clifford Chance LLP  
Coffin Mew LLP Solicitors  
Julie Cohen (Solicitor)  
Colette Stroud Solicitors and family mediators  
Commercial Bar Association  
Commercial Court Users Committee  
Committee of the London Common Law and Commercial Bar Associations  
Council of Mortgage Lenders (CML)

Court of Appeal (Civil Division)  
Cripps Harries Hall LLP Solicitors  
Crocels CMG CYF (Voluntary sector/Community group)  
Curran & Co Solicitors  
Discrimination Law Association  
Dunne and Gray Solicitors  
John Eeklaar (Oxford University)  
East Sussex County Council  
Employment Lawyers Association  
Enyo Law LLP  
Family Justice Council  
The Family Law  
Family Law Bar Association  
Family Law Clinic Ltd  
Family Law in Partnership  
Paul Farrell (Leeds University)  
Felton's Law Solicitors  
Forum of Insurance Lawyers (FOIL)  
Fosters Mediation  
Frettens LLP Solicitors  
Melissa Gilman (Solicitor)  
Glanvilles LLP Solicitors  
Amy Glover (Solicitor)  
Graham & Rosen Solicitors  
Green Light Mediation Ltd  
Griffins (Insolvency Practitioner)  
Harland & Co Solicitors  
Brian Havercroft  
Herbert Smith Freehills LLP Solicitors  
Hertfordshire County Council Legal Services  
HMCTS (2 Individual responses)  
HMRC  
Hogan Lovells  
David Holland (Barrister)  
Immigration Law Practitioners' Association  
Insolvency Service  
Institute of Credit Management  
Irwin Mitchell  
Jobsons Solicitors  
Kew Law LLP Solicitors

Kingston upon Hull City Council  
KK Law Solicitors  
Lane & Co Solicitors  
The Law Society  
Lester Morrill Solicitors  
London Solicitor's Litigation Association  
Lovetts PLC (Debt Recovery and Commercial Litigation)  
Patricia Lush (Solicitor)  
Chris MacDonald-Bradley  
HH Judge Mackie CBE QC  
District Judge McKenzie  
McMillan Williams Solicitors  
Miles & Partners  
Millersands Solicitors  
Mind  
Minim Law Ltd  
Mishcon de Reya  
Money Advice Trust  
Moon Beaver Solicitors  
Motor Accident Solicitors Society (MASS)  
Mott MacDonald (Engineering Company)  
Mullis & Peake LLP Solicitors  
Myerson Solicitors LLP  
NHS Litigation Authority  
Norton Rose Fulbright LLP  
Joe O'Donnell  
Online Legal Services Ltd  
Monika Patel  
Paragon Group (Finance Company)  
Pardoes Solicitors  
Personal Capacity Response  
Personal Injuries Bar Association  
Graham M Phillips  
Pickering's Solicitors  
Jo Pilic (Solicitor)  
Lora Pinto (Solicitor)  
Prince Family Law x 2  
QS Rubin Lewis O'Brien Solicitors  
R3  
Jackie Randall (Solicitor)

Randall & Phillips Solicitors  
Haroon Rashid (Solicitor)  
Rayden Solicitors  
Rees Wood Terry Solicitors  
Relate and Marriage Care (Voluntary sector/Community group)  
Resolution – First for family law  
Ries Solicitors and Mediators  
Royal Bank of Scotland  
Rudlings Wakelam Solicitors  
Saracens Solicitors  
Sembcorp Bournemouth Water Limited  
Senior Judiciary of England & Wales  
Sheffield City Council  
Shoosmiths LLP  
Sinclair Taylor Debt Management Limited  
Sir Peter Singer  
Abigail Smith (Solicitor)  
Society of Trust and Estate Practitioners (STEP)  
Jason Sparrow  
Nicola Steadman (Solicitor)  
Stewarts Law  
JJO Sutcliffe  
Karen Taylor (Solicitor)  
Technology & Construction Bar Association  
Technology and Construction Court  
The Professional Negligence Bar Association  
The Technology and Construction Courts Solicitors Association  
The Thomas Higgins Partnership Solicitors  
TheCityUK  
Thompsons Solicitors  
Peter Thorneycroft (Solicitor)  
TWM Solicitors LLP  
HH Judge Waller  
Simon Wheatley (Barrister)  
Whitehead Monckton Solicitors  
Wilkins Kennedy LLP  
Chris Willis  
Williscroft & Co  
Women's Aid

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