

<p><i>Title:</i> Court Fees. Cost recovery.</p> <p><i>IA No:</i> MoJ221</p> <p><i>Lead department or agency:</i> Ministry of Justice</p> <p><i>Other departments or agencies:</i> HM Courts & Tribunals Service</p>	<h2 style="margin: 0;">Impact Assessment (IA)</h2>
	<p>Date: 31/03/2014</p>
	<p>Stage: Final</p>
	<p>Source of intervention: Domestic</p>
	<p>Type of measure: Secondary legislation</p>
	<p>Contact for enquiries: mojfeespolicy@justice.gsi.gov.uk</p>
<p>Summary: Intervention and Options</p>	<p><i>RPC Opinion:</i> GREEN</p>

Cost of Preferred (or more likely) Option

Total Net Present Value (2013/14 prices)	Business Net Present Value (2013/14 prices)	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?	
-£10m	-£410m	£40m	No	NA

What is the problem under consideration? Why is government intervention necessary?

The Ministry of Justice (MoJ) does not recover the full cost of the civil court system (the civil and family courts). In 2012/13 a gross income of around £505m was generated against a cost of around £630m, creating a deficit totalling around £125m (2013/14 prices). With around £25m of income spent on remissions (fee waivers) the overall cost to the taxpayer was around £150m. The MoJ's 2010 Spending Review settlement includes a commitment to recover, by 2014/15, the full cost of the civil court system through fees, excluding the cost of remissions. Government intervention is necessary to increase income from fees.

What are the policy objectives and the intended effects?

The MoJ's policy is that fees in HM Courts & Tribunal 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 the reforms in this Impact Assessment 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 below cost. The proposals also seek to simplify the current fee structure to make it easier to understand and more straightforward to administer.

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

Option 0: Do nothing. Maintain the current fee structure.
Option 1: Introduce a new fee model that moves close to full-cost recovery in the civil court system.

Option 1 is the final proposal as it will more closely meet our policy objectives.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** after October 2015

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:  Date: 31 March 2014

Summary: Analysis & Evidence

Policy Option 1

Description: Introduce a new fee model that moves close to full-cost recovery in civil and family courts.

FULL ECONOMIC ASSESSMENT

<i>Price Base Year</i> 2013/14	<i>PV Base Year</i> 2014/15	<i>Time Period Years</i> 10	<i>Net Benefit (Present Value (PV)) (£m)</i>		
			<i>Low: -10</i>	<i>High: -10</i>	<i>Best Estimate: -10</i>

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			95	820
High			120	1,005
Best Estimate	0.1		105	915

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

The total additional cost to court users is estimated to be around £105m per annum. Within this, the cost to business users is around £50m per annum with other court users contributing around £55m per annum. The cost to business users includes cash flow costs (£1m per annum) in addition to the cost of higher court fees. There will be ongoing costs to HM Courts & Tribunals Service of £1m from increased remissions. Transition costs to HM Courts & Tribunal Service, including costs of minor adjustments to court IT systems, and reissuing forms and guidance, are expected to be no more than £0.1m.

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

There may be minimal transitional costs related to HM Courts & Tribunals Service staff familiarising themselves with the changed fees. There could also be an increased cost to HM Courts & Tribunals Service in processing fee remissions. Costs to other court users from familiarisation.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0		95	815
High	0		115	995
Best Estimate	0		105	905

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

Ongoing benefits include increased net fee income to HM Courts & Tribunals Service (and reduced burden on the taxpayer) of around £105m per annum. There will be a benefit of £1m to court users who have more of their fees remitted.

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

A simplified fee structure will make the system easier for users to understand and more straightforward for HM Courts & Tribunals Service staff to administer. In addition, having fees set to better reflect the cost of proceedings ensures that users consider the costs and benefits of bringing a case to court.

Key assumptions/sensitivities/risks	Discount rate (%) 3.5
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It is assumed that fee changes will not affect case volumes. However due to external factors there is a degree of uncertainty around baseline caseload volumes so high and low estimates have been provided. Our best estimate is an internal 2014/15 caseload forecast which utilises current trends and other drivers to predict caseload volumes. The high scenario assumes a 10% increase in caseload compared to 2014/15 forecast whereas the low scenario assumes a 10% fall in caseload compared to 2014/15 forecast. It has also been assumed that there is no net detrimental impact on outcomes for either civil or family court cases or access to justice. The impact figures only include those fees where HM Courts & Tribunals Service could extract the detailed data required from the case management systems. It has also been assumed that there would be no impact on demand for legal services used to pursue and to defend a claim.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m, 2009 prices:			In scope of OIOO?	Measure qualifies as
Costs: 40	Benefits:	Net: -40	No	NA

Annual profile of monetised costs and benefits* - 2013/14 prices (nearest £5m¹)

Option 1	Y1 2014/15	Y2 2015/16	Y3 2016/17	Y4 2017/18	Y5 2018/19	Y6 2019/20	Y7 2020/21	Y8 2021/22	Y9 2022/23	Y10 2023/24
Transition costs	0.1	0	0	0	0	0	0	0	0	0
Annual recurring cost	100	105	105	105	105	105	105	105	105	105
Total annual costs	100	105	105	105	105	105	105	105	105	105
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	95	105	105	105	105	105	105	105	105	105
Total annual benefits	95	105	105	105	105	105	105	105	105	105

¹ With the exception of transition costs which are given to the nearest £0.1m

Evidence Base

Background

1. Litigants have paid a fee to make use of the civil courts in England & Wales since the 19th century. Originally, user fees were paid directly to the judges of the courts, who retained them personally. With major reforms of public administration, including the establishment of the court system in its modern form and the introduction of judicial salaries, fee setting powers eventually passed to the Lord Chancellor under Section 165 of the County Courts Act 1888. Hence, it has long been the case that civil justice is not publicly funded and that users must pay for the service that they use.
2. Court fees are prescribed by the Lord Chancellor under statutory powers and they must comply with the general policy principles for statutory fee-charging services, as set out in HM Treasury's guidance '*Managing Public Money – Charges and Levies*', which states that fees should normally be set at full cost levels. Departures from the normal rule may be justified on a case by case basis, but the guidelines generally do not permit different users of the same service to be charged different fees, or allow users of one service to be charged a higher fee to subsidise the fee for users of a different service.
3. A fee remissions system (of fee waivers) is in place to ensure that access to justice is maintained for those individuals with limited financial means who would otherwise have difficulty paying a fee to use court services. Such individuals can therefore access court services free of charge or at a reduced rate. A fee remission is a full or partial fee waiver of the fees that become payable when an individual uses these services. Fee remissions are available for claimants only. If a claimant does not apply for a fee remission, wins their case, and recovers the court fee from the losing defendant it is not possible for the losing defendant to apply for a fee remission.
4. The underlying fee policy of cost recovery and the need to raise income to meet financial targets were not in question in the consultation paper. The consultation set out the approach to achieving cost recovery in the civil court system and the approach to starting to simplify the current fee structure to make it easier to understand and more straightforward to administer. This Impact Assessment assesses the impact of the Government's preferred approach, in light of the consultation responses and further evidence obtained during the consultation period.

Rationale

5. The Government's overall aim is to reduce taxpayer subsidy of the court system by ensuring that fee income covers the cost of providing court services, minus the cost of the remissions system (fee waivers).² The remissions system exists to ensure that access to justice is maintained for court users who would otherwise have difficulty paying a court fee; these users can be awarded a full or partial waiver of their fee, depending on their financial circumstances.³ The cost of the remissions system is met from the Ministry of Justice budget. Fee remissions are available for claimants only.
6. Calculations to determine the cost of the services provided in the civil court system have been made under the assumption that all fees would be paid in full in every case. The term "cost recovery" therefore refers to the setting of fees at the cost price calculated before fee remissions are taken into account.

² The principle of full-cost recovery has featured in a number of previous consultation documents. See:

'Fees in the High Court and Court of Appeal Civil Division' [CP15/2011];

'Civil Court Fees 2008' [CP31/08];

'Civil and Family Court Fee Increases' [CP(L)24/05];

'Civil Court Fees' [CP5/07];

'Public Law Family Fees Consultation Paper' [CP32/07]; and

'Civil Court Fees' [CP10/04]

³ See the recent MoJ fee remissions consultation and consultation response for more information:

<https://consult.justice.gov.uk/digital-communications/fee-remissions-court-tribunals>

7. The Government believes that this policy offers a fairer deal to the taxpayer, as their contribution is targeted where it is most needed (that is, at ensuring access to justice for those who cannot afford to pay), whilst individual court users pay for the service they receive where they have the means to do so.
8. The current fee system divides services according to the area of law under which the court work is performed rather than by the nature of the service provided. As such, the various parts of the civil court system have been seen as distinct entities for the purpose of setting fees. Fees have developed incrementally, which has led to different fee-charging structures in each area, and these have been reported as distinct entities in the annual accounts of HM Courts & Tribunals Service.⁴
9. However, the Government considers that these traditional distinctions do not properly reflect the way the court system operates today, nor the way it will increasingly operate in the future. For example, many administrative processes which were undertaken in local courts now take place in shared administration centres or online. Many courts are co-located, with different types of cases sharing the same back offices, court rooms and staff. With so many shared costs, the Government believes it would be artificial to continue to consider the cost of each type of activity in each jurisdiction in isolation.
10. Therefore, when setting fees, we have looked at the costs of the civil court system as a whole, focusing on the cost of activities and processes which are common to all courts, such as issue or hearing, wherever they occur.
11. In addition to increasing cost recovery, our aim is also to reduce the complexity of the current fee charging system by having fewer fee charging points, as well as having common fees for similar processes across all jurisdictions. The reforms set out in the consultation response are intended as a step towards that goal.

Policy Objectives

12. The policy objectives are to:
 - Design a coherent fee charging system that is easier to understand and administrate;
 - Maximise fee income at or as close as possible to full cost levels, within the '*Managing Public Money – Charges and Levies*' guidelines;
 - Ensure the system remains viable when patterns of demand change, by achieving as close a match between court fee income and court costs as possible; and
 - Support our wider policy aims. For example, encouraging the use of mediation, digital access to services, and in a way which encourages users to settle their claims earlier.

Description of Options Considered

13. This Impact Assessment identifies both monetised and non-monetised impacts from society's perspective, with the aim of understanding what the net social impact might be from implementing these options.
 - Option 0 - (Base Case) Do nothing. Maintain the current fee structure.
 - Option 1 - Introduce a new fee model that moves close to full-cost recovery in the civil court system.
14. The Government's final proposal is Option 1.

⁴ HM Courts and Tribunals Service is an executive agency of the Ministry of Justice. An executive agency is a semi-independent organisation set up by the government to carry out some of their responsibilities instead of a government department.

Affected Stakeholder Groups, Organisations and Sectors

15. The following principal groups are likely to be affected by the proposals:

- Court Users – those who use the civil court system;
- HM Courts & Tribunals Service – who administer the civil court system;
- Taxpayers – the subsidy currently provided by the UK Exchequer towards the running and operating costs of HM Courts & Tribunals Service; and
- Legal Aid Agency (LAA) – litigants or appellants who are eligible for legal aid have their fees paid for them by their legal representatives, who can reclaim the money from the LAA.

16. These changes will affect, primarily, individuals and businesses pursuing cases through the courts and local authorities pursuing public law family proceedings. The fee changes for family proceedings will affect individual users of the service and local authorities who issue care and supervision proceedings. Fee changes in civil proceedings will affect both individuals and organisations. While alternatives to court, such as mediation, are available for many types of cases, in some cases there are no alternatives to using the civil court system.

Cost and Benefits of Options Considered

Key Assumptions

Methodology

17. To model the income from proposed fee regimes we have combined outputs from costing and case progression analysis, taking into account remissions and changes to caseload volumes.

Trends

18. We have modelled three scenarios to assess the potential change in baseline caseload. Our best estimate scenario is our central internal caseload forecast for 2014/15, which takes into account current underlying trends and other drivers of court case volumes. Our high scenario assumes that there is a 10% increase in baseline caseload compared to the 2014/15 forecast. The low scenario assumes that there is a 10% fall in baseline caseload compared to the 2014/15 forecast. We have presented the 2014/15 baseline caseload forecast throughout this Impact Assessment.

19. This sensitivity around how baseline court case volumes might change, irrespective of the reforms, differs from other additional sensitivity analysis (paragraph 111) relating to whether court case volumes might change as a result of court fees changing.

20. We present both costs and income in 2013/14 prices. This assumes that fees are uplifted by CPI (Consumer Price Index) inflation each year.

21. We assume that the 2012/13 cost base will rise in line with inflation and remain constant at £630m per year in 2013/14 prices. Even though we anticipate some small changes to caseload in our 2014/15 caseload forecast if current trends continue (see paragraph 18), we do not anticipate that these volume changes will be significant enough to affect overall cost levels.

22. We also assume that fee income is constant from 2015/16 onwards. In 2014/15 we are expecting to generate 11 months of increased fee income (see paragraph 110 for further details)⁵. Throughout the Impact Assessment we present annual figures.

Refunds

⁵ There is a small change in income from 2016/17 onwards as income from insolvency debtor petitions is removed as responsibility for this service is transferring out of the courts.

23. We assume that there are no refunds of court fees.

Remissions

24. We assume that the remissions scheme introduced in October 2013 is in place and that the remissions thresholds are adjusted for CPI inflation annually. We also assume that income, capital and benefits (for those who would be eligible for remissions) increase with CPI inflation annually. This implies that eligibility for remissions will be unchanged.

Demand

25. We assume that user demand will not change in response to planned fee rises i.e. that court fee changes themselves will not change court case volumes. External and internal research conducted to date suggests that this assumption is reasonable:

- Individuals and small businesses participating in published external research conducted on behalf of MoJ by Ipsos Mori⁶ tended to view going to court as their only remaining option (having exhausted other possibilities) and as such emotional motivations tended to be their primary reason for taking their case to court. Users with legal representation tended to have little awareness of the costs, including court fees, and typically viewed court fees as a low proportion of their overall costs. Litigants in person were more aware of court fee levels, as these were typically the sole costs they paid. Individuals with legal representation exhibited less sensitivity to price than those who were self-represented. When asked about specific hypothetical increases to court fees, participants felt that the proposed increases were affordable and would not have deterred them from going to court.
- 2013 MoJ published qualitative research⁷ with bulk user organisations and solicitors reported that increases in court fees would have minimal impact on the volume of cases they bring to court. As litigation was seen as a last resort, decisions to take cases to court were influenced more by other factors, and court fees were considered to be a small proportion of the overall cost of going to court among those who used legal representation.
- A 2007 MoJ published research paper⁸ found that individuals who had used the courts ranked fees as lower in importance than other considerations such as “getting justice”.
- Published survey data examining public attitudes towards court fees⁹ showed that the majority of people think that individuals and businesses should contribute to the cost of the courts, where they can afford to.
- Unpublished internal MoJ analysis on civil driver-based forecasts concluded that the minor fee changes (at issue) which have occurred since 2000 do not appear to have had any statistically significant impact on historical caseload over and above the variation that is explained by changes in the other economic drivers (debt, GDP, interest rates).
- Data collected as part of the published Jackson Review of Civil Litigation Costs¹⁰ illustrates that court fees tend to be significantly lower than the costs of using legal services providers.

26. Nevertheless, there is a risk that demand for court services may fall as a result of court fee increases and hence cause expected court fee income to fall. We sensitivity test our assumption that user

⁶ “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” MoJ (MoJ (2014)

⁷ “Potential impact of changes to court fees on volumes of cases brought to the civil and family courts” MoJ (2013)

⁸ Source: What’s cost got to do with it? The impact of changing court fees on users (MoJ, 2007)

⁹ “Public attitudes to civil and family court fees” (MoJ, 2013)

¹⁰ Appendix 9, *Review of Civil Litigation Costs: Preliminary Report*, May 2009.

demand will not change due to proposed fee rises in the risks section of this Impact Assessment (paragraph 111).

Fees

27. Individual fees in this Impact Assessment are presented in 2013/14 prices.

Option 0 (Base Case) Do nothing. Maintain the current fee structure

Background

28. In 2011/12 and 2012/13, the MoJ recovered only part of the cost of the civil court system. Figures in HM Courts & Tribunals Service Annual Report and Accounts 2012/13 showed a gross deficit, before the cost of remissions is taken into account, of around £115 million (in 2013/14 prices).
29. To support the review of fees, we have revised the accounting policies used to divide costs between the different HM Courts & Tribunals Service operations. This is the first major review of accounting policies in this area for over 10 years. The new costing approach better reflects the direct costs of providing services to courts users, and ensures that all users makes a fair contribution to the wider costs of the justice system.
30. Using the new costing approach, the gap between costs and fees is around £125 million (in 2013/14 prices). The main reason for the increase in this gap is due to the revised method of apportioning costs, which uses data on sitting days/hours to apportion shared costs between criminal and civil business, rather than splitting costs based on set percentages.

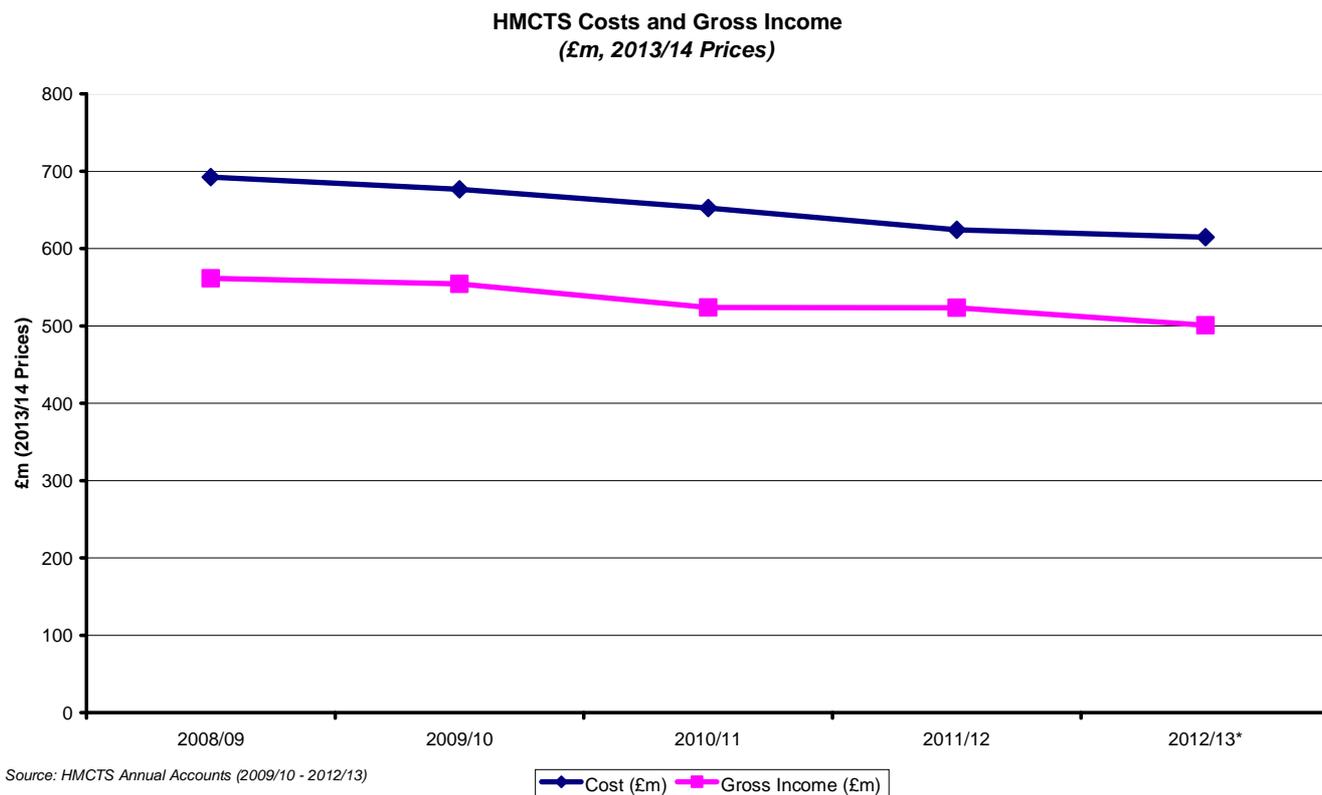
Description

31. Under the “do-nothing” base case, we would continue with the current fee charging structure but uplift most fees to 2013/14 prices (excluding those family fees that were uplifted in July 2013¹¹ and fees that are currently charged above cost).
32. The following graph illustrates total costs and gross income for HM Courts & Tribunals Service since 2008/09¹². This includes civil business in the magistrates’ courts (which are divided between criminal and civil work), civil business in the county court, High Court and Court of Appeal Civil Division as well as family and probate business

¹¹ The Family Proceedings Fees (Amendment) Order 2013 and The Magistrates’ Courts Fees (Amendment) Order 2013

¹² Assumes (i) 2009/10 cost base; and (ii) volumes in 2010/11 will be the same as in 2011/12. Note that the Court of Protection was not part of the HM Courts & Tribunals Service cost base before 2009/10; the Court of Protection cost and income stream has therefore been included in the cost recovery level from 2009/10 onwards.

Figure 1: Gross Costs and Income (2008/09 – 2012/13)



33. The graph shows that both costs and the amount of income recovered have fallen since 2008/09 although the proportion of costs recovered has remained relatively constant (at around 80%).

Option 1 - Introduce a new fee model that moves close to full-cost recovery in civil and family courts

Description

Background

34. Since the 2010 Spending Review and subsequent Autumn Statements and Budgets, MOJ has been required to deliver real terms savings of 27% by 2014/15.

35. HM Courts & Tribunals Service continues to reduce spending overall, with net operating costs falling from around £1,430m to around £1,325m between 2011/12 and 2012/13. HM Courts & Tribunals Service will make further reductions to operating costs in the coming years, which will help to close the gap between costs and fees. However, the Government considers the development of an effective cost recovery policy to be an essential factor in meeting the cost of running the court service, which in turn will contribute towards savings in the net cost to the taxpayer.

The cost of the civil court system

36. Costs in the civil court system are spread across a number of areas - including, but not limited to:

- salaries and expenses for court staff and the judiciary;

- salaries and expenses of managers providing support and direction to front-line staff;
- accommodation (court and office buildings) and furnishings; and
- information technology and telephone systems.

37. These shared costs totalled around £630m in 2012/13 (in 2013/14 prices).

38. In our review of accounting policies, we have looked again at how we allocate or apportion these different types of costs between the different HM Courts & Tribunals Service operations:

- Some costs are easily attributable to a particular type of activity. These “direct” costs represent the staff and judicial time associated with a particular case type or stage. Such costs are calculated by the minute, and are not uniform: for example, a judicial minute for a High Court judge is more expensive than that for a Magistrate. Some cases will require considerable judicial input, while others may require more administrative time. The Government believes it is right that, as far as possible, these costs should be met by the user, and these costs will be directly represented in the fee charged.
- All other costs (“indirect” costs) are less easy to attribute to specific types of cases or activities. Courts are located throughout England and Wales so that they are accessible to all who may wish to bring a case, and the infrastructure necessary to deliver an effective civil court system (e.g. IT and estates) benefits all who use the system. Even when a case is resolved quickly (for example, a money claim which is undefended), it is the existence of a fully functioning judicial system – namely, a system where a case can be defended, argued in front of the judiciary, appealed and enforced – that gives the claim its worth. The Government therefore believes that all those who issue a court case benefit equally from the existence of the civil justice system as a whole, and should share in contributing towards its indirect costs. For this reason, the Government has divided the indirect costs of the system between all cases that are issued.

39. This system of apportioning costs means that all who bring a case contribute towards the overall costs of the civil justice system.

40. For the purpose of setting fees, the Government has grouped together similar activities to give a fee based on their average cost, wherever they occur. This includes, for example, grouping together the cost of issuing non-money civil cases and private law family cases, and grouping together all general applications.

41. We have retained the current tiered structure of fees for certain types of claims (e.g. money claims), where the fee rises incrementally according to the value of the claim. This structure ensures that the costs of money claims are spread according to the value of the claim so that the fees for lower-value claims are not higher than the value of the claim itself, which could inhibit access to the justice system.

Implementation

42. The proposed fee changes will be implemented through secondary legislation due to come into force in spring 2014.

43. The Government expects that the proposed revised court fees would generate approximately £615m in gross income against a cost base of £630m, therefore reducing taxpayers’ contributions to the cost of running the civil court service by £105m per annum from 2015/16 onwards.

Proposals

44. The fees affected by these proposals are currently governed by six Statutory Instruments.¹³ These are:
- The Civil Proceedings Fees Order 2008
 - The Family Proceedings Fees Order 2008
 - The Magistrates' Courts Fees Order 2008
 - The Non-Contentious Probate Fees Order 2004
 - The Court of Protection Fees Order 2007
 - The Upper Tribunal (Immigration and Asylum Chamber) (Judicial Review) (England and Wales) Fees Order 2011
45. Annex A contains a full list of the fees currently charged in each of these areas, along with our proposed changes. It should be noted that the creation of the single family court in April 2014 will mean that the family fees, which currently appear in both the Magistrates' Courts and Family Proceedings Fees Orders, will appear in a single Family Proceedings Fees Order only. A summary of the key fee changes is provided below.

Issue Fees

46. In order to better reflect the shared costs and processes involved in issuing cases (see paragraph 40 above), we propose to group together all non-money civil issues in the county court (e.g. insolvency cases and possession claims) with private law family case issues (i.e. Children Act (such as child contact and residence orders), divorce and ancillary relief cases).
47. Grouping the fees in this way and charging at full cost creates a standard issue fee of £280. This fee will be charged in all cases included in this grouping - with the exception of certain types of family law cases and debtor petitions in bankruptcy proceedings, where fees will be retained at their current levels (see paragraph 54 below). In the case of proceedings seeking a non-molestation or occupation order, we will no longer charge a fee at all in order to assist victims of domestic abuse.
48. Issue fees for money claims will remain at their current levels for cases with a value up to £1,500; to ensure that the fees charged are not higher than the value of the claim itself. Fee changes for money claims above £1,500 are expected to generate overall cost recovery in money claims.
49. A standard discount of 10% will be made for applications made online or through the bulk centre, to reflect the lower cost of these channels.

Post Issue Fees

50. At present, additional fees are charged to those who pursue specific types of cases within the civil court system (largely money claims) whose cases proceed beyond the issue stage. These fees are charged at the allocation, listing and hearing stages.
51. In order to simplify the process the Government will abolish the fees charged at the allocation stage and instead include allocation costs in the issue fee. In a similar vein, the listing fee will be incorporated into the hearing fee.
52. Hearing fees charged for small claims hearings will be maintained at current levels (adjusted to 2013/14 prices). The Government will announce its intention in relation to the proposals to charge certain fees above cost ("Enhanced Fees") in due course. For the purpose of this Impact Assessment it is assumed that fast and multi track hearing fees will remain at current levels.
53. Most private law family cases also involve a hearing, which is considered similar in its cost to the multi track hearing process. A fee will not be charged for these hearings.

¹³ This includes all published amendments to these SIs.

54. The policy decision to retain fees at current levels rather than to charge at full cost for certain types of family cases at issue and hearing; namely certain cases brought under the Children Act 1989, ancillary relief and adoption cases reflects the fact that such cases are often brought by people going through difficult circumstances - for example, those who are seeking a court decision relating to contact or financial arrangements for their child, or who are settling financial arrangements following the breakdown of a marriage. These issues can be complex, and the progress of a case (particularly where a child is involved) is often directed by the judge, who is bound to act in the interest of the child.
55. Retaining family fees at their current levels and not charging for non-molestation and occupation orders will, of course, have an impact on our full-cost recovery plans. By choosing not to charge the full cost of these processes to the user, the government must instead forgo potential fee income, which is a key reason why the proposals fall short of achieving full cost recovery.

Public law family cases

56. Public law cases are generally brought by local authorities, and cover matters such as care orders, supervision orders and emergency protection orders. At present, local authorities are required to pay two fees in these cases: an issue fee of £3,320 and, where applicable, a hearing fee of £2,155. Where cases are resolved at an early stage, a refund of £1,360 can be made against the issue fee.
57. To simplify the process a single issue fee of £2,055 will be charged at the start of proceedings, with no final hearing fee and no refunds if a case is resolved at an early stage. This is consistent with the changes to the Public Law Outline (PLO), which aims to support the proposed 26-week time limit for public law family cases.

General Applications

58. General applications are additional processes that can be issued by a court user alongside a case. They are used across the civil court system and can be made at any time during the lifetime of the case; examples can include applications for parties to file further documents in the proceedings, applications to set aside judgments, or an application to join additional parties to a case.
59. In order to standardise the approach to the fees charged for general applications and other applications made within proceedings a standard fee of £155 for general applications which generally require a hearing (an application on notice) or £50 for those which don't (an application by consent or without notice) will be charged across all courts, where no other fee is specified. These fees will also apply to Children Act applications made within proceedings in family cases. In such cases, this change will result in a majority of users paying a lower fee than at present, and this is in contrast to our proposals to charge £215 when such an application is made to issue a case.

Judicial Review

60. Judicial review is a process by which individuals, businesses and others can ask a court to review the lawfulness of a decision, action or omission of a public body.
61. Financial modelling has calculated that current fees for judicial review do not recover the full cost of the processes involved. The government therefore proposes to increase fees for judicial review to their full cost prices, involving an increase from £60 to £140 for an application and £215 to £700 for a hearing. The fee for an oral renewal will be £350, with a further £350 fee payable at the hearing stage if an oral renewal is successful.

Probate

62. Probate is the service whereby the courts give a person or persons the authority to administer a deceased person's estate, where this estate has a value of over £5,000 and does not concern jointly-held assets.

63. Financial modelling shows that these fees are below cost. We therefore propose to increase the fees to full-cost levels so that an application for grant of probate will increase from £45 to £155, with the additional fee for a personal probate application maintained at £60.

Court of Appeal (Civil Division)

64. The civil division of the Court of Appeal hears appeals from all divisions of the High Court and, in some instances, from the County Court and certain tribunals.

65. The fees currently charged in the Court of Appeal are laid out in the Civil Proceedings Fees Order. At present, two fees are charged: one, set at £235, for permission to appeal; another, set at £465, for a hearing once permission has been granted. Financial models suggest that these fees are currently charged below full-cost level, which has been calculated at around £850 for permission to appeal and £11,230 for a hearing.

66. The government believes that charging such high fees may prohibit some from accessing the Court of Appeal and instead, the government proposes to increase the fees whilst maintaining them below full-cost levels. The fees proposed are £480 for permission to appeal and £1,090 for a hearing.

67. The government also proposes to introduce a charge for an oral renewal hearing. An oral renewal will involve a hearing of the arguments for appeal and involves judicial time. The government considers that the fee structure here should reflect that used for judicial review, which has a similar process. A fee of £545 will be charged for an oral renewal (half of the hearing fee), with the remaining £545 charged at the hearing stage if permission is granted. Further fee changes in the Court of Appeal are set out at Annex A.

Court of Protection

68. 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.

69. Current fees are set out in the Court of Protection Fees Order. Two main fees are currently charged: one of £400 for an application or an appeal, and one of £500 for a hearing. Hearing and appeal fees broadly achieve full-cost recovery. However the issue fee for simple applications is too high and a lower fee of £220 is proposed for simple applications, with a £410 fee for complex cases. Other minor fee changes are proposed for applications within proceedings and other general applications (see Annex A).

Costs of Option 1

70. We present annual costs and benefits in steady state throughout the IA. Optimism bias applied to 2014/15 income is discussed in paragraph 110.

Monetised Costs

Transitional Costs

Costs to HM Courts & Tribunals Service

71. We expect to incur costs of approximately £5,000 for changes to HM Courts & Tribunals Service court publications and destroying old stock. Amendments to court IT systems have been estimated at up to £50,000. There may be some small costs related to court staff having to spend some time familiarising themselves with the new fees. In summary the one-off transitional costs for HM Courts and Tribunals Service are expected to be around £0.1m.

Ongoing Costs

Costs to Court Users:

72. The total additional cost to court users of the increased court fees is estimated to be around £105m per annum in 2013/14 prices. Those users who are currently eligible for legal aid or a fee remission will not be affected by the increases.
73. There are some court users who will see their fee fall as a result of these proposals. The total estimated cost to court users of £105m therefore nets off these financial savings. The key areas where this applies are:
- As set out in paragraphs 56 and 57 above, local authorities pay fees to bring applications under the Children Act 1989 to cover matters such as care orders, supervision orders and emergency protection orders. The fee charged for bringing an application under section 31 of the Children Act will change to a single issue fee of £2,055 which is less than the current issue fee. This will simplify the administrative process and is anticipated to lead to financial savings.
 - The government's proposal to standardise its approach to the fees charged for general applications and other applications made within proceedings by charging a standard fee wherever such applications are made (i.e. £155 for general applications which require a hearing or £50 for those which do not) will include Children Act applications made within proceedings in family cases. Under this proposal applications made within proceedings will be lower than our proposals to charge £215 when these applications are made to issue a case.
 - In order to streamline the administration process, the government proposes to no longer charge a separate listing fee (currently £110) and has instead incorporated the costs in the listing process into the costs of a hearing. In a similar vein, the government proposes to abolish the fees charged at the allocation stage and instead to include allocation costs in the issue fee. Court users whose cases reach the hearing stage would therefore only pay one fee (a hearing fee).
74. In many civil cases, court costs including court fees are paid upfront by the claimant but are normally recoverable from the losing defendant in civil cases where the claimant wins. Therefore many increased court fees will be met by either unsuccessful claimants or losing defendants. There may be a cash flow cost to successful claimants as the higher court fees they pay are recoverable only once the case has been settled. We evaluate these impacts as part of the business impact analysis (see paragraph 91)

Costs to the Taxpayer

75. Our modelling suggests that the proposed fee increases will lead to an increase of around £1m in the cost of remissions to the taxpayer. The fees that are set to increase as part of these proposals have not historically attracted high levels of remissions¹⁴.

Non Monetised Costs

Transitional Costs

Costs to court users HM Courts & Tribunals Service and the Legal Aid Agency

76. Familiarisation and awareness costs might also be incurred by court users, their legal services providers and by the Legal Aid Agency. These have not been monetised. They are not expected to be significant.

Ongoing Costs

Costs to the Taxpayer

¹⁴ See HMCTS annual accounts 2012/13. Remissions in civil cases were £5m whereas in family cases remissions were £20m.

77. There is a possibility that eligible users, who previously would not have considered applying for remissions, will now consider applying as higher fees make them more likely to question their ability to pay. This cost has not been quantified but is expected to be negligible in aggregate because we estimate (see business impacts section at paragraph 91) that many of the users facing higher fees will not be individuals. Individuals who are defendants and lose the case are not eligible for remissions.

Costs to Legal Firms

78. There is a possibility that some legal firms may experience cash flow costs as they tend to pay any court fees up front and later claim these back from either their client or the Legal Aid Agency (LAA). This cost has not been quantified in this Impact Assessment as we are unable to estimate how many cases have legal representation nor the time before clients or the LAA pay their bill. In addition, there may be potential higher costs for those legal firms that have No Win, No Fee cases as if the client loses the case, the legal firm may bear the cost of the higher fee, depending on the nature of the arrangement.

Costs to Legal Aid Agency (“LAA”)

79. Legal aid includes the payment of court fees. Court fees are paid upfront by legal aid solicitors for clients who are in receipt of funding by the LAA for the purposes of the proceedings for which a certificate has been issued under the funding code; they are then claimed back from the LAA when the case is finished. The impact of these proposals on the LAA is expected to be minimal as Legal Aid is predominantly only available for public law family matters where the types of fees paid are largely unchanged. Legal aid is available for some Judicial Review and Court of Appeal cases; therefore there will be an increased cost to the legal aid agency when these fees increase. Due to data limitations, we are unable to separate the cost to the LAA from the overall cost of £105m. However as volumes of Judicial Review and Court of Appeal cases are small relative to other types of work that is legally aided (e.g. criminal), we expect the cost to be negligible.

Benefits of Option 1

Transition benefits

80. No transition benefits have been identified.

Ongoing benefits

Monetised

Benefits to HM Courts & Tribunals Service

81. As a result of the increased fees it is estimated that HM Courts & Tribunals Service will benefit from an increased fee income of around £105m per annum in 2013/14 prices compared to the base case.

Benefits to Court Users

82. Our modelling suggests that the proposed fee increases will lead to an increase of around £1m in the level of remissions received by court users. The fees that are set to increase as part of these proposals have not historically attracted high levels of remissions¹⁵.

Non-monetised

¹⁵ See HM Courts & Tribunals Service annual accounts 2012/13. Remissions in civil cases were £5m whereas in family cases remissions were £20m.

Benefits to Court Users

83. There is a possibility that eligible users, who previously would not have considered applying for remissions, will now consider applying as higher fees make them more likely to question their ability to pay. This benefit has not been quantified, but is expected to be negligible because we estimate (see business impacts section at paragraph 91) that only some of the users facing higher fees will be individuals, and of those, we expect a small proportion to be eligible for remissions (see footnote 15). If an individual defendant loses a case, they are not eligible for remissions if they have to pay the winning claimant’s costs (including court fees).

Benefits to Society

84. Given that fees do not currently recover the full cost of the civil court system, increasing fees closer to full cost recovery would reduce the level of subsidy that taxpayers currently provide the courts. A simplified fee structure and a reduction in the number of fee charging points may benefit society by making the fees easier to understand for users and easier for court staff to administrate.

Net Economic Impact of Option 1

85. The increase in fee revenue generated by these proposals reduces the subsidy paid by taxpayers to court users, other things being equal. Therefore, the overall net economic impact will be the minimal transition costs associated with implementing the new fee regime (which is estimated as £0.1m), annual cash flow costs to successful businesses (around £1m per annum) and the (expected negligible) non monetised costs of processing more fee remissions.

Summary Impacts of Option 1

Table 1: Estimated Gross Revenue under cost recovery proposals

Estimated Gross Revenue from Cost Recovery Proposals

All Figures are rounded to the nearest £5m, 2013/14 prices

	Gross Income		
	High	Best	Low
Do Nothing*	560	510	460
Option 1	675	615	555
Additional Income from Option 1	115	105	95

* In steady state the base case includes fee changes implemented in July 2013

86. Under our central assumptions gross cost recovery is expected to be -£10m in steady state as a result of these proposals. As paragraph 35 of this Impact Assessment states, costs are expected to fall through efficiencies, so we think it is prudent to target a fee income below the current cost of the service. Further, as paragraph 55 states, there are some processes for which we have chosen not to charge full cost.

87. The proposals are expected to generate increased fee income of around £105m per annum, of which around £50m (2013/14 prices) would come from business users. In addition successful claimants may incur cash flow costs (of approximately £1m per annum) as they would pay higher court fees upfront but only recover them once the case is settled.

88. It is possible that the proposed fee increases may incentivise court users to resolve issues without using the court system, potentially resulting in a reduced volume of court cases. We assume that this will not occur based on current research (see key assumptions). Nevertheless, the potential impacts of a drop in caseload as a result of our fee changes are assessed in the sensitivity analysis undertaken below (see paragraph 111).

89. The fee changes would not impact those who are entitled to a full remission of their fee and will have greatest impact on those individuals that are outside eligibility for a full fee remission or legal aid.

Business Impacts

Section 1: Impact on business court users

90. In estimating the volume of cases affected by cost recovery fees proposals, we use 2014/15 caseload forecasts as research suggests that the proposed changes to court fees should not themselves affect the volume of cases taken to court, as discussed in paragraph 25.

91. We currently do not possess detailed statistics on the proportion of claimants and of defendants who are businesses. We made several illustrative assumptions at the consultation stage but we have refined these during the consultation period to form the assumptions below. Assumptions are based on a sample drawn for a pilot survey of civil court users¹⁶, management information and advice from HM Courts & Tribunals Service court staff who issue claims. For specified money claims, we make separate assumptions based on where cases were issued (county court, online or bulk centre) to reflect differing characteristics of claimants and defendants in these areas.

Table 2: Summary table of assumptions of business claimant and defendant proportions

Case Type	% of business claimants	% of business defendants
Specified Money - County Court	70%	40%
Specified Money - MCOL	70%	30%
Specified Money - Bulk Centre	100%	30%
Unspecified Money	20%	60%
RCJ - Specified	70%	40%
RCJ - Unspecified	20%	60%
Possession	40%	10%
Other Civil	50%	50%
JR	2.5%	0%
Other (Civil appeals, copies, etc)	50%	50%

- Specified money claims – we assume 100% of claimants who use the bulk centre are businesses, as those who use the bulk centre issue a high volume of claims at once. We then estimate that 70% of the remaining Money Claims Online (MCOL) and county court claimants are businesses. On defendants, we know that bulk users tend to issue against individuals, so we assume that 30% of defendants in bulk centre cases are businesses. We make the same assumption about defendants for claims issued via MCOL. We assume that 40% of defendants in the county court are businesses. Overall, whilst businesses issue a significant number of money claims, many of these claims relate to personal debt, hence a smaller proportion of defendants are assumed to be businesses.
- Unspecified money claims – the majority of these claims are compensation claims pursued by individuals against insurers. We estimate 20% of unspecified money claimants are businesses and 60% of defendants are businesses
- Royal Courts of Justice (RCJ) cases – for money claims in the RCJ, we use the same assumptions as in the county court; this aligns with advice from operational staff. Therefore for

¹⁶ MoJ commissioned work to explore the feasibility of developing a representative and robust survey of civil court customers (report forthcoming). The assumptions are based on the sample of cases drawn for the pilot survey from the HMCTS Caseman case management system for civil court cases. Data were assembled based on the route into the court system of each case (e.g. via the County Court or via the Money Claims Online service) as the data are held on different systems. Case type was not always recorded. Businesses were identified using the Postal Address File to identify 'large users'.

specified money claims we estimate that 70% of claimants are businesses and 40% of defendants are businesses. For unspecified money claims in the RCJ, we assume 20% of unspecified money claimants are businesses and 60% of defendants are businesses.

- Possession - we estimate that 40% of possession claimants are businesses and 10% of possession defendants are businesses. For public rent and repossession cases, we assume the same proportion of business defendants but 0% of business claimants.
- All other civil claims – we assume that 50% of these cases are issued by business claimants and 50% are defended by businesses. These figures reflect the view that some claimants and some defendants are likely to be businesses.
- Judicial Review - in line with the Judicial Review (JR) Impact Assessment¹⁷ we assume that 2.5% of JR claimants are businesses. In terms of defendants, we assume 0% of defendants are businesses as the Government will be the defendant for a JR. Some businesses may have a third party interest but we do not quantify that impact here as any impact on these businesses would be secondary.
- Other claims – e.g. RCJ Civil Appeals and copies. We assume that 50% of claimants are businesses and 50% of defendants are businesses. These figures reflect the view that some claimants and some defendants in other cases are likely to be businesses.
- Probate and divorce – we assume that these family cases are issued by and (where applicable) defended by individuals.

92. Using the assumptions detailed above and our 2014/15 forecast caseload, the following table shows the volume of cases issued or defended by a business that will be affected by a rise in the issue fee. We assume that all RCJ claims are for values above £5,000.

Table 3: Volume of cases issued or defended by a business with an issue fee change

Case type	Origin	Volume of cases issued with issue fee change	
		Business claimants	Business defendants
Specified Money	County Court	77,500	44,000
	MCOL	42,500	18,000
	Bulk Centre	540,500	162,000
Unspecified Money		34,500	103,000
RCJ		8,500	5,500
Possession	County Court	21,500	6,000
	PCOL	27,500	18,000
Other civil		68,500	68,500
Other claims		6,500	6,500
TOTAL		827,000	432,000

93. There are some additional minor fee changes that will impact on businesses both positively and negatively. If a case progresses to the allocation or listing phase (approximately 15% of all cases), businesses will benefit as all of these cases will no longer have to pay allocation or listing fees. If a case involves a general application, then businesses will pay a higher fee for these.

94. We assume that 80% of cases result in the claimant being successful, either at the final hearing or beforehand if the case is settled earlier. We define success as having reached a favourable settlement or getting a final order. The success rate reflects research that suggests business claimants tend to only take cases to court if they are likely to win the case and any judgements (in

¹⁷ Reforms to Judicial Review Impact Assessment (reference number: MoJ 201)

their favour) will be enforceable¹⁸. In addition, the vast majority of cases (approximately 85%) do not reach a final hearing. Given the confidence in the validity of a case required to issue a civil case, we think that a success rate of 80% is reasonable.

95. It has been assumed that court case success rates and court case durations will not be affected by the increase in court fees. Our behavioural assumption is that changes to court fees will not influence behaviour (see paragraph 25) as court fees are not a significant factor in deciding to go to court. Therefore, changes to court fees should not change any aspect of behaviour throughout a court case e.g. how long the case lasts.

96. Business court user outcomes will be one of the four options described below. We assume that only businesses that lose their case pay the cost of court fees. Successful business claimants will pass on court fees costs but may incur cash flow costs. The outcomes and costs that would be incurred are summarised in Table 4 below.

- Business claimant wins the case: This applies to around 661,500 cases in total¹⁹. The court fee is passed on to the losing defendant. The business claimant would incur cash flow costs (estimated in section 2 below)
- Business claimant loses the case: This applies to around 165,500 cases in total²⁰. The losing business claimant would meet the higher court fee.
- Business defendant wins the case: This applies to around 86,500 cases in total²¹. There would be no increase in costs for the defendant businesses.
- Business defendant loses the case: This applies to around 345,500 cases in total²². The losing business defendant would meet the higher court fee. However the losing business defendant would be regarded as 'non compliant' for One-in-Two-out purposes.

Table 4: Potential outcomes and costs for business claimants and defendants

	Number of cases a business wins	Number of cases a business loses
Business Claimants	661,500 (Incur cashflow costs)	165,500 (pay court fee)
Business Defendants	86,500 (no cost)	345,500 (pay court fee)
Total cases where business pays increased court fee*		511,000

* Totals may not add up due to rounding

97. In conclusion, around 511,000 cases would involve a business paying the higher court fee. The total sum of increased court fees from these cases would be £50m per annum (in 2013/14 prices).

Section 2: Cash flow costs for successful business claimants

98. To fully quantify business costs we seek to quantify cash flow costs. Increased cash flow costs will be incurred by business claimants who pay a higher court fee upfront but later recover this cost from

¹⁸ Published alongside the consultation IAs, "Potential impact of changes to court fees on volumes of cases brought to civil and family courts", MoJ (2013)

¹⁹ This is calculated by taking our success rate assumption of 80% and multiplying it by our estimated 827,000 business claimant cases.

²⁰ This is calculated by taking our 'unsuccessful' rate assumption of 20% and multiplying it by our estimated 827,000 business claimant cases.

²¹ This is calculated by taking our success rate assumption of 20% for defendants and multiplying it by our estimated 432,000 business defendant cases.

²² This is calculated by taking our 'unsuccessful' rate assumption of 80% for defendants and multiplying it by our estimated 432,000 business defendant cases.

the losing defendant when the case is successful (see upper right quadrant of Table 4). The size of this cash flow cost is determined by (a) court case duration, (b) the total amount of higher court fees paid and (c) the opportunity cost of paying the higher court fees over the duration of the case.

99. We have estimated the size of the cash flow costs and present the results in the table below. To estimate cash flow costs, we first estimate how many successful business claimants there are in the court system (see business impacts assumptions). We estimate the expected duration between each fee being paid and the case being concluded²³ using output from analysis of case progression. We then apply an appropriate interest rate to calculate the expected cash flow cost at each fee point and sum for all fee charging points. We also assume that all cases (successful and unsuccessful) progress the same way through the court system. We present a high risk and low risk scenario for cash flow cost, 5%²⁴ and 1%²⁵ respectively, which represent the range of interest rates that could have been earned on the additional court fee expenditure.
100. In many cases, payment of costs can be delayed even after a costs assessment is made or enforcement is ordered. Although case progression analysis includes activities such as costs assessments and enforcements, there may be a further delay to a successful claimant receiving the funds. To account for this additional delay we have added six months to the estimated end of the case, before costs are reimbursed, in the high risk (5% interest rate) scenario.

Table 5: Cash Flow Costs for Successful Business Claimants

Case Type	Total cash flow cost		Cash flow cost per successful business claimant	
	High Risk (5% interest rate)	Low Risk (1% interest rate)	High Risk (5% interest rate)	Low Risk (1% interest rate)
Specified Money	£ 996,000	£ 70,000	£ 1.50	£ 0.10
Unspecified Money	£ 217,000	£ 23,000	£ 7.70	£ 0.80
Possession	£ 218,000	£ 17,000	£ 5.60	£ 0.40
Insolvency	£ 12,000	£ 1,000	£ 1.20	£ 0.10
Other Civil	£ 301,000	£ 21,000	£ 6.10	£ 0.40
Judicial Review	£ 1,000	£ -	£ 6.90	£ 0.50
RCJ	£ 335,000	£ 38,000	£ 48.60	£ 5.50
Insolvency - High Court	£ 7,000	£ -	£ 1.40	£ 0.10
TOTAL	£ 2,087,000	£ 169,000		
Midpoint		£ 1,128,000		

101. As the table shows, cash flow costs per successful case tend to be small for cases not in the RCJ. There is some variation in the size of the additional cash flow cost which could reflect the length of the case, the relative size of the fee increases or both.
102. We use the midpoint of the high risk and low risk scenarios to estimate that the cash flow cost to successful business claimants from initially paying a higher court fee is £1m per annum (2013/14 prices).

Section 3: Total Costs

103. The total impact on business is the sum of increased court fees faced by a losing business claimant or defendant plus cash flow costs for successful claimants which totals £50m (2013/14 prices). The Business Net Present Value is -£410m (2013/14 prices) over 10 years.

²³ We approximate the end of a case as the last key event in a case as the end is not explicitly defined in the case management system.

²⁴ Real returns on equity (a proxy for potential investment returns) have averaged around 5% per annum since 1899. Source: Chapter 6 of Barclays Equity Gilt Study (2013).

²⁵ The lowest return available to businesses is the interest rate paid by banks on cash; real returns on cash have averaged 1% since 1899. Source: Chapter 6 of Barclays Equity Gilt Study (2013).

104. To calculate Equivalent Annual Net Cost to Business (EANCB), we deflate business impact figures to restate impacts in 2009 prices, according to published guidance. In doing so, EANCB is calculated as £40m.

Section 4: Impact on legal services providers

105. Although case volumes are anticipated to remain the same, there may be changes to other costs. If a defendant is likely to lose a case and so have to pay a higher court fee, they may reduce their spending on legal services to compensate. Conversely the prospect of losing a case and paying a higher court fees may make both sides willing to spend more on legal services.

106. Evidence from both the Jackson Review and a survey of court users (see paragraph 25) showed that court fees tend to be small relative to overall legal costs and were felt to be less important in decision making. This implies that changes to court fees are unlikely to greatly increase the overall legal cost so it has been assumed that spending on legal services providers will remain the same following fee changes.

107. In any case, any impact on legal services providers as a result of changes to spending on legal services would be a secondary impact. If there was a reduction in demand for legal services in cases subject to higher court fees we assume the resources freed up would be diverted to other profitable activities.

Enforcement and Implementation

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

Risks and sensitivity analysis

Optimism bias

109. We propose to introduce cost recovery fees on 22nd April 2014, with the exception of fees in the Court of Appeal and Court of Protection. Therefore, we model implementation of the cost recovery package as the start of May 2014 rather than April 2014. This means we estimate income in 2014/15 to be 11 months (92%) of annual steady state income (which is presented throughout the Impact Assessment), as one month of income will be foregone due to the chosen implementation date. We anticipate that the delayed implementation of the fee changes in the Court of Appeal and Court of Protection will have minimal income impact, at a cost of around £150k in lost income for every month's delay.

Sensitivity Analysis

110. As discussed in the assumptions section (paragraphs 25), the demand for court services is assumed not to change in response to the proposed changes to fees. However, if demand were to change as a result of the proposed fee changes, expected income from the proposals would be affected. We have modelled three theoretical situations (in addition to the baseline caseload trend which assumes changes in caseload which are not due to court fee changes) in which demand falls by 2%, 5% or 10% to give low, medium and high risk scenarios, the results are shown in table 6 below. The demand scenarios have been applied to our central baseline case volume figure.

111. As the table shows, changes to caseload as a result of changes to fees would have a significant impact on the anticipated annual income from the proposed fee changes. At most, with a 10% fall in volumes when fees increase, gross income from cost recovery proposals would fall to £570m (a reduction of £45m compared to the central caseload scenario with no fall in demand due to fee rises). The decision to issue a claim in the civil courts may be finely balanced and based on an

assessment of costs and benefits and as such, fee rises may make fewer cases worthwhile to pursue. Responses to the consultation indicated that this may be more likely to be the case for claims above £5,000.

Table 6: Incremental Gross Income under different demand scenarios

	Central caseload scenario with no demand change	Demand Scenarios		
		Low demand fall (2%)	Medium demand fall (5%)	High demand fall (10%)
Estimated gross income in 2013/14 prices (£m)	615	605	595	570
Difference in gross income compared to central caseload scenario (£m)		-10	-20	-45

One-in-Two-out

- 112. Under these proposals, fees would not be applied in a wider range of circumstances nor to a wider range of court users. There would be no changes to who is required to pay court fees. The court services and processes to which the fees relate would not be changed. Court case outcomes should not change.
- 113. The intention is not to change the behaviour of court users; indeed the aim is to retain current court case volumes. The objective is simply to raise the price of court services where they are set below cost. Evidence collected by MoJ, as discussed in paragraph 25, shows that increased court fees are unlikely to affect the decision to go to court.
- 114. Court fees are initially paid by the claimant. In civil proceedings, costs (including court fees) are normally recoverable from the defendant if the defendant loses. In civil cases where the losing party is the defendant they would be regarded as ‘non-compliant’ for One-in-Two-out purposes. The losing defendant may be an individual or may be a business, depending upon the nature of the case. Where the winning claimant recovers the court fee in due course from the losing defendant the winning claimant may incur cash flow costs from the court fee being higher.
- 115. In family cases both parties would be individuals not businesses. In family proceedings the normal rule is that each side should pay its own costs.
- 116. Given that the scope of fee charging would not be changed in any way, and that the proposed fee charging aims to have no impact on court user behaviour, the cost recovery fee proposals in this Impact Assessment fall out of scope of One-in-Two-out as they do not impose additional regulation.

Small and Micro Business Assessment

117. It is likely that some small and micro businesses which bring cases to the civil courts or which are defendants in civil claims will be affected by our policy proposal as they will now have to pay a higher issue fee to bring a case to court, or may be passed this higher fee in due course if they are the losing defendant. Losing defendants would be classed as ‘non-compliant’. Successful claimants would also incur cash flow costs as they would pay the higher court fees upfront but only recover them once the case has been settled. However, if the case progresses to the listing or hearing stage, businesses will benefit as listing fees have been removed. We assess the impact on and potential mitigations for smaller businesses below.

Full Exemption

118. We do not currently possess detailed statistics on the proportion of small and micro businesses that issue or defend claims in the civil courts. Therefore we cannot quantify the effect on these

businesses. A full exemption for these businesses would not be possible as the proposed fees will apply to all court users and firms would have to prove their size to court staff if an exemption was based on the size of their business.

Partial Exemption

119. There are two key reasons why small and micro businesses will be partially exempted from the proposed fee changes; the value of the claims they tend to bring and some limited eligibility for remissions.
120. We have assumed that SMEs tend to issue fees for small amounts and frequently use Money Claims Online (MCOL). The effects of fee changes on SMEs should therefore be partly mitigated as for claims up to £1,500 the issue fees face minimal changes and allocation and listing fees will be removed. The biggest issue fee rise is £200, which applies to claims above £5,000 which tend to be issued by larger businesses or individuals. In addition, MCOL issue fees will continue to be offered at a 10% discount compared to claims issued through the county court and only MCOL fees for claims above £1,500 are increasing under the proposals.
121. Fee remissions apply to sole traders as well as individuals so they may not have to pay court fees. Fee remissions do not apply to other businesses and there are no plans to change this. The mitigations identified above should be of benefit to small and micro businesses.

Extended Transition Period

122. An extended transition period would not be possible as this would increase costs and the complexity of the changeover of fees for HMCTS court staff and users.

Temporary Exemption

123. Smaller businesses will not be able to apply for a temporary exemption. Immediate compliance with the new fees should not harm their business as businesses tend to thoroughly evaluate the costs and benefits of going to court before doing so.
124. A study of the factors influencing decisions to bring cases to court²⁶ showed that SMEs tended to make a financially influenced decision to go to court. SMEs considered the decision to go to court as part of a strategy in addressing what was fundamental to the sustainability of their business. Therefore, the decision to go to court is typically based on a sound financial argument and a high degree of confidence in being successful and recouping their costs from the losing defendant.

Varying Requirements by Type and/or Size of Business

125. As discussed above, varying requirements based on the type or size of the business would not be possible when setting fees for all court users.

Specific Information Campaigns or User Guides

126. In order to further mitigate the effects on small and micro businesses, we are producing refreshed user guides to ensure that these businesses know how they will be affected and we will be writing to them to inform them of the changes. A study of court users²⁷ showed that some considered current court materials to be unclear about both what is required throughout the court process and by when. The new user guide should help to make the process clearer and easier for SMEs, alongside the proposals to remove charging points such as listing and allocation fees which should also simplify the system.

Direct Financial Aid for Smaller Business

²⁶ "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" MoJ (2014)

²⁷ "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" MoJ (2014)

127. If a small or micro business is successful in their case, they can apply for a costs order from the losing defendant. This costs order is likely to include the cost of court fees in addition to any legal fees. Therefore, successful small businesses will be able to obtain re-imbursement of the cost associated with complying with cost recovery proposals. Nonetheless, there are likely to be cash flow costs associated with paying the court fee upfront and waiting until a costs order is paid to receive the money back. We evaluate cash flow costs for all businesses above. Although overall cash flow costs are small, they may be more of a burden on smaller businesses with lower cash reserves.

Opt-in and Voluntary Solutions

128. It is not possible to create a voluntary or opt-in solution for small and micro businesses. As discussed above, the new fees will apply to all court users and must be paid by court users unless they are entitled to a remission.

Views of Small and Micro Businesses

129. During the consultation period, we sought the views of small and micro businesses. The Federation of Small Businesses was invited to look over the consultation proposals but they did not send a response. Responses were received from other small businesses and representatives. In general although small businesses will benefit from unchanged fees for claims under £1,500, they will be affected by increases to the generic issue fee and money claim issue fees above £1,500.

Annex A: Full list of current and proposed fees (subdivided by fee order)

Civil Proceedings Fees Order 2008

		Current	Proposed	Further information (if required)
	MONEY CLAIMS: ISSUE FEE			
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	
	MONEY CLAIMS (CCBC): ISSUE FEE			
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	

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
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	
	MONEY CLAIMS ONLINE: ISSUE FEE			
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	
	RECOVERY OF LAND: ISSUE FEE			
1.4(a)	High Court	£465	£480	
1.4(b)	County Court	£175	£275	
1.4(c)	County Court (online)	£100	£245	
	OTHER FEES			

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
1.5	Any other remedy (High Court)	£465	£480	
	Any other remedy (County Court)	£175	£275	
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	
JUDICIAL REVIEW				
				The fees proposed at 1.9(a), (aa) (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	
GENERAL FEES: HIGH COURT AND COUNTY COURT				
	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	£560	

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
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	General application (by consent/without notice)	£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	
BANKRUPTCY/INSOLVENCY				
3.1(a)	Petition for bankruptcy (presented by debtor)	£175	£180	
3.1(b)	Petition for bankruptcy (presented by creditor/other person)	£220	£275	
3.2	Petition for an administration order	£175	£275	
3.3	Any other petition	£220	£275	

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
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	£275	
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	
3.10	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	
	COPY DOCUMENTS			
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	
	DETERMINATION OF COSTS (Senior/County Court)			
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	

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
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	
	DETERMINATION (IN THE SENIOR COURT) OF COSTS OCCURRED IN THE COURT OF PROTECTION			
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	
	ENFORCEMENT (HIGH COURT)			
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	

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
7.4	Application for a judgement summons	£100	£100	
7.5	Request/application to register a judgement or order Permission to enforce an arbitration award Certified copy of a judgement or order for use abroad	£60	£60	
	ENFORCEMENT (COUNTY COURT)			
8.1(a)	Issue of warrant of execution against goods (non-CCBC)	£100	£100	
8.1(b)	Issue of warrant of execution 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
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)
8.10	Request for an order to recover a specified road traffic debt	£7	£7	
8A.1	Request for service by a bailiff	£100	£100	

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
	SALE (COUNTY COURT)			
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
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
	FEES PAYABLE IN THE HIGH COURT ONLY			
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	
	JUDGE SITTING AS AN ARBITRATOR			
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	

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
10.5(b)	Hearing before a judge of the Technology & Construction Court	£1,860	£2,455	
ADMIRALTY				
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)
	PLUS: for every £100/fraction of £100 up to £100,000	£1	£1	
	PLUS: for every £100/fraction of £100 exceeding £100,000	50p	50p	
11.3	Entering a reference for hearing by the Registrar	£70	£70	
PAYABLE IN HIGH COURT AND COURT OF APPEAL ONLY				
12.1	Affidavit	£11	£11	
12.2	For each exhibit referred to	£2	£2	
PAYABLE IN THE COURT OF APPEAL ONLY				
13.1(a)	Application - permission to appeal/extension of time	£235	£480	
13.1(b)	Permission to appeal is not required or has been granted	£465	£1,090	This fee would also be payable for a renewed application for leave to appeal. If this was successful, no further fee would be payable.
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

		Current	Proposed	Further information (if required)
	General application (on notice)	*	£155	*New fee
	General application (by consent/without notice)	*	£50	*New fee

Family Proceedings Fees Order 2008

		Current	Proposed	Further information (if required)
	ISSUE FEES			
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	
1.7	Application for an order of assessment of costs	£40	£50	
1.8	Application for parental order	£215	£215	
	PROCEEDINGS UNDER THE CHILDREN ACT 1989			
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	

		Current	Proposed	Further information (if required)
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 residence 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 or 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	
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	

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
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	Fee removed
2.3	Appeal relating to 2.1(a) to 2.1(g) and 2.1(u)	£215	£215	All now under fee 2.3
	Appeal relating to 2.1(h)	£170	£215	
	Appeal relating to 2.1(i) to 2.1(r), 2.1(v) to 2.1(x) and 2.2	£180	£215	
2.4	Appeal against a contribution order	£180	£215	
ADOPTION AND WARDSHIP				
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	
PROCEEDINGS UNDER THE CHILDREN AND ADOPTION ACT 2006				
4.1	Application for warning notice to be attached to a contact order	£50	£50	
APPLICATIONS IN PROCEEDINGS				

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
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	Ancillary relief
	APPEAL			
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	
	SEARCHES			
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	
	COPY DOCUMENTS			
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	
	DETERMINATION OF COSTS			
9.1	Where the party filing the request is legally aided	£195	£200	
	Where the amount of the costs claimed:			

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
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	
9.21(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	
	MAINTENANCE ORDERS			
10.1	Application for a maintenance order to be sent abroad	£45	£50	
10.2	Application for a maintenance order to be registered	£45	£50	
	FINANCIAL PROVISION			
11.1	Application for an order for financial provision	£215	£215	
	ENFORCEMENT			
12.1	Application to question a judgement 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	

		Current	Proposed	Further information (if required)
12.4	Application for a judgement summons	£100	£100	
12.5	Application for attachment of earnings order	£100	£100	
ENFORCEMENT IN THE FAMILY COURT				
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	
ENFORCEMENT IN THE HIGH COURT				
14.1	Sealing a writ of execution/possession/delivery	£60	£60	
14.2	Request/application to register a judgement or order			
	Permission to enforce an arbitration award	£60	£60	
	Certified copy of a judgement or order for use abroad			
SERVICE				
15.1	Request for service by a bailiff of document (see order for exceptions)	£110	£110	
SALE				
16.1	Removing goods to a place of deposit	*	*	*The reasonable expenses incurred
	Advertising a sale by public auction	*	*	Fee removed
16.2	Appraisalment of goods	*	*	*5p in every £1 (or part of £1) of the appraised value

		Current	Proposed	Further information (if required)
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
	AFFIDAVITS			
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

		Current	Proposed	Further information (if required)
1.1	Application for JP to perform function not on court premises	£50	£50	
	APPEALS			
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	

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	Further information (if required)
CERTIFICATES AND CERTIFIED DOCUMENTS				
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	
LIABILITY ORDERS				
4.1	Council tax proceedings	£3	£3	
4.2	Application for liability order (Child Support Act 1991)	£40	£40	For each liability order
COPY DOCUMENTS				
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	
LICENCES				
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	
OATHS				

COURT FEES: PROPOSALS FOR REFORM

		Current	Proposed	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	
	OTHER CIVIL PROCEEDINGS			
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	
	WARRANTS			
9.1	Application for a warrant of entry	£18	£20	
9.2	Application for any other warrant (no other fee specified)	£75	£75	
	COMMITMENT			
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	Proposed	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	
COPY DOCUMENTS				
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	
OATHS				
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

COURT FEES: PROPOSALS FOR REFORM

11	Settling documents	£12	£12	
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Court of Protection Fees Order 2007

		Current	Proposed	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 (by consent/without notice)	*	£50	*New fee