



Ministry
of Justice

Fee remissions for the courts and tribunals

April 2013

Consultation Paper CP15/2013

This consultation begins on 18/04/2013

This consultation ends on 16/05/2013



Fee remissions for the courts and tribunals

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

April 2013

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This publication is available for download at www.official-documents.gov.uk and on our website at www.justice.gov.uk

ISBN: 9780101860826

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office
ID 2553895 04/13

Printed on paper containing 75% recycled fibre content minimum.

About this consultation

- To:** This consultation is aimed at users of the courts and tribunals, the Gender Recognition Panel, the legal profession, the judiciary, the advice sector and all with an interest in the courts and tribunals.
- Duration:** From 18/04/2013 to 16/05/2013.
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Post responses to Rachel Vickerstaff, Ministry of Justice, Post point 4.38, 102 Petty France London SW1H 9AJ
- Response paper:** A response to this consultation will be published in the summer 2013.

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Executive summary

In 2011/12 the cost of running the non-criminal business administered by Her Majesty's Courts and Tribunals Service (HMCTS) was around £713m. Of this amount 67% was funded through fees (£480m) with the remaining 33% funded by the taxpayer (£233m) as part of the Ministry of Justice's spending settlement. The tax-payer subsidy is made up of two elements:

- Fees set below full-cost levels, i.e. the fee charged does not cover the actual cost to the court or tribunal of processing the work being charged.
- Fee income foregone under a system of fee remissions (waivers). In 2011/12 approximately 171,000 fee remissions were granted at a total value of £27.8m.¹

The Government's overall aim is to reduce the taxpayer subsidy for the civil business by ensuring that fee income covers 100% of the cost of providing services, minus the income foregone to the remission system. In other words, we wish for the taxpayer contribution to be limited to those who can't afford to pay fees with the user paying where it is possible for them to do so. For tribunals the aim is to maximise cost recovery and separate targets below full cost recovery have been agreed with Her Majesty's Treasury.

The review of the fee remissions system is prompted by three factors: the potential operational benefits presented by a single system across the civil and tribunal business; the need to amend the system in light of the changes to the welfare system; and a desire to improve upon the existing system. The proposals in this consultation paper are part of the Government's strategy to protect access to justice through a well-targeted system of fee remissions. They will also provide a better targeted system of fee remissions so that those who can afford to pay a fee do so.

Implementation of the proposals outlined below will mean that the taxpayer contribution towards fee remissions will be targeted towards those who need it most. The proposals can be summarised as follows:

- Introduction of a single remissions system across the civil and tribunal business operated by Her Majesty's Courts and Tribunals Service (including the Gender Recognition Panel) and the UK Supreme Court. The proposals will not apply to the Immigration of Asylum Chamber (First Tier Tribunal) which has a separate remissions system which was subject to a recent government consultation,² nor the Office of the Public Guardian, which is an agency of the Ministry of Justice;
- Amendment to the benefits which will be accepted as proof of entitlement to a fee remission, to account for the introduction of Universal Credit;
- Introduction of a disposable capital test to the eligibility criteria;
- Removal of a qualifying benefit for "Working Tax Credit but not also in receipt of Child Tax Credit";

¹ HMCTS annual accounts 2011/12. Includes remissions in the First tier immigration and asylum tribunal, which is not included in this consultation.

² Fee Remissions in the First-tier Tribunal (Immigration and Asylum Chamber) – consultation response: <https://consult.justice.gov.uk/digital-communications/fee-remissions-immigration-asylum>

- Introduction of a single tapered income assessment to replace the existing Remission 2 and 3 criteria currently used in most courts (remission applicants with a gross monthly income below a certain threshold would be automatically eligible for a full fee remission, while applicants above this threshold would be required to pay a contribution);
- Removal of fees paid in respect of photocopying and searches from the scope of the remission provisions; and
- Reduction of the time period in which to apply for a retrospective fee remission from six months to two months.

Introduction

This paper sets out for consultation wide-ranging reform of the fee remissions system. The consultation is aimed at groups and individuals who have an interest in access to justice in the civil courts, tribunals and the Gender Recognition Panel. The consultation also covers the UK Supreme Court.

The fee remission proposals set out in this consultation concern the civil courts in England and Wales, the current jurisdiction of non-devolved tribunals in England, Wales, Scotland and Northern Ireland, the UK wide Gender Recognition Panel and UK Supreme Court.

This consultation is conducted in line with the government's Consultation Principles.³ The timeframe for the consultation is four weeks.

Copies of the consultation paper are being sent to the stakeholders at Annex J. However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

³ Consultation Principles: Guidance. <https://www.gov.uk/government/publications/consultation-principles-guidance>

Background and Strategy

1. The proposals set out in this consultation paper represent a wide-ranging reform of the fee remissions system. The remission system ensures that access to justice is maintained for those individuals on lower incomes who would otherwise have difficulty paying a fee to use court or tribunal services. Such individuals can therefore access court or tribunal 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.
2. The current Her Majesty's Courts and Tribunals Service (HMCTS) fee remission system has three elements, also known as qualifying eligibility criteria:
 - Remission 1 – an automatic full fee remission for those in receipt of stated qualifying means-tested benefits, known as a 'passporting' benefit;
 - Remission 2 – a full fee remission for those whose gross annual income is calculated to be lower than stated thresholds; and
 - Remission 3 – a full or part fee remission based on an income and expenditure means test to calculate net monthly disposable income. Annex A contains a more detailed summary of the current remission system.
3. The HMCTS remission system is used by all courts with the exception of the Court of Protection. However a number of different remissions systems currently operate across fee charging tribunals and the Gender Recognition Panel. Annex B contains more detail about the various remissions systems currently in use.
4. As a result of the Welfare Reform Act 2012, most of the existing qualifying state benefits that 'passport' remission applicants into a 100% fee waiver (Remission 1) will be consolidated into a single new working age benefit known as Universal Credit from October 2013.
5. The core objective of these reform proposals is to create a single system of fee remissions (waivers) for all fee paying courts and tribunals⁴ which is simple to use, more cost efficient and better targeted. More particularly, the system should meet the following objectives:
 - **Well-targeted and affordable**, assisting those genuinely unable to afford a fee, while minimising the administrative cost. The system should continue to protect access to justice irrespective of the level of fee to be paid. Eligibility for a fee remission should be based on an individual's ability to afford the fee in question, wherever it is charged;
 - **Simple and transparent**, straightforward to understand for applicants who apply and for court or tribunal staff to understand and administer. The system and the qualifying criteria should be well publicised and easily understood, and so far as practicable the process should rely on information and evidence that is generally easy for applicants to provide; and

⁴ Except for the Immigration and Asylum Chamber (First-tier Tribunal).

- **Consistent**, in terms of both the criteria applicable in different business areas or by type of claim, and the criteria are applied in practice in individual courts and tribunals.
6. We recognise that there are trade-offs between these objectives, particularly the first two. For example the more targeted a system is the more design complexity may be required.⁵ The proposals therefore seek to strike the appropriate balance between these considerations.

Fee Strategy

7. In 2011/12 the cost of running the non-criminal business administered by Her Majesty's Courts and Tribunals Service was around £713m. Of this amount 67% was funded through fees (£480m) with the remaining 33% funded by the taxpayer (£233m) as part of the Ministry of Justice's spending settlement. Of this amount, income foregone under a system of fee remissions (waivers) accounted for £27.8m.⁶
8. The Government's overall aim is to reduce the taxpayer subsidy for the civil courts by ensuring that fee income covers 100% of the cost of providing services, minus the income foregone to the remission system. Separate cost recovery targets have been agreed with Her Majesty's Treasury for the tribunal business with the provision of fee remissions to ensure that access to justice is not denied through inability to afford prescribed fees.
9. The proposals in this consultation paper are part of the Government's strategy to protect access to justice through a well-targeted system of fee remissions, prompted by the factors set out above.

Civil Justice: The Current Landscape

10. The civil justice system in England and Wales is currently going through a period of considerable change to ensure that litigants settle their disputes in the most efficient and cost effective way possible.
11. These reforms will reduce costs and will create a more effective, efficient justice system. They form a key part of the Ministry of Justice's business plan for 2011-2015.⁷ The business plan sets out the department's vision to reform courts, tribunals and legal aid, and details the steps it will take to realise this vision.

⁵ National Audit Office: Means Testing. http://www.nao.org.uk/publications/1012/means_testing.aspx

⁶ HMCTS annual accounts 2011/12. Includes remissions in the First tier immigration and asylum tribunal, which is not included in this consultation.

⁷ Ministry of Justice Business Plan 2011–2015: www.number10.gov.uk/wp-content/uploads/MOJ-Business-Plan1.pdf

Legal Aid Reform

12. The coming into force of the provisions of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 on 1st April 2013 made a number of changes to the scope of legal aid.
13. The removal of legal aid provision for certain case types from April 2013 means that those individuals, who would previously have been in receipt of legal aid, need to pay the fee if they wish to use the service. A decrease in the scope and eligibility of the legal aid scheme may have an effect on the behaviour of potential remission applicants.

Employment Tribunal Fees

14. The Government consulted between December 2011 and March 2012 on charging fees in the employment tribunals and the employment appeal tribunal.⁸ The response to the consultation was published in July 2012.⁹ The Government decided to introduce the HMCTS fee remission system administered in the civil courts to the employment tribunal fee structures,¹⁰ and indicated that the fee remission system would be amended in light of the response to this consultation.

Solving Disputes in the County Courts

15. A consultation was published by the Ministry of Justice in March 2011 entitled “Solving disputes in the county courts: creating a simpler, quicker and more proportionate system”.¹¹ The consultation set out proposals for widespread reform of the civil justice system, including increasing the use of alternative dispute resolution, re-balancing civil business between the High Court and the county courts and establishing a single county court for England and Wales.
16. The proposals outlined an automatic referral to mediation for small claims, and mandatory mediation information sessions for cases outside small claims. An increase in the use of mediation will impact on the number of cases reaching a final hearing and may therefore reduce the number of fee remission applications.
17. In addition, re-balancing the jurisdiction of the civil courts would provide a more efficient use of judicial resources resulting in quicker resolution of disputes. The removal of geographical and jurisdictional boundaries from the county court structure to create a single county court with a national jurisdiction would also contribute to improving the efficiency and effectiveness of the civil justice system where litigants can achieve a more proportionate and speedier resolution to their disputes.

⁸ Introducing fees in the employment tribunal and the Employment Appeal Tribunal: <https://consult.justice.gov.uk/digital-communications/et-fee-charging-regime-cp22-2011>

⁹ Employment tribunal fees – consultation response: <https://consult.justice.gov.uk/digital-communications/et-fee-charging-regime-cp22-2011/results/employment-tribunal-fees-consultation-response.pdf>

¹⁰ The proposals would apply to employment tribunal structures in England, Wales and Scotland.

¹¹ Solving disputes in the county courts: creating a simpler, quicker and more proportionate system: <http://www.justice.gov.uk/consultations/consultation-cp6-2011>

Family Justice Reforms

18. The Children and Families Bill, currently before parliament, is seeking to make substantive reforms to the family justice system in England and Wales. Following pre-legislative scrutiny by the Justice Select Committee, the package of family justice changes aims to speed up proceedings and increase the use of family mediation and other forms of dispute resolution to ensure that more cases are resolved away from the courts wherever this is appropriate and safe and to help parents put their children at the centre of any decisions about their future.
19. For public family law proceedings, legal aid funding will continue. In private family law proceedings, however, changes to legal aid scope from April 2013 removed funding for legal advice and representation except in cases where there is evidence of domestic violence or child abuse and certain other limited exceptions. Funding remains, however, for family mediation for those who are eligible.

The Government Spending Review

20. In addition to these specific changes, the proposals outlined in this document must be seen within a wider economic context. The 2010 Spending Review settlement announced savings of 23% to the department's budget of £8.3bn. In the Chancellor's 2012 Autumn Budget Statement, the Ministry of Justice was asked to make an additional 1% savings in 2013 and a further 2% in 2014. In 2013 Spring Budget Statement, the Ministry of Justice was asked to make a further 1% savings in 2013 and 2014.
21. It is therefore imperative for savings to be made wherever possible. For the fee strategy, this means making efficiency savings and that where fees are expected to meet the full cost of the service they provide, they do so. Where someone can not afford a fee, we must target the taxpayer subsidy towards those who are in most need.

1. A single fee remissions system

1. There are variations between the remission systems currently in use across courts and tribunals. This proposal provides a single remission system to users of all HMCTS operated courts, the UK Supreme Court and all tribunals, with the exception of the First tier Immigration and Asylum Tribunal.
2. All fee charging courts and tribunals operate a system of remissions (fee waivers) to ensure that individual applicants unable to afford fees are not denied access to their services. Depending on their financial circumstances, a person may have their entire fee or part of their fee remitted (where they will pay a contribution towards their fee). At present, eligibility for remissions varies by court or tribunal. For example, a single person with a gross annual income of £12,500 would be eligible for a full fee remission in the Civil Courts, but only a partial remission (75%) in the Court of Protection.
3. The Government believes that a single remission system would be easier for users to understand and access. It would also help drive greater efficiency and consistency in the administration of fee remissions, as decisions on remission entitlement would be taken on the same basis irrespective of the nature of the court or tribunal where the fee is charged. Such a system would be more transparent for users and fairer, as entitlement to a remission would be based solely on the ability of the applicant to afford the fee, rather than varying according to the nature of the court or tribunal they are accessing.
4. This proposal covers the administration of fee remissions in all fee-charging courts and tribunals, including the:
 - Civil Courts (England and Wales), which deal with resolving civil disputes across a range of areas including debt, personal injury, consumer and contract law and protecting individual liberties;
 - Family Courts (England and Wales), which deal with the breakdown of families, of parenting and of relationships between couples;
 - Magistrates Courts (England and Wales), which deal with criminal cases but also hears some civil and family cases. The proposals will cover only (non-criminal) civil and family cases in these courts;
 - Court of Protection (England and Wales), which deals with decision making for people who may lack capacity;
 - Probate services (England and Wales), which deal with a person's estate when they die;
 - The High Court (England and Wales), a senior court which deal with complex and high value family, civil and probate cases (in the 'first instance' and cases referred to the High Court);
 - The Court of Appeal (England and Wales), which deal with appeals from lower courts (such as divisions in the High Court);
 - UK Supreme Court (UK) which is the final court of appeal for civil cases in UK and for criminal cases in England, Wales and Northern Ireland;

- All HMCTS operated fee charging Tribunals. These are specialist judicial bodies who decide disputes in a particular area of law:
 - Employment Tribunals (ET) (England, Scotland and Wales), which deal with disputes relating to employment;
 - Employment Appeal Tribunals (EAT) (England, Scotland and Wales), which deal with appeals from the ET;
 - Gambling Appeals (England, Scotland and Wales), which deal with appeals against the decisions of the Gambling Commission;
 - Leasehold Valuations Tribunals¹² (LVT) (England), which deal with various types of dispute relating to residential leasehold property;
 - Residential Property Tribunal (RPT) (England), which deal with disputes relating to council or park homes;
 - Upper Tribunal (Lands Chamber) (England and Wales), which deal with disputes concerning land (including appeals from the LVT and RPT);¹³ and
 - Gender Recognition Panel (UK), which grant legal recognition of a person's acquired gender (this is the only avenue in the UK for such legal recognition).
5. The Government does not propose to extend the remissions system to the First-tier Tribunal (Immigration and Asylum Chamber) and has responded to a consultation on a separate remissions system for this tribunal.¹⁴ Users of this tribunal largely bring either asylum appeals or appeals against immigration decisions. In the latter category a significant number of appellants reside outside the UK and a remissions system based on UK benefits and income levels would be impractical to operate.

Question 1

Do you agree that there should only be one remission system in operation within HMCTS operated courts and tribunals and the UK Supreme Court? Please state the reason(s) for your answer.

¹² From the 1st July 2013 the Property Chamber of the First-tier Tribunal will be formed; merging the Leasehold Valuations Tribunal, the Residential Property Tribunal (which both charge fees), the Agricultural Land Tribunal and the Adjudicator to HM Land Registry Tribunal (which do not currently charge fees).

¹³ From the 1st July 2013 the Upper Tribunal will hear appeals from the Property Chamber of the First-Tier Tribunal.

¹⁴ Fee Remissions in the First-tier Tribunal (Immigration and Asylum Chamber) – consultation response: <https://consult.justice.gov.uk/digital-communications/fee-remissions-immigration-asylum>

2. Financial eligibility for a remission

Introduction

1. This chapter sets out the Government's proposals for reform to the financial eligibility criteria for fee remissions. The Government's rationale for reform is to create a single system of fee remissions which is simple to use, more cost efficient and better targeted.
2. This chapter contains proposals to amend the fee remission system administered in HMCTS operated courts and tribunals and the UK Supreme Court.

Proposed system

3. We propose to replace the current systems of fee remissions with a new system that would apply across all fee charging business areas with the exception of the First-tier Tribunal (Immigration and Asylum Chamber).
4. The proposed system is based on two distinct tests. The applicant will have to pass both tests in order to be eligible for a fee remission:
 - The first test will determine whether an applicant is eligible for a remission based on an assessment of their household¹⁵ disposable capital (e.g. savings and investments). Applicants with disposable capital in excess of a certain threshold would not be eligible for a fee remission; and
 - The second test will consider whether an applicant who passed the disposable capital test receives a full fee waiver, pays a contribution towards their fee or pays the full fee. A full fee waiver will be granted if the applicant can demonstrate that their household income is below a certain threshold. Above the threshold the applicant would be required to pay a contribution towards the fee, up to the value of the fee, based on a percentage of their income in excess of the threshold, or the full fee where their income exceeds the threshold by a defined amount.

Disposable Capital test

5. At present, none of the remissions systems in operation across the courts and tribunals take into account the value of an applicant's disposable capital assets when considering entitlement for a fee remission. This can mean, for example, that an individual with a low income, but considerable levels of savings could be entitled to fee remission.
6. We believe that it is inappropriate that limited financial resources should be directed at applicants who potentially have a substantial amount of disposable capital which could be used to fund their fee. Where applicants have access to disposable capital, we believe it is right that this should be their first recourse before seeking public funds.

¹⁵ We define a household unit as a single person or a couple.

7. It is proposed that for fees up to £1000, remissions are limited to those applicants whose household's¹⁶ disposable capital does not exceed £3,000. For fees between £1001 and £4000, remissions are limited to those applicants whose household's disposable capital does not exceed £8,000. In rare cases where a fee may exceed £4000, we would propose to increase the capital limit to £16,000.

Fee of:	Disposable capital threshold:
Up to £1000	£3000
Up to £4000	£8000
Over £4000	£16,000

8. Therefore those with over £3000 household disposable capital would never be required to spend more than one third of their household disposable capital on a fee. Those with over £8000 household disposable capital would never be required to spend more than half of their household disposable capital on a fee. We believe that the threshold is appropriate and proportionate in the context of fees since the majority of fees paid are significantly below the £1000 threshold. Very few fees fall at the higher end of this scale. In 2011/12 the average value of a remitted fee was £142. Annex G provides a list of the prescribed fees of £800 or more.

Question 2

Do you agree that disposable capital should be considered when deciding fee remission eligibility? Please state the reason(s) for your answer.

Question 3

Do you agree with the proposed disposable capital limits? Please state the reason(s) for your answer.

Treatment of disposable capital

9. We have sought to develop a test of disposable capital which is sufficiently detailed so that it helps prevent fee remissions being paid to wealthy individuals, whilst recognising that the complexity of the capital test can cause problems for households who do not understand the criteria.¹⁷
10. The proposed disposable capital assessment is based on the test which applies to civil legal aid scheme, but simplified in several respects. We consider that a simplified version of the test that applies for civil legal aid is appropriate in the context of fees. By detailing what we do and do not consider disposable capital, the disposable capital test is also clearer for applicants and staff to understand and use.

¹⁶ We define a household unit as a single person or a couple.

¹⁷ National Audit Office: Means Testing. http://www.nao.org.uk/publications/1012/means_testing.aspx

11. The following outlines the key types of disposable capital to be considered (see Annex E for further details):
- All capital held in all types of savings accounts, ISAs, fixed rate bonds, market linked investment bonds or savings, trust funds, or any other fund available to the applicant;
 - Stocks or shares;
 - Any type of capital financial product;
 - Redundancy capital payments received;
 - Second homes;
 - Any jointly held capital; and
 - Any type of capital held outside the UK.
12. The following outlines the key types of disposable capital which would not be considered (see Annex E for further details):
- The value of property and land occupied by the party as their first home;
 - Unfair dismissal capital payments received;
 - Compensation received for a personal injury or medical negligence;
 - Capital held in personal pension schemes, occupational pension schemes or insurance products; and
 - Any payments to be considered as income.
13. Unlike civil legal aid, the test would not take into account the age of the applicant (for example, it will not include disregards for some over 60 years old). The government believes it is appropriate that those who have the means to pay a fee do so, regardless of age. However, the test would disregard the capital value of occupational or personal pension schemes.

Question 4

Do you agree with the proposed terms of the disposable capital test?

Please state the reason(s) for your answers.

Evidence to support the disposable capital test and enforcement

14. Nearly all fees are paid for in advance of the service so the sanction for non-payment is that the service will not be performed, i.e. an applicant will not be able to access the court or tribunal. Provisions in the Civil and Tribunal Procedure Rules allow proceedings to be struck out if the fee is not paid in full.
15. In assessing an applicant's capital, the Government seeks to have a simple and transparent test, which does not burden applicants or staff. We do not believe it is desirable for applicants to supply evidence of all of their disposable capital, which would be considerable and an administratively complex to process. We therefore propose that, when an applicant seeks to obtain a fee remission, they will be required

to declare the value of their household¹⁸ disposable capital by a 'statement of truth' on the remission application form.

16. This statement will normally be sufficient evidence of capital, but in cases of doubt (for example, if an applicant has considerable regular income from savings or investments but has declared that they have disposable capital of less than £3000) a Court or Tribunal Manger would have discretion to request documentary evidence of disposable capital from the applicant. If the party is found to have provided incorrect information on the remission application form, the party will become liable for any relevant fees that have been remitted to them.

Question 5

Do you agree with the proposed evidence requirements and enforcement mechanism of the capital test?

Please state the reason(s) for your answer.

Income test

Full remission

17. The second test considers whether an applicant who has passed the disposable capital test receives a full fee remission, pays a contribution towards their fee or pays the fee in full. Under the full remission element, gross monthly income thresholds are proposed for single people and couples, with a further allowance added for each dependent child.¹⁹
18. The government has chosen to consider an applicant's monthly gross income (rather than annual as at present) as this best reflects an applicant's current financial situation and therefore their ability to pay a fee. This will also reduce the amount of evidence required of applicants and the administrative burden on staff in processing such evidence.

Table 1: Proposed income thresholds:

Gross monthly income with:	Single	Couple
No children	£1,085	£1,245
1 child	£1,330	£1,490
2 children	£1,575	£1,735

19. If the party paying the fee has more than 2 children then the relevant amount of gross monthly income is the amount specified in the table for 2 children plus £245 for each additional child. An applicant will be defined as having a child if a child lives with them and / or they pay child maintenance for a child.

¹⁸ We define a household unit as a single person or a couple.

¹⁹ A child is defined as an individual aged under 16, A person will also be defined as a child if they are 16 to 19-years old and they are: Not married nor in a Civil Partnership nor living with a partner; and Living with parents; and in full-time non-advanced education or in unwaged government training.

20. We propose to accept that recipients of Income-related Employment and Support Allowance, Income Support, Income-based Jobseeker's Allowance and Pension Credit guarantee credit would be automatically deemed to fall below this income threshold and will therefore receive a full remission, if they also pass the household disposable capital test. At present, recipients of Working Tax Credit who are not also in receipt of Child Tax Credit are automatically passported to a full fee remission in some courts and tribunals, and those in receipt of Working Tax Credit and in receipt of child tax credit are passported in others (see annex B). However, this benefit can be paid to households whose means exceed the level that would entitle them to receive a full remission under the gross monthly income test. We therefore propose that recipients of any form of Working Tax Credit will no longer be automatically entitled to a full remission on the basis of receipt of this benefit. Instead we propose that recipients of Working Tax Credit would qualify for full remission only if they can demonstrate that their gross household monthly income falls below the relevant threshold.
21. As a result of the Welfare Reform Act 2012, most of the existing qualifying state benefits that are used to passport remission applicants into a 100% fee waiver will be consolidated into a single new working age benefit known as Universal Credit from October 2013 onwards.
22. Some recipients of Universal Credit will be assumed to have income below the income threshold and will therefore be eligible to receive a full remission, if they also pass the capital test. We intend, where we are satisfied that the level of Universal Credit received equates to an income level below the threshold, to "passport" Universal Credit recipients through the income test on production of their Universal Credit notice.
23. We have not yet determined the level at which we would "passport" Universal Credit recipients in this way but for illustrative purposes we have used a threshold of 'Universal credit with earnings of less than £6000' in our Impact Assessment. This illustrative criterion has been designed to broadly replicate the numbers that are passported via the current qualifying benefits under Universal Credit conditions. We intend to use the Universal Credit Award Notification letter to confirm eligibility for a full fee remission on this basis.
24. We have considered whether all recipients of Universal Credit should automatically be deemed to qualify under the income test. However, it has been estimated that around 2.6m more adults would be entitled to receive some element of Universal Credit than those who would be entitled to a full remission under the proposed gross income test. Allowing an automatic full remission to Universal Credit recipients could therefore cost up to about £4m in additional full remissions. We have therefore concluded that all recipients of Universal Credit should not automatically qualify for full remission.

Partial remission

25. Under the existing HMCTS remissions system, an applicant can receive a partial remission following an assessment of their monthly disposable income under the Remission 3 test. If an applicant has a monthly disposable income of over £50, they will contribute £2.50 for each additional £10 income up to £919, and £5 for each additional £10 income over £919. The current Remission 3 test considers a complex array of income and expenditure (i.e. income, pensions, housing costs, child care costs) and applicants are required to provide a significant amount of evidence to support their application. There is also potential unfairness in considering housing

costs, as an applicant with a large mortgage for an expensive home would have this expenditure deducted in full.

26. The Government considers the Remission 3 test for partial remissions complex for users to understand and burdensome on applicants and staff. We are therefore proposing to simplify the formula for calculating eligibility for a partial remission by replacing the Remission 3 test with the same gross monthly income thresholds used to assess entitlement for a full remission. Those with income above the stated thresholds would be expected to pay a contribution towards the fee, which will increase in line with income.
27. It is proposed that a contribution of £5 would be required for each additional £10 income above the threshold. This means, for example, that where an applicant has an additional £100 monthly income over the relevant threshold, they will be required to pay £50 towards their fee, or the full amount of the fee if this is £50 or less. To assist users a contribution calculator showing the contributions payable has been created and is available at <https://consult.justice.gov.uk/>. Annex D also contains a table setting out the contribution required in some typical types of cases.
28. The current remission system in the civil courts is not subject to an income cap. Remissions are therefore available to applicants who potentially have a substantial amount of income which could be used to fund their fee. We believe that it is inappropriate that limited financial resources should be directed at applicants who can afford to pay the fee. We therefore propose that a gross monthly income cap is introduced so that those with income in excess of £4000 above the stated thresholds for full remission would be ineligible for a partial remission and would pay the fee in full.

Question 6

Do you agree that these proposals strike the right balance in targeting eligibility for full and partial remission through a simple and workable system?

If you do not agree, please explain why, and what alternatives you propose.

Question 7

Do you agree that there should be a gross monthly income cap so that those with a certain amount of income would be ineligible for a partial remission and would pay the fee in full?

If so, do you agree that a single cap of £4000 is appropriate or should the Government consider varying the cap for different fee levels?

Please state the reason(s) for your answer.

Evidence to support the income test

29. Nearly all fees are paid for in advance of the service so the sanction for non-payment is that the service will not be performed, i.e. an applicant will not be able to access the court or tribunal.²⁰ In remissions the non-payment of fees can occur when a remission application is refused because insufficient or incorrect evidence is supplied by the applicant. While we do not collect data on the prevalence of such refusals, anecdotally we are aware that this is not uncommon. The PriceWaterhouseCoopers report “Is the 2007 court remission system working?”²¹ recommended that the remissions criteria should be simplified, with particular regard to the level and volume of documentary evidence required.

30. In assessing an applicant’s income, the Government seeks to have an income test which is easy to understand and less burdensome for both applicants and staff. Annex F contains a detailed summary of all the evidence that would be required in order to apply for full or partial remission based on income. This is summarised below:

- Documentary evidence of a qualifying benefit as issued by DWP. It must show the applicant’s title, full name, address and postcode and confirm that the applicant has received the benefit. The evidence must be dated within the last month, or the current financial year for Pension Credit guarantee credit.

OR

- Three month’s bank statements²² in addition the evidence detailed below:
 - i) **Paid employment:** applicants must provide their most recent original wage slips from all their jobs.
 - ii) **Self employment:** applicants must provide their most recent tax return (Self Assessment), and either their most recent HMRC Self Assessment Tax Calculation or other proof of current income;
 - iii) **Other source of income:** applicants must provide alternative documentation if the other sources of income have not been listed within their bank statements.

31. It is our long term aim to check the receipt of qualifying benefits and other applicant information electronically. This would reduce the amount of evidence users will need to provide in order to be granted a fee remission. The Crime and Courts Bill (Clause 26)²³ provides for this, by allowing DWP to share applicant data with the MoJ for the purpose of deciding eligibility for fee remissions. We are currently considering the options for introducing an IT system to deliver this solution.

²⁰ Provisions in the Civil and Tribunal Procedure Rules allow proceedings to be struck out if the fee is not paid in full.

²¹ Is the 2007 court remission system working?:
<http://webarchive.nationalarchives.gov.uk/20100111120959/http://www.justice.gov.uk/publications/docs/2007-court-fee-remission-system.pdf>

²² While applicants would only be required to supply wage slips for the month preceding their remission application, we will continue to require 3 month bank statements so that court or tribunal staff are able to identify fraudulent applications.

²³ Disclosure of information for calculating fees of courts, tribunals etc:
http://www.publications.parliament.uk/pa/bills/cbill/2012-2013/0137/cbill_2012-20130137_en_4.htm#pt2-pb1-11g26

Question 8

Do you agree with the proposed evidence requirements for the income test?

Please state the reason(s) for your answer.

Treatment of income

32. The proposed system is based on gross monthly income for the month preceding that in which the application is made. This approach should make it easy for potential applicants to understand whether they qualify, and to apply.
33. We recognise that self employed applicants will not always receive an income in the month preceding that in which the application is made. It is proposed that gross monthly income for self employed applicants is calculated from the person's share of the net profits in respect of the last accounting period for which accounts have been prepared, or the drawings of the person concerned in respect of the month in which the application is made.
34. At present, certain state benefits are disregarded when calculating gross income, as most of these benefits support a person with a disability (e.g. payments which cover care costs) or contribute towards child care costs. These benefits are known as 'excluded benefits'. As a result of the Welfare Reform Act 2012, many of these existing excluded benefits will be replaced by new state benefits, for example Housing Benefit will be replaced by housing elements of Universal Credit and Pension Credit. We propose the following changes are made to excluded benefits:
- State benefits which are direct replacements for existing 'excluded benefits' should be disregarded when calculating gross monthly income; this includes:
 - any housing credit element of pension credit, which replaces Housing Benefit;
 - Armed Forces Independence Payment (AFIP), which replaces Disability Living Allowance; and
 - any of the following benefits payable under the Welfare Reform Act 2012 –
 - i. maximum amount of any disabled child addition, which replaces disabled elements of child tax credit;
 - ii. maximum amount of housing costs element, which replaces Housing Benefit;
 - iii. maximum amount of child costs element, which replaces the childcare element of Working Tax Credit;
 - iv. budgeting and short term advances, which replaces Crisis and Budgeting Loans; and
 - v. Personal Independence Payment, which replaces Disability Living Allowance.
 - State benefits which have been designed to provide for a disabled child, childcare or bereavement, but are not currently listed as an excluded benefit:
 - any disabled child element or severely disabled child element of child tax credit;
 - any childcare element of child tax credit;

- Bereavement Allowance; and
- Widowed Parents Allowance.

Annex E contains more detail on the proposed definition of gross income.

Resources of partners

35. The proposed remission system is based on an assessment of the income and disposable capital of an applicant and their partner, as both the applicant and their partner gain financially or otherwise from the use of a court or tribunal. However, in certain instances it would not be appropriate for an applicant to be assessed as a couple. It is proposed that an applicant would be assessed as a single person if their partner has a contrary interest in the proceedings in respect of which the applicant is seeking a fee remission. In such cases the income of a partner and/or disposable capital assets held jointly would not be taken into account. Contrary interest could, for example, mean that the partner is named as the opponent in the proceedings. Matters which could be considered as proceedings with a contrary interest can include remission applications for:

- divorce, dissolution or annulment;
- gender recognition applications;
- domestic violence; or
- forced marriages.

36. This is not an exhaustive list of circumstances; a Court or Tribunal Manager may use their discretion in applying this measure.

Exceptional circumstances

37. We recognise that in exceptional circumstances, the proposed system could prevent someone from issuing proceedings if they had a relatively high income but no disposable means, or due to some other extenuating circumstance. The Lord Chancellor (for courts or tribunals) or the Chief Executive of the Supreme Court, would be able to reduce or remit a fee where they are satisfied that there are exceptional circumstances which justify doing so. These decisions will be discretionary based on the merits of each individual application, and will be based on guidance requiring staff to take account of the applicant's income, disposable capital, expenditure or other extenuating circumstances. We believe that this safeguard will protect access to justice for those with no disposable means to issue proceedings. The existing remissions guidance states that Court Managers (rather than court staff) have this exceptional power to remit fees; while the Chief Executive of the UK Supreme Court delegates this responsibility to the Registrar. The Government does not intend to amend this practice.

38. At present, the Chief Executive of the UK Supreme Court has the power to reduce or remit fees in cases where 'an application for permission to intervene in an appeal is filed by a charitable or not-for-profit organisation which seeks to make submissions in the public interest'. As the UK Supreme Court is the UK's most senior court, the Government believes that this exception should be maintained and does not intend to amend this policy.

Question 9

Do you agree that eligibility to a remission should be based on assessment of household means?

Please state the reason(s) for your answer.

Question 10

Do you envisage other circumstances where a contrary interest could apply?

Please state the reason(s) for your answer.

Third party applications

39. Under the current remission system applied in most courts, third parties are not allowed to apply for a fee remission on behalf of an individual using their own details. The only exception to this rule applies to a person acting for or representing a child or a person who lacks mental capacity ('P'). As now, any person acting for or representing a child or 'P' in their capacity as a Litigation Friend, Parent or Guardian, would be able to apply for remission using their own details. However, in the Court of Protection, when a case concerns the health and welfare of 'P' (as apposed to property or financial affairs) 'P' is treated as the applicant. This means that the remission application is assessed on the income and disposable capital of 'P' rather than the third party applicant. The Government does not intend to amend this practice.

Question 11

Do you agree that the existing process for third party applications should be applied to all courts and tribunals subject to this consultation, and that the current practice in the Court of Protection should continue?

Please state the reason(s) for your answer.

3. Scope of the fee remissions system

1. A fee remission is currently available for each fee stated in the Statutory Instrument Fees Orders unless the fee is for fees payable on a consolidated attachment of earnings order.
2. The Government questions this total coverage of the remission system and considers that fee remissions should only be available for fees payable for judicial functions that provide access to justice. It is therefore proposed that the following fees are removed from the scope of the remission system:
 - Copy document fees; and
 - Search fees.
3. A copy document fee is payable by an individual wishing to obtain an additional copy of a document held by a court or tribunal. In the majority of cases an individual requesting a copy is a party to the action and would have been sent a copy of the document by the other party or the court or tribunal. It is therefore considered that if an individual requests a copy of a document this will in effect be an additional copy. As such, we do not consider that the fee payable relates to a judicial function, and therefore we do not believe that the absence of a remission for such fees would prevent access to justice.
4. A search fee is payable by an individual wishing to obtain information held by a court or tribunal. The majority of search fees are paid in respect of requests to search the centrally held index of decrees absolute or final orders and for parental responsibility orders. Copies of these documents would have been provided to the relevant parties at the time they were made. In addition, a number of search requests are made by individuals not party to an action, for example to research genealogy. We do not consider that the fees payable for searches relate to a judicial function, and therefore we do not believe that the absence of a remission for such fees would prevent access to justice.
5. Annex H contains a detailed summary of the fees that currently are charged within these categories by the courts and tribunals.
6. In exceptional circumstances a copy order may be returned to the court undelivered (where it is lodged on file), or an order may not be sent out when drafted because the whereabouts of the party were unknown at the time. In both these cases it would be unfair to charge a copy fee. However, we believe that in these cases a copy fee should not be charged in the first place, rather than a remission granted.

Question 12

Do you agree that providing copies of documents and searches should be exempt from the remission system?

Please state the reason(s) for your answer.

Question 13

Do you envisage circumstances where charging for copy or search fees would restrict access to justice?

Please state the reason(s) for your answer.

Amend the time limit from six months to two months in which to apply for a retrospective fee remission

7. At present individuals can apply for a refund, known as a retrospective remission application, within six months of paying a fee. To do so they must provide the documentary evidence to prove that they would have been eligible for a remission at the time the fee was paid. Retrospective remission applications made after several months can place additional administrative burdens on court staff in retrieving and reviewing a court file which may no longer be readily accessible.
8. We propose to reduce the period in which to apply for a retrospective remission to two months. We consider that two months is a sufficient length of time within which to obtain the documentary evidence necessary to support a retrospective remission application. As now, the Lord Chancellor (In courts or tribunals) or the Chief Executive of the UK Supreme Court would be able to extend the period if they 'consider that there is a good reason for an application being made after the end of the period of two months.'

Question 14

Do you agree that the time limit for making a retrospective remission should be reduced to two months?

Please state the reason(s) for your answer.

Remissions for multiple party claims

9. Multiple party claims are relatively rare in most courts and tribunals other than the employment tribunal. We propose to retain the provisions which currently apply in the civil courts for multiple applications outside the employment tribunal, where the fee remains the same regardless of the number of parties, with slight modifications for employment tribunals, where the fee increases depending on the number of parties bringing a claim.
10. Where there are two or more claimants or defendants involved in the same case, they will be jointly responsible for any fees that need to be paid during the case. Each claimant or defendant can apply for a fee remission. If one or more claimants or

defendants are granted a remission, the remaining claimants or defendants (if any) will become responsible for the fee. If two or more claimants or defendants gain a partial remission the amounts they must pay towards the fee will be added together.

11. In the employment tribunal, as the fees increase according to the number of parties and all parties are jointly liable for the fee, the Government has also decided to introduce a safeguard so that no individual in a multiple party claim would be required to pay more than the single party fee in circumstances where others in the multiple claim have been granted a remission.
12. The Leasehold Valuation Tribunal currently has different provisions for multiple party claims. Under these provisions, if one or more claimants are granted a fee remission in the Leasehold Valuation Tribunal, the remaining claimants (if any) are only responsible for an allocated portion of the fee (e.g. 50% of the fee under a two person claim). Under our provisions, the remaining claimant(s) would become responsible for the whole fee.

Question 15

Your views are welcome on whether there are any other factors we need to take into account for claimants seeking remissions in multiple claims.

Question 16

Overall, do you agree that this provides a fair, transparent and workable structure for determining fee remissions for HMCTS and the UK Supreme Court? Please state the reason(s) for your answer.

4. Impact Assessment

1. We have considered and set out our assessment of the impact of our proposals in the initial impact assessment available at: <https://consult.justice.gov.uk/>.

5. Equality Analysis

1. We have included our assessment of the equality impacts of the proposals in the equality impact summary (annexed in the Impact Assessment, available at: <https://consult.justice.gov.uk/>).
2. Of all those impacted by the proposals 57% will see no cost or eligibility impacts for a fee remission. A further 13% will be positively impacted, whilst 30% will be negatively impacted by the proposals. Our modelling shows that there may be some differential impacts related to the protected characteristic of age, where those in older age groups could see a greater reduction in eligibility for a fee remission and an increase in payment towards a fee when compared to those in younger age groups due to greater likelihood of having disposable capital available. There may be some small differences in impacts in relation to race, with those from a White ethnic group potentially more likely to be negatively impacted than those from a Black Asian and Minority Ethnic group. We have modelled the impacts on both disability and sex, and consider these impacts to be marginal.
3. We do not consider that the impact of these proposals will amount to a particular or substantial disadvantage. We consider that the fee remissions system proposed will ensure that access to justice is maintained for those who are unable to afford to pay a fee.
4. In addition the Lord Chancellor's exceptional power to reduce or remit fees (or the Chief Executive in the case of the Supreme Court), would be available to reduce or remit a fee where they are satisfied that there are exceptional circumstances which justify doing so e.g. where an individual has suffered an unexpected event affecting their ability to pay a fee.
5. Therefore, we consider the proposals and any resulting impacts remain a proportionate means of achieving a legitimate aim – to ensure that those who can afford to contribute to the cost of their fee should do so, but that those who cannot pay the fee should not be prevented from accessing the court or tribunal as a result.
6. We acknowledge that the data on which we have based our equality impact summary is limited. This is particularly true regarding impacts on the trans-sexual community²⁴ where we hold insufficient data to estimate the financial impacts of our proposals. Given these limitations, we are using this consultation to improve our understanding of equality impacts. We would be grateful for your response to the equality questions below.

²⁴ A proportion of whom are likely to use the Gender Recognition Panel.

Question 17

Do you think the proposed remission system is likely to have any positive or adverse equality impacts?

Please state the reason(s) for your answer.

Question 18

If you think the proposal is likely to have any adverse equality impacts, how could these impacts be mitigated?

Please state the reason(s) for your answer.

Question 19

Are you aware of any further evidence that could aid our analysis of potential equality impacts? If so please provide us with this evidence.

Annex A: The current remission system in the civil courts

1. Her Majesty's Courts & Tribunals Service provides a fee remission system for users of the English and Wales civil and family courts. Fee remissions (waivers) are available to those who would have difficulty paying a court fee and meet the appropriate criteria. An individual may be eligible for a full remission, where no fee is payable, or a partial remission, where a contribution towards the fee is required. Anyone who seeks a remission from paying a fee either in full or in part, must apply to do so at the time of making the application or at any time when a fee is due and provide documentary proof of their financial eligibility. There are three types of remissions.
2. **Remission 1** – currently provides a full remission (i.e. no fee is payable) if the applicant is in receipt of one of the following stated benefits:
 - Income Support;
 - Income-based Jobseeker's Allowance;
 - Pension Credit guarantee credit;
 - Income-related Employment and Support Allowance; or
 - Working Tax Credit **but not also receiving** Child Tax Credit.
3. **Remission 2** – currently provides a full remission (i.e. no fee is payable) if the applicant's gross annual income (and that of their partner if they are a couple), is calculated to be not more than the amounts shown in the table below:

Gross annual income with:	Single	Couple
No children ²⁵	£13,000	£18,000
1 child	£15,930	£20,930
2 children	£18,860	£23,860

If the party paying the fee has more than 2 children then the relevant amount of gross annual income is the amount specified in the table for 2 children plus the sum of £2,930²⁶ for each additional child.

4. **Remission 3** – currently provides a full or partial remission (i.e. either no fee or a contribution towards the fee is payable) based on an income and expenditure means test to calculate their (and if applicable their partner's) monthly disposable income:
 - No fee payable if monthly disposable income is £50 or less;
 - If monthly disposable income is more than £50 but does not exceed £210, an amount equal to one-quarter of every £10 of the party's monthly disposable monthly income up to a maximum of £50;

²⁵ The gross annual income thresholds are derived from HM Revenue and Custom's Working Tax Credit income cut-off for workers, without children and without the 30 hour element of Tax Credit, where the rates currently are £13,022 for a single person and £17,809 for a couple – these have both been rounded to £13,000 and £18,000 respectively.

²⁶ The amount for each dependant child is derived from the Income Support allowance for dependent children in 2009/10 (£56.11 per week), which has been rounded to £2,930.

- If monthly disposable income is more than £250, an amount equal to £50 plus one-half of every £10 over £200 of the party's monthly disposable income.
- There are 3 fixed allowances and 4 uncapped allowances permitted as part of the means test for this criterion:

General Living Expenses	£315 ²⁷ a month
Partner	£159 ²⁸ a month
Dependant Children	£244 ²⁹ a month per child
Housing costs	No cap
Child maintenance	No cap
Child care expenses	No cap
Payments under a court order	No cap

5. For example, where a person's monthly disposable income is calculated between £50 and £59.99 they will contribute £12.50 on each occasion that a fee requires to be paid; where the disposable income is calculated between £340 and £349.99, the contribution will be £120. To assist users a table setting out the contributions payable has been created and is provided on the following page:

²⁷ The amount for general living expenses is based on the 'Monthly Disposable Income' bands which are used by the Legal Services Commission to calculate how much someone would pay towards their case when assessing Legal Aid.

²⁸ The amount for a partner is derived from the difference between the Income Support personal allowance for a couple both 18 and over (£100.95 per week) and a single applicant over 25 (£64.30 per week) in 2009/10, which has been rounded to £159.

²⁹ The amount for dependant children is derived from the Income Support personal allowance for dependant children in 2009/10 (£56.11 per week), which has been rounded to £244.

Disposable Monthly Income	Contribution	Disposable Monthly Income	Contribution	Disposable Monthly Income	Contribution
£	£	£	£	£	£
50 – 59*	12.50	340 – 349	120.00	630 – 639	265.00
60 – 69	15.00	350 – 359	125.00	640 – 649	270.00
70 – 79	17.50	360 – 369	130.00	650 – 659	275.00
80 – 89	20.00	370 – 379	135.00	660 – 669	280.00
90 – 99	22.50	380 – 389	140.00	670 – 679	285.00
100 – 109	25.00	390 – 399	145.00	680 – 689	290.00
110 – 119	27.50	400 – 409	150.00	690 – 699	295.00
120 – 129	30.00	410 – 419	155.00	700 – 709	300.00
130 – 139	32.50	420 – 429	160.00	710 – 719	305.00
140 – 149	35.00	430 – 439	165.00	720 – 729	310.00
150 – 159	37.50	440 – 449	170.00	730 – 739	315.00
160 – 169	40.00	450 – 459	175.00	740 – 749	320.00
170 – 179	42.50	460 – 469	180.00	750 – 759	325.00
180 – 189	45.00	470 – 479	185.00	760 – 769	330.00
190 – 199	47.50	480 – 489	190.00	770 – 779	335.00
200 – 209	50.00	490 – 499	195.00	780 – 789	340.00
210 – 219	55.00	500 – 509	200.00	790 – 799	345.00
220 – 229	60.00	510 – 519	205.00	800 – 809	350.00
230 – 239	65.00	520 – 529	210.00	810 – 819	355.00
240 – 249	70.00	530 – 539	215.00	820 – 829	360.00
250 – 259	75.00	540 – 549	220.00	830 – 839	365.00
260 – 269	80.00	550 – 559	225.00	840 – 849	370.00
270 – 279	85.00	560 – 569	230.00	850 – 859	375.00
280 – 289	90.00	570 – 579	235.00	860 – 869	380.00
290 – 299	95.00	580 – 589	240.00	870 – 879	385.00
300 – 309	100.00	590 – 599	245.00	880 – 889	390.00
310 – 319	105.00	600 – 609	250.00	890 – 899	395.00
320 – 329	110.00	610 – 619	255.00	900 – 909	400.00
330 – 339	115.00	620 – 629	260.00	910 – 919**	405.00

* each range ends with .99p

** the contribution will increase by £5 for every additional £10 over £919

6. Other aspects of the Her Majesty's Courts & Tribunals Service remission system are:

- The remission system is only available to individuals; it does not apply to companies, partnerships or charities.
- Remissions can be granted without proof of evidence in emergency situations where an undertaking is given to either provide proof of eligibility for remission or pay the full fee within 5 working days.
- Individuals can apply for a refund (known as a retrospective remission application) if they have paid a court fee within 6 months and have evidence to prove that they would have been eligible for a remission at the time they paid the fee.
- There is a clearly defined appeal process available to individuals who have been refused a remission but believe that they are eligible.

- Those determined by a court to be a vexatious litigant, or bound by a civil restraint order, cannot apply for a fee remission until permission to issue has been granted (for which a fee is payable). If the application for permission is successful, the person can apply for a refund (retrospective remission), of the fee within 6 months from the date of payment.
7. In addition, there is a discretionary power for the Lord Chancellor to be able to reduce or remit a fee where owing to the exceptional circumstances of a particular case, the individual will suffer undue financial hardship.
 8. Full details of the remission system, the application forms and evidence required are set out in the leaflet (EX160A) Court fees – Do I have to pay them?³⁰

³⁰ Court fees – Do I have to pay them?:
http://www.hmcourtsservice.gov.uk/courtfinder/forms/ex160a_web_1010.pdf

Annex B: Comparison of remission provisions by business area

Remission 1 – Qualifying State Benefits Test ('Passporting benefits')

Jurisdiction	Income Support	Income based job seekers allowance	Income related Employment and Support Allowance	Pension Credit Guarantee Credit	Housing Benefit	Council Tax Benefit	Working Tax Credit
<ul style="list-style-type: none"> Civil Courts; Family Courts; Magistrates' courts; Non-Contentious Probate; UK Supreme Court; and Upper Tribunal (Lands Chamber).¹ 	✓	✓	✓	✓			✓ provided that Child Tax Credit is <u>not</u> also received
<ul style="list-style-type: none"> Gender Recognition Panel 	✓	✓		✓			✓ provided that Child Tax Credits, or a disability or severed disability element is also received and that the Gross annual income considered is £18,948 or less
<ul style="list-style-type: none"> Gambling Appeals 	✓	✓	✓	✓			✓ provided that Child Tax Credits, or a disability or severed disability element is also received and that the Gross annual income considered is £17,474 or less
<ul style="list-style-type: none"> Residential Property Tribunal² 	✓	✓		✓	✓		✓ provided that Child Tax Credits, or a disability or severed disability element is also received and that the Gross annual income considered is £16,190 or less
<ul style="list-style-type: none"> Leasehold Valuation Tribunal³ 	✓	✓		✓	✓		✓ provided that Child Tax Credits, or a disability or severed disability element is also received and that the Gross annual income considered is £14,213 or less
<ul style="list-style-type: none"> Court of Protection⁴ 	✓	✓	✓	✓	✓	✓	✓ provided that Child Tax Credit, or a disability or severed disability element is also received

¹ The Government has decided to introduce the remission system used by the civil courts and the probate service in the employment tribunal and employment appeal tribunal.

² From the 1st July 2013 the Property Chamber of the First-tier Tribunal will be formed; merging the Leasehold Valuations Tribunal, the Residential Property Tribunal (which both charge fees), the Agricultural Land Tribunal and the Adjudicator to HM Land Registry Tribunal (which do not currently charge fees).

³ The Leasehold Valuation Tribunal also exempts those in receipt of a certificate issued under the Funding Code and proceedings that have been transferred from a county court for determination.

⁴ The individual is not eligible for a fee remission if they are in receipt or have been awarded damages in excess of £16,000, for proceedings in the Court of Protection.

Remission 2 – Gross Annual Income Tests

Jurisdiction	Gross Annual Income Threshold
<ul style="list-style-type: none"> • Civil Courts; • Family Courts; • Magistrates' courts; • Non-Contentious Probate; • UK Supreme Court; and • Upper Tribunal (Lands Chamber) 	<p>Full fee remission (100% remission), if the individual's Gross Annual Income does not exceed:</p> <p>£13,000 (Single Person)</p> <p>£18,000 (Couple)</p> <p>For each dependant child these annual income limits increase by £2,930.</p>
<ul style="list-style-type: none"> • Gender Recognition Panel 	<p>Full fee remission (100% remission), if the individual's relevant income does not exceed £18,948, or partial remission if the individual's relevant income is more than £18,948 but equal to or less than £28,415 (the individual would be required to pay £30).</p>
<ul style="list-style-type: none"> • Gambling Appeals 	<p>Not Detailed in Statutory Instrument</p>
<ul style="list-style-type: none"> • Residential Property Tribunal 	<p>Not Applicable</p>
<ul style="list-style-type: none"> • Leasehold Valuation Tribunal 	<p>Not Applicable</p>
<ul style="list-style-type: none"> • Court of Protection 	<p>Full fee remission (100%), if the individual's Gross Annual Income does not exceed £12,000; and</p> <p>Partial fee remission, if the individual's Gross Annual Income is between</p> <ul style="list-style-type: none"> • £12,001 and £13,500 (75% fee remission) • £13,001 and £15,500 (50% fee remission) • £15,001 and £16,500 (25% fee remission)

Remission 3 – Disposable Income Test

Jurisdiction	Gross Annual Income Threshold
<ul style="list-style-type: none"> • Civil Courts; • Family Courts; • Magistrates' courts; • Non-Contentious Probate; • UK Supreme Court; and • Upper Tribunal (Lands Chamber). 	<p>Test based on net monthly income and expenditure:</p> <p>Net Monthly income minus permitted expenditure:</p> <ul style="list-style-type: none"> • housing costs, • child maintenance and care expenses, • payments under court order <p>Fixed Allowances:</p> <ul style="list-style-type: none"> • Partner: £159 • Children: £244 for each dependant child • General: £315 (only if claiming housing costs) <p>A contribution is payable based the amount of the disposable income.</p>
<ul style="list-style-type: none"> • Gender Recognition Panel 	Not Applicable
<ul style="list-style-type: none"> • Gambling Appeals 	Not Detailed in Statutory Instrument
<ul style="list-style-type: none"> • Residential Property Tribunal 	Not Applicable
<ul style="list-style-type: none"> • Leasehold Valuation Tribunal 	Not Applicable
<ul style="list-style-type: none"> • Court of Protection 	Not Applicable

Annex C: Summary statistics – remissions by business area, 2011/12

Jurisdiction	Remission 1		Remission 2		Remission 3		TOTAL		
	Instances	Amount £'000	Instances	Amount £'000	Instances	Amount £'000	Instances	Amount £'000	% of all remissions instances
Family Court	59,650	10,741	29,036	3,723	5,658	1,042	94,344	15,507	55.3
County Court	37,536	3,579	6,239	713	1,382	191	45,157	4,484	26.5
Insolvency	11,834	1,193	4,971	508	443	65	17,248	1,765	10.1
Court of Protection	6,386	2,532	523	120	0	0	6,909	2,652	4
High Court	2,278	690	2,035	387	316	75	4,629	1,152	2.7
Magistrates' Court	1,612	172	153	26	45	6	1,810	203	1.1
Gender recognition panel ¹	60	8	184	25	0	0	244	33	0.1
Probate	180	18	43	4	15	2	238	25	0.1
Residential Property Tribunal and Leasehold Valuation Tribunal ²	60	5	0	0	0	0	60	5	< 0.1
Upper Tribunal (Lands Chamber)	15	7	5	2	0	0	20	9	< 0.1
Gambling Appeals	1	1	0	0	0	0	1	1	< 0.1
TOTAL	119,612	18,946	43,189	5,508	7,859	1,381	170,660	25,836	100%
<i>Share of total</i>	<i>70.1%</i>	<i>73.3%</i>	<i>25.3%</i>	<i>21.3%</i>	<i>4.6%</i>	<i>5.3%</i>			

¹ The panel do not routinely keep statistics on the number of people who qualify for a fee remission by reference to a qualifying benefit. It is estimated that 29.5% of the total 170 full remissions in 2011/12 were through the receipt of a qualifying benefit.

² The Residential Property Tribunal and Leasehold Valuation Tribunal do not routinely keep statistics on the number of people who qualify for a fee remission. It is estimated that there are around 60 fee remissions each year, which is estimated to account for £5,000 - £5,200 in foregone income per annum.

³ Fee-charging for civil cases in the UK Supreme Court commenced upon the Court's creation in October 2009. The UK Supreme Court do not routinely keep statistics on the number of applications for certain types of remissions, so the Court is not explicitly mentioned in the table.

Annex D: The proposed financial eligibility criteria

Capital test

1. Where applicants pay fees with a value of less than £1000, remissions are limited to those applicants whose household’s disposable capital does not exceed £3,000. For fees with a value of between £1001 and £4000, remissions are limited to those applicants whose household’s disposable capital does not exceed £8,000. In rare cases where a fee may exceed £4000, we would propose to increase the capital threshold to £16,000.

Income test

2. The income test determines whether an applicant who passed the disposable capital test receives a full fee remission or pays a contribution towards their fee (partial remission). A full fee waiver will be granted if the applicant can demonstrate that their income is below a certain threshold or they receive a qualifying means-tested benefit+
3. Above this threshold the applicant would be required to pay a contribution towards the fee based on a fraction of their income in excess of the threshold.

Full remission element

4. An applicant will be eligible for a 100% fee remission if they can demonstrate that their gross monthly income is below the thresholds in the table below:

Table of gross monthly income thresholds:

Gross monthly income with:	Single	Couple
No children	1085	1245
1 child	1330	1490
2 children	1575	1735
Add £245 for each additional child		

If the party paying the fee has more than 2 children then the relevant amount of gross monthly income is the amount specified in the table for 2 children plus £245 for each additional child. An applicant will be defined as having a child if a child lives with them and / or they pay child maintenance for a child.³¹

5. An applicant will also be eligible for a 100% fee remission if they can demonstrate that they are in receipt of the following qualifying benefits:
 - Income Support
 - Income-based Jobseeker’s Allowance
 - Pension Credit guarantee credit

³¹ A child is defined as an individual aged under 16, A person will also be defined as a child if they are 16 to 19-years old and they are: Not married nor in a Civil Partnership nor living with a partner; and Living with parents; and in full-time non-advanced education or in unwaged government training.

- Income-related Employment and Support Allowance
- Universal Credit with annual earnings of less than £6,000.³²

Partial remission element

6. Otherwise, the party will be required to pay a contribution towards their fee. The maximum amount of fee payable is:
 - If the gross monthly income of the applicant exceeds the relevant threshold in the table of gross monthly income thresholds by no more than £4000, an amount equal to £5.00 for each £10 over the income threshold.
 - If the gross monthly income of the applicant exceeds the relevant threshold in the table of gross monthly income thresholds by more than £4000, the party shall not be eligible for remission or partial remission of fees.
7. To assist users a contribution calculator showing the contributions payable has been created and is available at: <https://consult.justice.gov.uk/>. A table setting out the contribution required in some typical types of cases is available on the following page.

³² We have not yet determined the level at which we would “passport” Universal Credit recipients but for illustrative purposes we have used a threshold of ‘Universal credit with earnings of less than £6000’. This illustrative criterion has been designed to broadly replicate the numbers that are passported via the current qualifying benefits under Universal Credit conditions.

Table of contributions at typical fees – Partial Remission

Applicant:	Single			Single + 2 children			Couple			Couple + 2 children		
Gross annual income of:	£15K	£25K	£35K	£20K	£25K	£35K	£20k	£30K	£40K	£25K	£30k	£40K
Family cases:												
Applications for a non-molestation order (in cases of domestic violence) or a forced marriage protection order: £70												
Amount payable	70	70	70	45	70	70	We would always consider an applicant as single if a partner has a contravening interest in the case					
Applications under the Children Act 1989, e.g. financial provision for children or a Section 8 order (contact, residence, etc...): £200												
Amount payable	80	200	200	45	200	200	200	200	200	175	200	200
Filing an application for a matrimonial or civil partnership order (e.g. for divorce or annulment): £340:												
Amount payable	80	340	340	45	230	340	We would always consider an applicant as single if a partner has a contravening interest in the case					
Civil cases:												
A court issued money claim for £1000.01 - £1500: £80:												
Amount payable	80	80	80	45	80	80	80	80	80	80	80	80
Employment tribunal:												
A level 1 ET hearing fee: £230:												
Amount payable	80	230	230	45	230	230	210	230	230	175	230	230
A level 2 ET hearing fee: £950:												
Amount payable	80	495	915	45	255	670	210	625	950	175	380	795
Other tribunals: The application fee for Gender Recognition Certificate: £140:												
Amount payable	80	140	140	45	140	140	We would always consider an applicant as single if a partner has a contravening interest in the case					

Annex E: Treatment of income and capital

Resources of a partner

1. When assessing an applicant's eligibility for full or partial remissions, the income and capital of a partner, if any, is to be included as the income and capital of the applicant – unless the partner has a contrary interest in the proceedings in which the applicant is seeking a fee remission (e.g. divorce, gender reassignment certification, forced marriage or domestic violence).
2. "Partner" means a person with whom the applicant lives with as a couple. This includes a person with whom the applicant usually lives with as a couple but is not currently living with due to force of circumstance (e.g. where a partner is serving in the Armed Forces).

CAPITAL

Definition of capital

3. "Disposable capital" means, the value of every resource of a capital nature belonging to the applicant on the date on which the application is made unless –
 - a. it is to be treated as income.
 - b. it is to be disregarded.
4. Any sums that are paid regularly (e.g. payments under annuity) are to be treated and declared by the applicant as income.
5. Sources of disposable capital include, but are not limited to:
 - a. All capital held in all types of savings accounts, ISAs, fixed rate bonds, market linked investment bonds or savings, trust funds (where accessible), or any other fund available to the applicant;
 - b. Stocks or shares;
 - c. Any type of capital financial products (such as unit trusts, an OEIC's/Open-Ended Investment Company, or derivatives);
 - d. Redundancy capital payments received;
 - e. Second homes;
 - f. Any jointly held capital (where one or more parties have a financial interest in a disposable capital source);
 - g. Any type of capital held outside the UK.

Valuation of capital

6. Where the disposable capital is not in cash terms, its value is to be calculated at its current market value or surrender value, less—
 - a. expenses incurred in the sale, 10%; and

- b. the amount of any debts secured on it.
e.g. an applicants second home has a current market value of £100 K Less 10% for sale expenses (£10K) and less their mortgage (£70 K) leaves a £20K capital value to be considered.
7. The market value of disposable capital possessed by the applicant in a country outside the UK is:
 - a. if there is no prohibition in that country against the transfer of that capital to the UK, the market value in that country; or
 - b. if there is such a prohibition, the amount it would raise if sold in the UK to a willing buyer.
8. Where disposable capital is held in currency other than sterling, it is to be calculated after the deduction of any banking charge or commission payable in converting that capital into sterling.
9. Where an applicant has jointly held disposable capital asset (with one or more other persons), an applicant is treated as having an equal share in those assets, in the absence of evidence to the contrary
10. Capital held in Employee-owned business (EOB) shall be considered unless the company holds the applicants shares collectively (e.g. by an employer trust such as the John Lewis model);

Capital to be disregarded

11. Unless an applicant has any exceptional quantity or value in the items concerned, none of the following will be considered as disposable capital:
 - a. Only one property may be disregarded if:
 - i. The property is occupied by the applicant as their home, or the applicant intends to occupy it as their home;
 - ii. The property is occupied by a close relative where that person has a limited capability to work or has reached the qualifying age for state pension credit; or
 - iii. The property is occupied by a former partner of the applicant who is living apart from by force of circumstances (e.g. long term care);
 - b. Personal possessions (e.g. Household furniture, clothes, car and vehicles);
 - c. Tools and implements of trade
 - d. Capital value of the client's business in the case of the self employed;
 - e. Capital held in an Employee-owned business (EOB) where the company holds the applicant's shares collectively (e.g. by an employee trust).
 - f. Jobseeker's back to work bonus;
 - g. Community care payments;
 - h. Capital held in trust funds which the party cannot access;
 - i. Unfair dismissal capital payments received;
 - j. Compensation for a personal injury or medical negligence paid as a lump sum;
 - k. Capital held in personal or occupational pension schemes;

- l. Capital (cash value) of insurance contracts;
- m. Any payment made out of the Independent Living Fund (2006);
- n. Any capital payment made out of the Bereavement Payment; and
- o. Student Loan payments.

Deprivation of capital

- 12. If an applicant has deliberately deprived themselves of capital for the purpose of securing entitlement to remission or part remission of fees, the applicant is to be treated as possessing the deprived capital.
- 13. An applicant is not to be treated as depriving themselves of disposable capital if the party disposes of it for the purposes of—
 - a. reducing or paying a debt owed by the applicant; or
 - b. purchasing necessary goods or services if the expenditure was reasonable in the circumstances of the party's case

INCOME

Definition of income

- 14. "Gross monthly income" means total monthly gross income for the month preceding that which the application for remissions is made, from all sources other than receipt of any of the excluded benefits.
- 15. The income from a trade, profession or vocation ("self employed earnings") is to be calculated from the person's share of the net profits in respect of the last accounting period of such trade, profession, or vocation for which accounts have been prepared, or the drawings of the person's concerned in respect of the period of calculation.

Excluded benefits

- 16. "Excluded benefits" means—
 - a. any of the following benefits payable under the Social Security Contributions and Benefits Act 1992—
 - i. attendance allowance paid under section 64;
 - ii. severe disablement allowance;
 - iii. carer's allowance;
 - iv. disability living allowance;
 - v. constant attendance allowance paid under section 104 or paragraph 4 or 7(2) of Schedule 8 as an increase to a disablement pension;
 - vi. any payment made out of the social fund;
 - vii. housing benefit;
 - viii. widowed parents allowance
 - b. any of the following benefits payable under the Social Security Contributions and Benefits (Northern Ireland) Act 1992 –
 - i. attendance allowance paid under section 64;
 - ii. severe disablement allowance;
 - iii. carer's allowance;

- iv. disability living allowance;
 - v. constant attendance allowance paid under section 104 or paragraph 4(2) of Schedule 8 as an increase to a disablement pension;
 - vi. any payment made out of the social fund;
 - vii. housing benefit;
 - viii. widowed parents allowance
- c. any of the following benefits payable under the Tax Credits Act 2002 –
- i. any disabled child element or severely disabled child element of the child tax credit
 - ii. any childcare element of child tax credit
- d. any direct payment made under the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2003, or the Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004, or section 12B(1) of the Social Work (Scotland) Act 1968,³³ or The Personal Social Services and Children's Services (Direct Payments) Regulations (Northern Ireland) 2004;
- e. a back to work bonus payable under section [26] of the Jobseekers Act 1995 or Article 28 of the Jobseekers (Northern Ireland) Order 1995;
- f. any exceptionally severe disablement allowance paid under the Personal Injuries (Civilians) Scheme 1983;
- g. any pension paid under the Naval, Military and Air Forces etc (Disablement and Death) Service Pension Order 2006;
- h. any payment made from the Independent Living Funds;
- i. any payment made from the Bereavement Allowance;
- j. any financial support paid under an agreement for the care of a foster child;
- k. any housing credit element of pension credit;
- l. armed forces independence payment; and
- m. any of the following benefits payable under the Welfare Reform Act 2012 –
- i. maximum amount of any disabled child addition;
 - ii. maximum amount of housing costs element;
 - iii. maximum amount of child costs element;
 - iv. budgeting and short term advances;
 - v. personal independence payment.

³³ 1968 c. 49. Section 12B was inserted by the Community Care (Direct Payments) Act 1996 c. 30 section 4. Subsection (1) was amended by the Community Care and Health (Scotland) Act 2002 asp 5 section 7 and the Regulation of Care (Scotland) Act 2001 asp 8 section 70.

Annex F: Evidence requirements

An applicant will be required to produce documentary evidence that confirms their income and capital resource (and if applicable, that of their partner). In cases where the applicant is found to have provided incorrect information, the applicant will be liable for any relevant fees that have been remitted. Non-payment will result in the proceedings being stayed or struck out, or any order that was obtained will be revoked.

Means-test item	Form of evidence
Evidence of capital	evidence of capital will not usually be required; an applicant's statement of truth and signature on the application form will normally be sufficient evidence, but other documentary evidence of disposable capital will be obtained in cases of doubt.
Evidence of gross monthly income	<p>applicants must supply evidence that their income is below a certain threshold. We will accept either:</p> <ul style="list-style-type: none"> • documentary evidence of a qualifying benefit as issued by DWP. It must show the applicant's title, full name, address and postcode and confirm that the applicant has received the benefit. The evidence must be dated within the last month, or the current financial year for Pension Credit guarantee credit. <p>OR</p> <ul style="list-style-type: none"> • three months bank statements in addition the evidence detailed below: <ul style="list-style-type: none"> i) Paid employment: applicants must provide original wage slips from all their jobs. ii) Self employment: applicants must provide their most recent tax return (Self Assessment), and either their most recent HMRC Self Assessment Tax Calculation or other proof of current income; iii) Other source of income: applicants must provide alternative documentation if the other sources of income have not been listed within their bank statements.
Evidence of children	<p>if applicants are not passported they must provide either:</p> <ol style="list-style-type: none"> a. a current bank statement that shows evidence of receipt of child benefit; or b. a Universal Credit award notice that shows evidence of receipt of the Child Element of Universal Credit; or c. a current bank statement or other financial record that shows evidence of child maintenance payments.
Evidence of partner	<p>if applicants are not passported they must provide evidence showing that they live at the same address as their partner. The only evidence that will be allowed is an official document (e.g. current utility bill) that shows the applicant's status, full name(s), title(s) and address.</p>

Annex G: Prescribed fees of 800 pounds or over payable by individuals

Fee	Jurisdiction	Service Provided
5% of rateable value. Minimum of £250. Maximum of £15,000	Upper Tribunal – Lands Chamber	Hearing a rating appeal.
2% of amount awarded. Minimum of £250 Maximum of £15,000	Upper Tribunal – Lands Chamber	Hearing a reference or other appeal (excluding one where the hearing fee is calculated on the basis of rental value).
2% of rent. Minimum of £250 Maximum of £15,000	Upper Tribunal – Lands Chamber	Hearing a reference or other appeal where the hearing fee is calculated on the basis of rental value.
2.5% of the sum claimed	UK Supreme Court	On submitting a claim for costs.
2.5% of the sum allowed	UK Supreme Court	On certification by the Registrar under rule 52 of the Supreme Court Rules 2009 of the amount of assessed costs, or on receipt of an order showing the amount.
5% of the amount of costs	Upper Tribunal – Lands Chamber	For a determination by the Tribunal of the amount of costs.
£655 - £5,455	Civil and Family Courts	On filing a request for a detailed assessment where the amount of costs claimed exceeds £15,000.
£4,820	UK Supreme Court	On filing a statement of relevant facts and issues and appendix of essential documents.
£685 - £1,670 ¹	Civil Courts	On starting money claim proceedings where the sum claimed exceeds £50,000 (excluding claim production centres and money claims online).
£1,600	Gambling Appeals	Appeal a decision for a personal management office licence.
£1,600	UK Supreme Court	On filing a notice of appeal.
£1,500	UK Supreme Court	On filing an application for a decision of the Registrar to be reviewed.
£1,500	Upper Tribunal – Lands Chamber	On lodging a rights of light application (obstruction of access to light) for a temporary and definitive certificate.
£1,200	Upper Tribunal – Lands Chamber	On lodging a rights of light application (obstruction of access to light) for a definitive certificate.
£1,090	Civil Courts	Hearing fee (multi-track).
£1,000	UK Supreme Court	On filing an application for permission to appeal.
£1000	Upper Tribunal – Lands Chamber	Determining a restrictive covenant application – substantive hearing of an originating application.

Fee	Jurisdiction	Service Provided
£950 ²	Employment Appeal Tribunal	Hearing fee (level 2).
£800	UK Supreme Court	On filing notice of an intention to proceed with an appeal.
£800	UK Supreme Court	On filing an application for permission to intervene in an appeal.
£800	Gambling Appeals	Appeal a decision for a personal operational function licence.
£800	Upper Tribunal – Lands Chamber	On lodging a restrictive covenant application (discharge or modify restrictive covenants affecting land).
£545 ³	Civil Courts	Fast-track hearing fee.
Consulting ⁴	Court of Appeal	Appeal fee.

¹ Ministry of Justice consulted on introducing additional bands onto issue fees for money claims in excess of £300,000. The maximum fee consulted on was £10,000 for claims exceeding £1 billion.

² It is anticipated that fees will be introduced in the Employment Tribunal in summer 2013.

³ Ministry of Justice consulted on introducing time-related hearing fees in the High Court and Court of Appeal. The maximum fee consulted on was £10,900 for trials projected to exceed 10 days.

⁴ Ministry of Justice consulted on introducing an appeal fee of £1,090 in the Court of Appeal.

Annex H: Prescribed fees for copy and search requests

Fees for copy of records

Jurisdiction	Fee definition	Amount
Civil and Family Proceedings and Magistrates Courts	On a request for a copy of a document: for ten pages or less ³⁴	£5
	for each subsequent page ³⁵	50p
	On a request for a copy of a document on a computer disk or in other electronic form, for each such copy. ³⁶	£5
Non Contentious Probate Proceedings	On a request for a copy of a document: for the first copy ³⁷	£6
	for each subsequent page ³⁸	£1
	On a request for a copy of a document on a computer disk or in other electronic form, for each such copy. ³⁹	£4
Upper Tribunal (Lands Chamber)	For a photocopy or certified copy of a document, or for examining a plain copy and marking as a certified copy ⁴⁰ For supplying published decisions to subscribers ⁴¹	£1 (for each page, subject to a minimum total of £10)
Court of Protection	Copy of a document fee ⁴²	£5

³⁴ Civil Proceedings Fees Order 2008, as amended – Fee 4.1(a), Family Proceedings Fees Order 2008, as amended – Fee 7.1(a), Magistrates Courts Fees Order 2008, as amended – Fee 5.1(a).

³⁵ Civil Proceedings Fees Order 2008, as amended – Fee 4.1 (b), Family Proceedings Fees Order 2008, as amended – Fee 7.1(b), Magistrates Courts Fees Order 2008, as amended – Fee 5.1(b).

³⁶ Civil Proceedings Fees Order 2008, as amended – Fee 4.2, Family Proceedings Fees Order 2008, as amended – Fee 7.2, Magistrates Courts Fees Order 2008, as amended – Fee 5.2.

³⁷ Non-Contentious Probate Fees Order 2004, as amended – Fee 8(a).

³⁸ Non-Contentious Probate Fees Order 2004, as amended – Fee 8(b).

³⁹ Non-Contentious Probate Fees Order 2004, as amended – Fee 8(c).

⁴⁰ The Upper Tribunal (Lands Chamber) Fees Order 2009, as amended – Fee 13.

⁴¹ The Upper Tribunal (Lands Chamber) Fees Order 2009, as amended – Fee 14.

⁴² The Court of Protection Fees Order 2007, as amended – Article 7(1).

Fees for search of records

Jurisdiction	Fee definition	Amount
Civil Proceedings - High Court only.	For an official certificate of the result of a search for each name, in any register or index held by the court; or in the Court Funds Office, for an official certificate of the result of a search of unclaimed balances for a specified period of up to 50 years. ⁴³	£45
	On a search in person of the bankruptcy and companies records, including inspection, for each 15 minutes or part of 15 minutes. ⁴⁴	£7
Civil Proceedings	On a search in person of the bankruptcy and companies records, in a county court. ⁴⁵	£45
Family Proceedings – High and county court	On a search in the index of decrees absolute or final orders (for any specified period of ten calendar years, or the ten most recent years) kept at:	
	The Principal registry of the Family Division ⁴⁶	£60
	Any designated county court or District Registry ⁴⁷	£40
	On a search of the central index of Parental responsibility agreements kept at the Principal registry of the Family Division ⁴⁸	£40

⁴³ Civil Proceedings Fees Order 2008, as amended – Fee 10.2.

⁴⁴ Civil Proceedings Fees Order 2008, as amended – Fee 10.3.

⁴⁵ Civil Proceedings Fees Order 2008, as amended – Fee 3.13.

⁴⁶ Family Proceedings Fees Order 2008, as amended – Fee 6.1.

⁴⁷ Family Proceedings Fees Order 2008, as amended – Fee 6.2.

⁴⁸ Family Proceedings Fees Order 2008, as amended – Fee 6.3.

Annex I: Employment Tribunal Fees

Single Claims

Fee Type	Level 1 claims	Level 2 claims
Issue fee	£160	£250
Hearing fee	£230	£950

Multiple claims – level 1

Level 1 claims are generally for sums due on termination of employment e.g. unpaid wages, payment in lieu of notice, redundancy payments

	Number of claimants in multiple claim		
	2–10 (2 x the single fee)	11–200 (4 x the single fee)	over 200 (6 x the single fee)
Issue fee	£320	£640	£960
Hearing fee	£460	£920	£1380
Total	£780	£1560	£2340

Multiple claims – level 2 claim fee levels

Level 2 claims include those relating to unfair dismissal, discrimination complaints, equal pay claims and claims arising under the Public Information Disclosure Act

	Number of claimants in multiple claim		
	2–10 (2 x the single fee)	11–200 (4 x the single fee)	over 200 (6 x the single fee)
Issue fee	£500	£1000	£1500
Hearing fee	£1900	£3800	£5700
Total	£2400	£4800	£7200

Other fees

	Review Default Judgment	Application to dismiss following settlement	Mediation by the judiciary	Counter-claim	Application for review
Level 1	£100	£60	-	£160	£100
Level 2	£100	£60	£600	-	£350

Employment Appeal Tribunal – proposed fee levels

	Appeal fee	Hearing fee	Total
EAT fee	£400	£1200	£1600

Annex J: Stakeholders this consultation paper has been sent to

The senior judiciary and the Judicial Office's of England and Wales. Scotland and Northern Ireland

a:gender

ACAS

Access to Justice Action Group

Action for Advocacy

Action on Elder Abuse

Administrative Justice & Tribunals Council

Advice Now

Advice Services Alliance

Advice UK

Age UK

Alzheimer's Society

Association for Real Change (ARC UK)

Association for Asian Women Lawyers (AAWL)

Association of British Insurers

Association of Chief Executives of Voluntary Organisations

Association of Contentious Trust and Probate Solicitors

Association of Directors of Adult Social Services

Association of Muslim Lawyers

Association of Personal Injury Lawyers (APIL)

Association of Recruitment Consultancies

Association of Retirement Housing Managers

Bar Council

Bar Council of Northern Ireland

Basw

Belfast Butterfly Club

Belfast Pride

BILD (British Institute for Learning Difficulties)

Black Solicitors Network

British Association for Adoption and Fostering

British Bankers Association (BBA)

British Chambers of Commerce

British Council of Disabled People
British Institute of Human Rights
British Medical Association (BMA)
British Property Federation
Cara-Friend
Care
Care Quality Commission
Carers UK
Centre for Mental Health
Centre for Policy on Ageing
Ceretas
CHANGE
Chartered Institute of Housing
Chartered Institute of Personnel and Development (CIPD)
Children's Commissioner for England
Children's Rights Alliance for England
Children's Society
Citizens Advice Bureau (CAB)
Citizens Advice Northern Ireland
Citizens Advice Scotland
Civil Court Users Association (CCUA)
Civil Justice Council
Commercial Litigation Association (CLAN)
Court of Protection User Group
Dementia UK
Disability Awareness in Action (DAA)
Disability Law Service
Disability Network
Disability Rights Commission
Disability Rights UK
Discrimination Law Association
Down's Syndrome Association
EEF - The Manufacturers' Organisation
Employers Forum on Disability
Employment Judges Scotland
Employment Law Bar Association

Employment Lawyers Association
Employment Tribunal Members association
English Community Care Association
Entrepreneurs' Forum
Equality & Human Rights Commission Scotland
Equality and Diversity Forum
Equality and Human Rights Commission
Equality Network
Family Action
Family Law Association
Family Law Bar Association
Family Law Society
Federation of Private Residents Associations
Federation of Small Businesses
Finance and Leasing Association (FLA)
Free Representation Unit
Gay and Lesbian Youth Northern Ireland
Gender Identity Research and Education Society (GIRES)
Gender Matters
Gender Trust
Gendered Intelligence
General Council of the Bar (England and Wales)
General Council of the Bar of Northern Ireland
General Medical Council
General Social Care Council
GMB
Government Equalities Office
Hafal
Help the Hospices
HERe (NI)
Hft (Home Farm Trust)
Housing Law Practitioners Association
Institute of Chartered Accountants in England and Wales
Institute Of Chartered Accountants in Scotland
Institute of Directors (IoD)
Institute of Legal Executives

Intensive Care Society
Joint Industry Board for the Electrical Contracting Industry
Land Registry
Law Centre Northern Ireland
Law Centres Federation
Learning Disability Wales
Leasehold Advisory Service
Legal Action Group
Legal Services Commission
Leonard Cheshire Disability
Lesbian and Gay Lawyers Association
LGB&T Advocate
Local Government Association
London Solicitors Litigation Association
Magistrates Association
Medical Research Council/Research Councils UK
Mencap
Mental Health Alliance
Mental Health Foundation
Mental Health Lawyers Association
MIND
Motor Neurone Disease Association
National Association for Voluntary & Community Action
National Association of Citizens Advice Bureau
National Autistic Society
National Care Home Association
National Centre for Independent Living
National Council for Palliative Care (NCPC)
National Council for Voluntary Organisation
National Family Mediation
National Federation of Property Professionals
National Federation of The Blind Of The United Kingdom
National Forum for People with Learning Disabilities
National LGB&T Partnership
Neurological Alliance
NHS Confederation

NHS Litigation Authority (NHSLA)
Noah Fry Research Centre
Northern Ireland Court Service
Northern Ireland Gay Rights Association (NIGRA)
Northern Ireland Human Rights Commission
Northern Ireland Legal Services Commission
NSPCC
Nuffield Foundation
Oaklea Trust
Official Solicitor & Public Trustee
One Plus One
Parliamentary Forum on Gender Identity
Patient Concern
PCS
Press for Change
Pro Contact
Property Bar Association
Public Concern at Work
Queer Space
Recruitment & Employment Confederation
Refuge
Refugee Council
Relate
Rescare
Residential Landlords Association
Resolution
Respect
Respond
Rethink
RICS
Royal British Legion
Royal College of Psychiatrists
Royal National Institute for the Deaf
Royal National Institute of Blind People
Samaritans
Sanctity

Scope

Scottish Association of Law Centres

Scottish Court Service

Scottish Employment Rights Network

Scottish Legal Action Group

Scottish Trade Union Congress

Scottish Transgender Alliance

Sense

Shelter

Social Care Institute for Excellence (SCIE)

Society of Trust and Estate Practitioners (STEP)

Solicitors for the Elderly

Standing Conference of Mediation Advocates

Stonewall

Stroke Association

Support, Acceptance, Information and Learning (SAIL)

TAEN - The Age and Employment Network

Terrance Higgins Trust

The Association of Property and Fixed Charge Receivers (NARA)

The Association of Residential Managing Agents (ARMA)

The Beaumont Society

The British Psychological Society

The British Society of Rehabilitation Medicine

The Centre for Social Justice

The Charities Property Association

The Confederation of British Industry (CBI)

The Consortium of Lesbian, Gay, Bisexual and Transgendered Voluntary and Community Organisations

The Faculty of Advocates

The Independent Park Homes Advisory Service

The Institute of Employment Rights

The Law Society

The Law Society of Northern Ireland

The Law Society of Scotland

The Leasehold Knowledge Partnership (LKP)

The National Association of Almshouses

The National Association of Park Home Residents

The Oyster Forum

The Rainbow Project

The Sibyls

The Trans Forum

Trade Association Forum

Trade Union Congress

Trans Media Watch

Translate

Turning Point

UK Home Care Association

UNISON

UNISON Scotland

Unite

United Response

Voice

Youthnet

Questionnaire

We would welcome responses to the following questions set out in this consultation paper.

Online responses at <https://consult.justice.gov.uk/>.

Question 1 – Do you agree that there should only be one remission system in operation within HMCTS operated courts and tribunals and the UK Supreme Court? Please state the reason(s) for your answer.

Question 2 – Do you agree that disposable capital should be considered when deciding fee remission eligibility? Please state the reason(s) for your answer.

Question 3 – Do you agree with the proposed disposable capital limits? Please state the reason(s) for your answer.

Question 4 – Do you agree with the proposed terms of the disposable capital test? Please state the reason(s) for your answers:

Question 5 – Do you agree with the proposed evidence requirements and enforcement mechanism of the capital test? Please state the reason(s) for your answer.

Question 6 – Do you agree that these proposals strike the right balance in targeting eligibility for full and partial remission through a simple and workable system? If you do not agree, please explain why, and what alternatives you propose.

Question 7 – Do you agree that there should be a gross monthly income cap so that those with a certain amount of income would be ineligible for a partial remission and would pay the fee in full? If so, do you agree that a single cap of £4000 is appropriate or should the Government consider varying the cap for different fee levels? Please state the reason(s) for your answer.

Question 8 – Do you agree with the proposed evidence requirements for the income test? Please state the reason(s) for your answer.

Question 9 – Do you agree that eligibility to a remission should be based on assessment of household means? Please state the reason(s) for your answer.

Question 10 – Do you envisage other circumstances where a contrary interest could apply? Please state the reason(s) for your answer.

Question 11 – Do you agree that the existing process for third party applications should be applied to all courts and tribunals subject to this consultation, and that the current practice in the Court of Protection should continue? Please state the reason(s) for your answer.

Question 12 – Do you agree that providing copies of documents and searches should be exempt from the remission system? Please state the reason(s) for your answer.

Question 13 – Do you envisage circumstances where charging for copy or search fees would restrict access to justice? Please state the reason(s) for your answer

Question 14 – Do you agree that the time limit for making a retrospective remission should be reduced to two months? Please state the reason(s) for your answer.

Question 15 – Your views are welcome on whether there are any other factors we need to take into account for claimants seeking remissions in multiple claims.

Question 16 – Overall, do you agree that this provides a fair, transparent and workable structure for determining fee remissions for HMCTS and the UK Supreme Court? Please state the reason(s) for your answer.

Question 17 – Do you think the proposed remission system is likely to have any positive or adverse equality impacts? Please state the reason(s) for your answer.

Question 18 – If you think the proposal is likely to have any adverse equality impacts, how could these impacts be mitigated? Please state the reason(s) for your answer.

Question 19 – Are you aware of any further evidence that could aid our analysis of potential equality impacts? If so please provide us with this evidence.

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please respond by 16/05/2013:

Online responses at: <https://consult.justice.gov.uk/>

Email responses to: mojfeespolicy@justice.gsi.gov.uk

Post responses to:

Rachel Vickerstaff
Ministry of Justice
Justice Policy Group
Post point 4.32, 4th Floor
102 Petty France
London SW1H 9AJ

Tel: 020 3334 5389

Email: mojfeespolicy@justice.gsi.gov.uk

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://consult.justice.gov.uk/> or <https://www.gov.uk/government/organisations/ministry-of-justice>.

Alternative format versions of this publication can be requested at: mojfeespolicy@justice.gsi.gov.uk.

Publication of response

A paper summarising the responses to this consultation will be published summer 2013. The response paper will be available on-line at: <https://consult.justice.gov.uk/>.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality

disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Consultation Co-ordinator contact details

Responses to the consultation must go to the named contact under the How to Respond section.

However, if you have any complaints or comments about the consultation **process** you should contact Sheila Morson on 020 3334 4498, or email her at consultation@justice.gsi.gov.uk.

Alternatively, you may wish to write to the address below:

**Ministry of Justice
Consultation Co-ordinator
Better Regulation Unit
Analytical Services
7th Floor, 7:02
102 Petty France
London SW1H 9AJ**



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ISBN 978-0-10-186082-6



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