



Ministry of
JUSTICE

Fee remissions in the First-tier Tribunal (Immigration and Asylum Chamber)

Initial Equality Impact Assessment

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Introduction

1. This initial Equality Impact Assessment (EIA) accompanies a consultation paper seeking views on fee remissions for immigration appeals in the First-tier Tribunal (Immigration and Asylum Chamber). The proposals address the removal of legal aid in England and Wales¹ for most immigration appeals on the current immigration fees exemptions, while maintaining all of the other exemptions and remissions in the current fees order. We are not proposing to make any other changes to the current system of remissions and fee exemptions and are therefore not proposing to change the fees order.
2. This initial EIA identifies potential equality impacts on groups with protected characteristics and raises further questions which need to be explored. It is anticipated that until there is further engagement through consultation the impact on certain groups will not become fully apparent.
3. We will look to improve our evidence base and understanding of the equality impacts of the proposals during the consultation period and update this assessment as part of our response to consultation.
4. We welcome your views on our initial assessment and have provided some questions for your deliberation. We hope you will consider and provide us with your comments.

¹ Further detail about Legal Aid entitlement can be found at www.legalservices.gov.uk/civil/civil_legal_aid_eligibility.asp_for England and Wales , www.slab.org.uk in Scotland and for Northern Ireland www.nilsc.org.uk.

Equality Duties

5. Under the Equality Act 2010 section 149, when exercising its functions, the Ministry of Justice is under a legal duty to have 'due regard' to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
 - Advance equality of opportunity between different groups (those who share a protected characteristic and those who do not); and
 - Foster good relations between different groups.
6. The relevant protected characteristics for these purposes are: race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.
7. Consistent with these duties, and with the statutory objectives of section 149 of the Equality Act 2010 in mind, the following EIA considers how these policy proposals are likely to impact on people sharing protected characteristics.

Summary

8. We have considered the policy reforms in accordance with the statutory obligations under the Equality Act 2010. The following is a summary of our overall assessment. More detail of the impacts is given in the analysis in the individual policy areas that follow.

Direct discrimination:

9. We do not think the preferred proposal would give rise to direct discrimination towards any group. It is not expected to lead to less favourable treatment because of a protected characteristic.

Indirect discrimination:

10. Our initial assessment, based on the limited information available, is that there may be the potential for an adverse differential impact on some equality groups appealing a Managed Migration, Entry Clearance Officer or Family Visit Visa immigration decision who will no longer receive a fee exemption because they will no longer receive legal aid. For example, women and people from ethnic minority backgrounds such as Somalia, Nigeria, Pakistan or Eritrea. However, we consider it unlikely that those impacts will result in indirect discrimination, as all appellants would have an avenue to apply for a remission if they are unable to pay an appeal fee. Further, the Government considers the proposals to be a proportionate means of achieving a legitimate aim.

Discrimination arising from disability and the duty to make reasonable adjustments:

11. Our initial assessment, based on the limited information available, is that it is unlikely that the proposals will put a disabled person at a disadvantage in relation to a relevant matter. We will continue to make reasonable adjustments to ensure fair and equal access is maintained for service users with disabilities.

Harassment and victimisation:

12. Our initial assessment, based on the limited information available, is that it is unlikely that the proposals will give rise to any harassment and victimisation within the meaning of the Equality Act 2010.

Advancing equality of opportunity:

13. Our initial assessment, based on the limited information available, is that it is difficult to judge the impact of the proposals on advancing equality of opportunity. There will however, be one remission system covering both in-country and out-of-country appellants and all appellants will have an avenue to access the Tribunal.

Fostering good relations:

14. Our initial assessment, based on the limited information available, is that it is unlikely that the proposals will impact on this area of the duty.
15. We acknowledge there are a number of gaps in the research and statistical evidence we have been able to source regarding the potential impact of our reforms on a number of protected characteristics. We welcome provision of information, evidence and comment which may help to address some of these gaps in any further assessment.

Aims and Outcomes for the Proposed Policy

16. The Ministry of Justice's (MoJ) long-term aim is to recoup more of the costs to HM Courts and Tribunals Service (HMCTS) of running tribunals, to reduce the subsidy currently provided by the general taxpayer and to transfer more of the cost of the service to those who use it.
17. Fee charges for immigration and asylum appeals to be heard in the Immigration and Asylum Chamber of the First-tier Tribunal were introduced on 19th December 2011. Alongside this, fee exemptions and remissions were also introduced to ensure that the poorest appellants were not denied the opportunity to access the Tribunal to determine their appeal if they cannot pay the fee (or have it paid on their behalf).
18. One of the exemptions is where an individual is in receipt of legal aid, but in England and Wales legal aid provision for most immigration appeals will be withdrawn in April 2013, following changes to legal aid made under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). Based on projected appeal volumes for 2012-2013, we estimate that this will affect 2,500 non-detention immigration appellants out of the 92,000 appellants that will use the Tribunal to determine their appeal.
19. We currently utilise the fact that legal aid solicitors establish whether or not appellants meet the financial eligibility criteria for legal aid². If they do and receive legal aid they are then exempt from paying an appeal fee. The removal of legal aid provision in England and Wales for most Managed Migration, Entry Clearance Officer and Family Visit Visa immigration appeals from April 2013 will mean that appellants in those appeal categories will no longer be able to request exemption from paying an appeal fee on the basis that they are in receipt of legal aid. In these cases, appellants would need to pay the appeal fee (themselves or paid by a third party e.g. family on their behalf) if they wish to use the Tribunal to determine their appeal, unless they either:
 - a) qualify for any other exemption; or
 - b) do not qualify for another exemption, but apply for a remission under the Lord Chancellor's power to reduce or remit the fee, and it is considered that there are exceptional circumstances which justify doing so.

² For immigration cases the appellant needs to show the legal advisor that they cannot pay the legal costs. The legal advisor undertakes a means test to assess whether or not the appellant is eligible for legal aid. If the legal advisor considers that the appellant is eligible then the legal advisor applies for legal aid on behalf of the appellant. For details see www.legalservices.gov.uk/civil/civil_legal_aid_eligibility.asp

20. The aim of the proposal is to consider an alternative means to establish for ourselves if these affected appellants should pay a fee or should be remitted to enable the poorest appellants to access the Tribunal and to exercise their rights under the European Convention on Human Rights through the appellate system. For instance, an individual's right to respect for a private and family life under Article 8 and the right to marry under Article 12 have to be able to be determined and enforceable through the tribunal/courts system. We have therefore considered how this can be achieved.
21. We believe that the simplest way of doing this, both for the immigration appellants themselves and for us to administer, is to utilise the fact that the UK Border Agency (UKBA) undertakes financial checks on the vast majority of entry routes and applications for leave to enter or remain which carry a right of appeal. If an individual claims they can, in accordance with requirements under the Immigration Rules, maintain and support themselves (or are maintained and supported by a third party) without recourse to public funds, then it does not seem unreasonable to assume they should be able to pay the appeal fee of £80 for a paper determination or £140 for an oral hearing. Nevertheless, that assumption could be wrong. If an appellant claims they can maintain and support themselves (or that a third party can maintain and support them), but claim they cannot pay the appeal fee (or that the third party cannot pay the fee), we would consider that application and, if they could not pay the fee, use the Lord Chancellor's power to reduce or remit the fee in exceptional circumstances. In this situation, these appellants would need to write to the Tribunal, specifying the reasons why their 'exceptional circumstances' prevent them from paying their appeal fee and include appropriate supporting evidence. Their applications would be considered by an administrative manager within the Tribunal.
22. Further, we also propose to use the Lord Chancellor's exceptional power for applications which are received from appellants that are not subject to UKBA's maintenance and accommodation test. This applies to European Economic Area nationals and Switzerland and their family members. The European Economic Area (EEA) consists of Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, the Republic of Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK. Although Iceland, Liechtenstein and Norway are not members of the European Union (EU), their citizens have the same rights as EU citizens to enter, live in and work in the UK.
23. If an appellant from this group does not qualify for any other exemption, then any claim to be unable to afford the fee from this group would be dealt with by making an application for the Lord Chancellor to exercise his discretion to reduce or remit the fee. These appellants would need to write to the Tribunal, specifying the 'exceptional circumstances' which would justify the Lord Chancellor in exercising his discretion in their favour (i.e. why they are unable to pay the fee). They would be required to provide appropriate supporting evidence. Their applications would be considered by an administrative manager within the Tribunal.

24. In summary our proposal seeks to:

- Maintain a different fee remission system for immigration appeals (than the wider Her Majesty's Courts and Tribunals Service's (HMCTS) court fee remission system), that does not unfairly discriminate between in-country and out-of-country appellants;
- Be as simple for appellants to understand as possible and straightforward for HMCTS staff to administer;
- Aim to ensure that the poorest appellants are able to access the Tribunal if they are unable to pay the fee (or have the fee paid by a third party e.g. a family member);
- Retain all other current exemptions; and
- Retain the Lord Chancellor's power to reduce or remit fees.

Methodology

25. In this initial EIA we have used HMCTS data to identify the protected characteristics of immigration appellants using the First-tier Tribunal (Immigration and Asylum Chamber). We have looked at the characteristics of all appellants as well as those whose appeal fees have been remitted through legal aid funding in order to identify whether the proposals impact upon some groups of appellants more than others. This has been possible for the protected characteristics of age, sex and race (by reference to nationality). In addition, we have revisited our previously published assessment of the equality impacts of the reduction in scope of legal aid funding for immigration cases³. This allows us to consider the impact on the additional protected characteristic of disability.
26. We have concentrated our analysis on those that will be affected by the removal of the legal aid provision (and therefore the removal of the related fee exemption) these are appellants appealing managed migration, entry clearance officer and family visit visa decisions.
27. Due to limitations in the available evidence we are unable to identify the potential for the proposals to have any differential impact in respect of Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Religion and Sexual Orientation.
28. Annex A (Evidence Sources) provides information on the data sources used, and their limitations.
29. We will continue to gather further information during the consultation period by inviting equality stakeholders and respondents to submit their views on how our proposal may affect different groups of people. We will amend the initial EIA as necessary having considered the responses to the consultation and include any updated EIA as part of our response to consultation.

³ www.justice.gov.uk/downloads/legislation/bills-acts/legal-aid-sentencing/Royal-Assent-IAs-and-EIAs.zip

Analysis

30. We have considered the impact of the proposals against the statutory obligations under the Equality Act 2010. The following analysis sets out which groups may be affected by the policy proposal.

Potential Impacts on Appellants

31. It is difficult to determine how many appellants would apply for a remission under the Lord Chancellor's power to reduce or remit a fee in 'exceptional circumstances'. Neither can we determine how many would be approved for a remission as this is not identical to the previous legal aid exemption route.
32. The cost of the appeal fee is £80 for a paper appeal and £140 for an oral appeal. The fees are not set higher than the 25% cost recovery level proposed in the original consultation paper on introducing fees for appeals determined in the Immigration and Asylum Chamber.

Potential Age Impacts

33. Under the proposals, a fee is not payable where the appellant is under the age of 18 years old and is provided with services by a local authority under s.17 of the Children Act 1989.
34. Table 1 (Annex B) shows that the age distribution of those appellants whose appeal fees were met by legal aid funding in Managed Migration (MM), Entry Clearance Officer (ECO) and Family Visit Visa (FVV) decisions is similar to that of all appellants regardless of legal aid funding. No particular age-groups are significantly over or under represented (by a differential of 5% or more) amongst the impacted group of appellants.
35. This evidence suggests that the proposals are unlikely to have a differential impact in relation to the protected characteristic of age.

Potential Disability Impacts

36. In our assessment of reforms made to the scope of legal aid following the implementation of the LASPO Act, we estimated that 25% of all clients affected by the reduction in scope of legal aid were likely to be ill or disabled. However, the analysis found that of all legal aid clients affected by the reduction in scope, clients in the immigration category were the least likely to have an illness or disability (5% of immigration clients in 2009/10). This relates to all clients in the broad Legal Services Commission (LSC) 'immigration' category of law, and is therefore not specific to those appealing MM, ECO and FVV decisions. Nevertheless, these characteristics may be considered broadly representative of those appellants who may now apply for a fee remission under the proposals.

Potential Race Impacts

37. To assess the impact of the proposals on race, we have presented the nationality of appellants impacted by the proposals (i.e. those whose appeal fees were legal aid funded in the relevant appeal categories) as well as all appellants appealing the relevant decisions between 19th of December 2011 and the 30th June 2012. Table 2 (Annex B) shows that over half of all appellants (60%) were from Pakistan (27%), India (14%), Nigeria (11%) or Bangladesh (8%).
38. However, the appellants directly impacted by the proposals are distributed more evenly across the 94 countries represented in the period, with Somalia (14%), Nigeria (8%) Pakistan and Eritrea (both 6%), Democratic Republic of Congo and Nepal (both 4%) the most common nationalities represented.
39. This data confirms the assumption that the proposals will affect appellants from a range of nationalities and ethnic groups. Nationalities likely to be most affected include Somalia, Nigeria, Pakistan and Eritrea whose citizens issue over a third (34%) of MM, ECO and FVV appeals that have been legal aid funded.

Potential Sex Impacts

40. Table 3 (Annex B) shows that where gender was known, larger proportions of women who appealed MM, ECO and FVV decisions had their fees funded by legal aid (53%) than all women appealing these decisions (46%) in the period 19th of December 2011 and the 30th June 2012.
41. Our current assessment, based on this evidence, is that the proposals have some potential for a differential and negative impact in relation to sex, as women are over-represented amongst legal aid funded appellants in the affected appeal categories.

Summary of Impacts

42. In summary, the available evidence suggests that there is potential for the proposals to have a differential impact upon clients in relation to race and sex. Nationalities likely to be most affected include Somalia, Nigeria, Pakistan and Eritrea whose citizens issue over a third (34%) of managed migration, ECO and FVV appeals that have been met by legal aid funding. The proposals may have a greater impact on women as they are over-represented amongst legal aid funded appellants (53%) when compared to all appellants (46%).
43. Due to lack of available evidence we are unable to identify the potential for the proposals to have any differential impact in respect of Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Religion and Sexual Orientation.

Consultation and Engagement

44. This initial EIA accompanies a consultation seeking views on our proposal for addressing the removal of immigration legal aid in England and Wales from the current immigration fees exemptions, which forms part of the fees remission system for the First-tier Tribunal (Immigration and Asylum Chamber).
45. This is an initial screening of the potential impacts of the proposal in relation to equality, based on current available evidence. Work on the policies will be informed by on-going consultation with stakeholders and interested parties. This will allow us to improve our understanding of potential equality impacts and will inform the future direction of policy development.
46. This initial EIA assesses the potential effects of the proposal on the elimination of discrimination, harassment, victimisation and other forms of prohibited conduct, as well as on the advancement of equality of opportunity and the fostering of good relations between persons who share the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation and those who do not.
47. We welcome feedback on all of the issues raised in this document. Any representations received in response to this initial EIA will be used to inform any updated EIA that will accompany the Government's response to the consultation.
48. This initial EIA should be read alongside the consultation document and the Impact Assessment published at the same time. The consultation period will begin on 18th December 2012 lasting until 29th January. Specific questions on equality impacts are included in the consultation document. They are:
 - Do you think the proposed remission system has positive or adverse equality impacts for appellants?
 - If you think the proposal has adverse equality impacts, how could these impacts be mitigated?
 - Are you aware of any further **evidence** that could aid our analysis of potential equality impacts? If so please provide us with this evidence.

Mitigation and Justification

49. We have set out above our initial analysis of the potential impacts of this proposal on affected groups. Respondents are invited to comment on whether the impacts identified in this initial EIA are accurate, whether the severity of the impacts identified is accurate, and whether there are mitigations that can be identified to reduce or alter impacts.
50. Evidence suggests that there would not be any direct discrimination towards any groups because the proposal is not expected to treat anyone less favourably than others because of a protected characteristic.
51. Due to the nature of this proposal there may be the potential for a differential impact on women in the affected appeal categories. The proposals may also have a differential impact in relation to race, with certain citizens from countries, specifically Somalia, Nigeria, Pakistan and Eritrea issuing over a third (34%) of appeals which have been funded by legal aid. However, there is also evidence to suggest that, when increasing fees within an existing regime, income is not an overriding factor for those that have chosen to make their application. The Home Office Equality Impact Assessment Report of 2007⁴ (concerned with their yearly review of visa fees) found that *“While it is recognised that differing local economies across the world will create a disparity in the affordability of application, the charging policy will not limit the participation in any aspect of public life for any visitor to UK”* and their impact assessment concluded that charging policy did not cause unlawful direct or indirect discrimination.
52. The Civil Court Fees consultation of 2008⁵ carried out a similar study of those who had chosen to take their case to court. Again, broad inferences can be drawn from this. Evidence from a 2007 MoJ report on fees in the court system⁶ stated that *“individuals feel that cost played a minor role in their initial decision-making process (ranked 8th from a list of 9 factors)”* in terms of whether to take a matter to court. In this study factors relating to obtaining a satisfactory result or outcome were the major influences on deciding to take a case to court, particularly in family cases.

⁴ Home Office Race Equality Impact Assessment Report 15 March 2007 “A new charging regime for Immigration and Nationality fees”
www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/newchargingregime/

⁵ Civil Court Fees Consultation and Impact Assessment 2008. www.justice.gov.uk/consultations/civil-court-fees-2008-consultation.htm

⁶ Ministry of Justice Research Series 4/07 “What’s cost got to do with it? The impact of changing court fees on users” www.justice.gov.uk/publications/research280607.htm June 2007

Rejected Option

53. We considered extending HMCTS's existing court fee remission system to cover immigration appeals. However, we ruled this out primarily because of the complexity and associated costs of adopting it for a large number of out-of-country remission requests (approximately two-thirds of all immigration appellants, at present).
54. The HMCTS remission system either waives or reduces fees to those that are eligible, so they can access court services if they have difficulty paying court fees. It is formed of three types of remissions. The first is available for individuals who are in receipt of certain UK benefits. The second is a means test where individuals' or couples' gross annual income is assessed and if it is under certain thresholds (e.g. the qualifying annual income and threshold amount for a single person is £13,000) then they can receive a remission. The third provides a full or part remission for an individual which is based on an income and expenditure means test to calculate their (and their partners, if applicable) monthly disposable income. Full details of the remission system are set out in the leaflet (EX160A) *Court fees – Do I have to pay them?*⁷
55. Under this option, immigration appellants that are living in the UK and meet the eligibility criteria would be able to apply for any of these remissions, but out-of-country immigration appellants would not be able to apply for remission 1 because they would not receive UK benefits. To be considered for remission 2 or 3, out-of-country appellants would need to provide evidence of their income (in sterling). For Remission 2 out-of-country appellants would need to provide evidence of their annual income before tax and other deductions (gross annual income) for the 12 months preceding their remission application and for Remission 3 they would need to give the court evidence of their monthly income once tax and deductions have been made (net monthly income).
56. The majority of immigration appellants originate from countries that have a lower cost of living than the UK. Therefore we can assume that many would be eligible for remission under the HMCTS remission scheme, as their income would be lower than the £13,000 threshold (see annex B table 4 for details). This means that, under this system, we would effectively exempt the majority of overseas appellants from paying their immigration appeal fee and significantly reduce the out-of-country fee revenue generated from immigration appeal fees; making the overarching fees policy aim of the Tribunal user contributing to the cost of bringing an appeal (where they can) unworkable. It is also considered that, as a result of a larger number of appellants who could qualify and so may apply, the administrative cost of dealing with the remission applications would be prohibitive.

⁷ www.hmcts-service.gov.uk/courtfinder/forms/ex160a_web_1010.pdf

57. One of the difficulties in applying this type of income based system for out-of-country appellants is that there are different tax regimes in different countries which potentially would make the application of the remission scheme unfair. In addition, to calculate whether Remission 2 or 3 were met, a comparison would need to be made with overseas and UK market exchange rates, so a formula would need to be applied.
58. However, as market exchange rates vary on a daily basis and can change significantly over longer periods, it is not a reliable means of calculating a UK equivalent threshold. The demands of devising such a standard for every other country in the world is likely to be challenging, given the work involved in modelling this option, including the need for regular updates. Given the very complex nature of the calculations that would be required to run this type of remission system, verifying and validating the authenticity of any financial and salaried documentation (separately to the checks undertaken by UKBA) that we would require to make a remission assessment and the likelihood of constantly changing market exchange rates, this option is likely to be administratively time consuming, expensive and possibly impractical to pursue. It could further increase the risk of remissions being granted on a fraudulent basis, as it could be difficult to verify documentation and accurately assess financial information in some circumstances. Therefore, this option has been rejected.

Equality Impact Considerations

59. Under the rejected option, more appellants would be likely to receive a fee remission than under our preferred option.
60. The equalities impacts of the rejected option are likely to be on the same overall race and gender groups as the preferred option (i.e. women and those who originate from Somalia, Nigeria, Pakistan and Eritrea). Based on the limited data, however, it is not entirely clear what the change in equalities impacts on these appellants with protected characteristics would be from selecting the preferred option over the rejected option.
61. However, we do think it likely that the equalities benefits of the rejected option, if it could be made to work, are that more poorer overseas appellants in these particular race and gender groups would be likely to have their appeal fee remitted.
62. On balance though we consider that choosing the preferred option over the rejected option is justified as a proportionate means of achieving a legitimate aim.
63. The legitimate aim is to ensure that those who can afford to contribute to the cost of their appeals should do so, but those who cannot pay the fee should not be prevented from accessing the Tribunal as a result. We consider that our preferred option will help achieve that aim.

64. If we adopted the HMCTS remission system, we would effectively exempt a very large number of overseas appellants from paying their immigration appeal fee and significantly reduce the out-of-country fee revenue generated from immigration appeal fees; making the overarching fees policy aim of the Tribunal user contributing to the cost of bringing an appeal, where they can, unworkable. It is also considered that, as a result of a larger number of appellants who could qualify and so may apply, the administrative cost of dealing with the remission applications would be prohibitive.
65. In terms of equalities impacts, our rejected option is not considered, in any event, to be a workable solution for a large number of people from overseas countries - especially since it will be more difficult for some appellants than others to provide their financial details, to be considered for a remission which could reduce any potential protection in relation to race and gender.

Next Steps

66. We welcome feedback on all the issues raised in this document. Any representations received in response to this initial EIA will be used to inform any updated EIA that will accompany the Government's response to the consultation.
67. Responses can be submitted online via the Ministry of Justice consultation webpage or directly via email <mailto:mojfeespolicy@justice.gsi.gov.uk> or by post to Fees Policy, Ministry of Justice, 4th Floor, Post Point 4.32, 102 Petty France, London, SW1H 9AJ.

Annex A: Evidence Sources

68. This annex provides information on the data sources used, and their limitations.

HMCTS Management Information

69. We have presented HMCTS figures for total overall receipts including Preliminary Issue cases (where there is a question of validity), which is the relevant comparison when looking at fee-receipt data such as remissions. This is not the same as the dataset for Official Statistics, where only valid appeals are counted. Data is for the period from when immigration appeal fees were introduced on 19th December 2011 up until 30th June 2012⁸ to ensure compliance with the Code of Practice for Official Statistics for time periods used for published data. Cases where the remission decision is pending have been excluded from analysis.

70. Users of the First-tier Tribunal (Immigration and Asylum Chamber) are not required to provide information relating to their protected characteristics, though their nationality, date of birth and title (e.g. Mr, Mrs) is recorded. We have therefore derived age from the appellants' date of birth and gender from their title. Where their title is gender neutral (e.g. 'Dr') we have labelled gender as 'unknown' and presented the data with and without missing cases.

Legal Services Commission Data

71. We have complemented this data on First-tier tribunal cases with previously published MoJ assessment of the potential equality impacts of immigration legal aid reforms contained within the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

72. In the reform of legal aid EIA, Legal Services Commission (LSC) data collected through provider billing for financial year 2009/2010 was used to assess potential equality impacts. This data included records of client's sex, age, race, and illness or disability status. A full description of the data sources and the methodology used, and its limitations, is available in the published Royal Assent EIA (pages 8-11)⁹. In this initial EIA, we have looked specifically at the equality impacts of the reduction in scope of legal aid funding for immigration cases. This relates to all clients funded by legal aid in the broad LSC 'immigration' category of law in 2009/10, and is therefore not specific to those appealing immigration decisions within the scope of the proposals under consideration. Nevertheless, we consider that this provides a proxy measure of the protected characteristics of appellants who may apply for a fee remission following implementation of the LASPO Act 2012.

⁸ Figures are correct as of 10th September, when the HMCTS management information report was generated

⁹ www.justice.gov.uk/downloads/legislation/bills-acts/legal-aid-sentencing/Royal-Assent-IAs-and-EIAs.zip

Annex B: Evidence Tables

Table 1: Age: Appellants in Managed Migration, Entry Clearance Officer and Family Visit Visa appeal categories - legal aid funded and all funded comparison

19th December 2011 to 30th June 2011

	Age of appellant					
	18 - 25 yrs	26 - 35 yrs	36 - 45 yrs	46 - 55 yrs	56 - 65 yrs	>65 yrs
Legal aid funded receipts	24%	35%	21%	9%	5%	5%
All receipts	20%	38%	19%	10%	8%	6%

Excludes cases where remission decision is pending. See 'Annex A: Evidence Sources' for a full description of this data source

Source: HMCTS Management Information

Table 2: Race: Nationality of appellants in Managed Migration, Entry Clearance Officer and Family Visit Visa appeal categories - legal aid funded and all funded comparison

19th December 2011 to 30th June 2011

Legal aid funded receipts			All receipts		
Nationality	Percentage of appeals	Cumulative Percentage	Nationality	Percentage of appeals	Cumulative Percentage
Somalia	14%	14%	Pakistan	27%	27%
Nigeria	8%	22%	India	14%	40%
Pakistan	6%	28%	Nigeria	11%	52%
Eritrea	6%	34%	Bangladesh	8%	60%
Democratic Republic of Congo	4%	38%	Ghana	3%	63%
Nepal	4%	42%	Sri Lanka	2%	65%
Iran	3%	45%	Philippines	2%	68%
Sri Lanka	3%	48%	China	2%	70%
Ghana	3%	51%	Iran	2%	72%
India	3%	53%	Jamaica	2%	73%
Zimbabwe	3%	56%	Zimbabwe	2%	75%
All other Nationalities (n=83)	44%	100%	All other Nationalities (n=163)	25%	100%

Excludes cases where remission decision is pending. See 'Annex A: Evidence Sources' for a full description of this data source

Source: HMCTS Management Information

Table 3: Sex: Appellants in Managed Migration, Entry Clearance Officer and Family Visit Visa appeal categories - legal aid funded and all funded comparison

19th December 2011 to 30th June 2011

	Sex of appellant			Excluding unknown	
	Female	Male	Unknown	Female	Male
Legal aid funded receipts	52%	46%	2%	53%	47%
All receipts	44%	51%	4%	46%	54%

Excludes cases where remission decision is pending. See 'Annex A: Evidence Sources' for a full description of this data source

Source: HMCTS Management Information

Table 4: Gross national income per capita of countries where the majority of appellants in Managed Migration, Entry Clearance Officer and Family Visit Visa appeal categories originate

19th December 2011 to 30th June 2012.

Country	Percentage of Appeals	Cumulative Percentage	Gross national income per capita \$ (2010 atlas method)	Average income per capita £ (assumes \$1.5 exchange rate)
Pakistan	27%	27%	\$1,050	£700
India	14%	40%	\$1,340	£893
Nigeria	11%	52%	\$1,180	£787
Bangladesh	8%	60%	\$640	£427
Ghana	3%	63%	\$1,240	£827
Sri Lanka	2%	65%	\$2,290	£1,527
Philippines	2%	68%	\$2,050	£1,367
China	2%	70%	\$4,260	£2,840
Iran	2%	72%	\$4,530	£3,020
Jamaica	2%	73%	\$4,750	£3,167
Zimbabwe	2%	75%	\$460	£307
All other Nationalities (n=163)	25%	100%	-	-

Excludes cases where remission decision is pending. See 'Annex A: Evidence Sources' for a full description of this data source

Source: HMCTS Management Information

Source for Gross national income: World Development Indicators Database, World Bank 1 July 2011 search.worldbank.org/all?qterm=gross%20national%20income