

Table 1 - Proposed fee increases in the Family Proceedings Fees Order 2008

Number and description of fee	Old fee	New fee	Date of last increase	Inflationary rate used for increase
SECTION 1: FEES TO BE TAKEN IN THE HIGH COURT AND IN COUNTY COURTS				
1 Commencement of proceedings				
1.1 On filing originating proceedings where no other fee is specified.	£200	£230	Jan 2006	14.12%
1.2 On presenting any petition, including a petition for a declaration of parentage, divorce or dissolution of civil partnership, other than a second petition with permission granted under rule 2.6(4) or (4A) of the Family Proceedings Rules 1991.	£300	£340	Jan 2006	14.12%
1.3 On applying for a non-molestation order, an occupation order or a forced marriage protection order under Part 4 or Part 4A of the Family Law Act 1996 (or on applying for two or more of those orders).	£60	£70	Jan 2006	14.12%
1.4 On amending a petition or presenting a second or subsequent petition with permission granted under rule 2.6(4) or (4A) of the Family Proceedings Rules 1991.	£80	£90	Jan 2006	14.12%
1.5 On filing an answer to a petition or a cross-petition.	£200	£230	Jan 2006	14.12%
2 Proceedings under the Children Act 1989				
2.1 On an application for an order in form C1 or form C100 (free-standing application), form C79 (application related to enforcement of a contact order), form C2 (application in existing proceedings) or a request for permission to apply for an order in form C2 under the following provisions of the Children Act 1989—				
(a) section 4(1)(c) or (3), 4A(1)(b) or (3) (parental responsibility);	£175	£200	Jan 2006	14.12%
(b) section 4ZA(1)(c) or (6) (parental responsibility);	£175	£200	Sept 2009	14.12% *
(c) section 5(1) or 6(7) (guardians);	£175	£200	Jan 2006	14.12%
(d) section 10(1) or (2) (section 8 orders);	£175	£200	Jan 2006	14.12%

Number and description of fee	Old fee	New fee	Year of last increase	Inflationary rate used for increase
(e) section 11J(2) (enforcement orders);	£175	£200	Dec 2008	14.12% *
(f) section 11O(2) (compensation for financial loss);	£175	£200	Dec 2008	14.12% *
(g) section 13(1) (change of child's surname or removal from jurisdiction while residence order in force);	£175	£200	Jan 2006	14.12%
(h) section 14A(3) or (6)(a), 14C(3) or 14D(1) (special guardianship orders);	£140	£160	Jan 2006	14.12%
(i) section 25 (secure accommodation order);	£150	£170	Jan 2005	14.12% **
(j) section 33(7) (change of child's surname or removal from jurisdiction while care order in force);	£150	£170	Jan 2005	14.12% **
(k) section 34(2), (3), (4) or (9) (contact with child in care);	£150	£170	Jan 2005	14.12% **
(l) section 36(1) (education supervision order);	£150	£170	Jan 2005	14.12% **
(m) section 39 (variation or discharge etc of care and supervision orders);	£150	£170	Jan 2005	14.12% **
(n) section 43(1) (child assessment order);	£150	£170	Jan 2005	14.12% **
(o) sections 44, 45 and 46 (emergency protection orders);	£150	£170	Jan 2005	14.12% **
(p) section 48 (warrant to assist person exercising powers under emergency protection order);	£150	£170	Jan 2005	14.12% **
(q) section 50 (recovery order);	£150	£170	Jan 2005	14.12% **
(r) section 102 (warrant to assist person exercising powers to search for children or inspect premises);	£150	£170	Jan 2005	14.12% **
(s) paragraph 4(2), 6(2), 7(2) or 9(2) of Schedule A1 (applications in respect of enforcement orders);	£80	£90	Nov 2008	14.12% *
(t) paragraph 5(2) of Schedule A1 (amendment of enforcement order by reason of change of address);	£40	£45	Nov 2008	14.12% *
(u) paragraph 1(1) or (4), 2(1) or (5), 5(6), 6(5), (7) or (8), 8(2), 10(2), 11 or 14(1) of Schedule 1 (financial provision for children);	£175	£200	Jan 2006	14.12%
(v) paragraph 19(1) of Schedule 2 (approval of court for child in care of local authority to live abroad);	£150	£170	Jan 2005	14.12% **
(w) paragraph 6 of Schedule 3 (extension of supervision order);	£150	£170	Jan 2005	14.12% **
(x) paragraph 15(2) or 17(1) of Schedule 3 (extension or discharge of education supervision order).	£150	£170	Jan 2005	14.12% **

Number and description of fee	Old fee	New fee	Year of last increase	Inflationary rate used for increase
2.3 On commencing an appeal under section 94 of the Children Act 1989 relating to proceedings to which the following fees apply—				
(a) 2.1 (a) to (d) and (p);	£175	£200	Jan 2006	14.12%
(b) 2.1 (e);	£140	£160	Jan 2006	14.12%
(c) 2.1 (f) to (o), (q) to (s) and 2.2.	£150	£170	Jan 2005	14.12% *
2.4 On commencing an appeal under paragraph 23(11) of Schedule 2 to the Children Act 1989 (appeal against contribution order).	£150	£170	Jan 2005	14.12% **
3 Adoption and wardship applications				
3.1 On applying or requesting permission to apply under any provision in Part 1 of the Adoption and Children Act 2002, other than an application under section 22 of that Act.	£140	£160	Jan 2005	14.12% **
3.3 On applying for the exercise by the High Court of its inherent jurisdiction with respect to children.	£140	£160	Jan 2005	14.12% **
4 Applications in proceedings				
4.1 On an application without notice or by consent (including an application to make a decree nisi absolute or a conditional order final) except where separately listed in this schedule.	£40	£45	Jan 2006	14.12%
4.2 On a request for directions for trial (other than in uncontested divorce or in dissolution proceedings, where no fee is payable).	£40	£45	Jan 2006	14.12%
4.3 On an application on notice except where separately listed in this schedule.	£80	£90	Jan 2005	14.12% **
4.4 On an application on notice for ancillary relief, or on filing a notice of intention to proceed with an application for ancillary relief other than an application for an order by consent.	£210	£240	Jan 2005	14.12% **
5 Appeal from a district judge				
5.1 On filing a notice of appeal from a district judge to a judge.	£100	£115	Jan 2006	14.12%

Number and description of fee	Old fee	New fee	Year of last increase	Inflationary rate used for increase
9 Registration of maintenance orders				
9.1 On an application for a maintenance order to be registered under the Maintenance Orders Act 1950 or the Maintenance Orders Act 1958.	£35	£40	Jan 2006	14.12%
9.2 On an application for a maintenance order to be sent abroad for enforcement under the Maintenance Orders (Reciprocal Enforcement) Act 1972.	£35	£40	Jan 2006	14.12%
11 Service				
11.1 On a request for service by bailiff of any document except— (a) an order for a debtor to attend the adjourned hearing of a judgment summons; (b) an interpleader summons under an execution; (c) an order made under section 23 of the Attachment of Earnings Act 1971 (enforcement provisions); or (d) an order for a debtor to attend an adjourned oral examination of means.	£100	£105	July 2009	3.42%

* These fees are **increased by more than the rate(s) of inflation** since the fees were last increased or introduced. These fees were introduced in 2008 or 2009 as a result of amendments to the Children Act 1989 at a level that aligned them with fees for similar proceedings which were last increased in 2006. Consequently the increases to these fees have been linked to the rate of inflation since 2006.

** These fees are **increased below the rate(s) of inflation** since these fees were last increased or introduced in order to ensure the fee increases in the county courts align with those charged in the Magistrates' courts. The same or similar fees in the Magistrates' courts are being increased at the rate of inflation since January 2006 and consequently the increases to these fees have been linked to the same rate of inflation. The fees not present in the Magistrates' Courts Fees Order are also increased based on the rate of inflation since January 2006 inline with the majority of increases in this order.

Table 2 – Proposed fee increases in the Magistrates’ Courts Fees Order 2008

Number and description of fee	Old fee	New fee	Year of last increase	Inflationary rate used for increase
2 Appeals				
2.2 Proceedings under the Child Support Act 1991 —				
(a) On commencing an appeal under section 20;	£130	£150	Jan 2006	14.12%
(b) On commencing an appeal against a deduction from earnings order.	£80	£90	Jan 2006	14.12%
6 Financial Provision				
6.1 Proceedings under the Domestic Proceedings and Magistrates’ Courts Act 1978 or Schedule 6 to the Civil Partnership Act 2004 on an application for an order for financial provision (other than an application to vary or revoke such an order, or an application for an order for financial provision made for the benefit of, or against, a person residing outside the United Kingdom).	£175	£200	Jan 2006	14.12%
7 Proceedings under the Family Law Act 1986				
7.1 On an application for a declaration of parentage (each child).	£130	£150	Jan 2006	14.12%
8 Proceedings under the Children Act 1989				
8.1 On an application for an order in form C1 or form C100 (free-standing application), form C79 (application related to enforcement of a contact order), form C2 (application in existing proceedings) or a request for permission to apply for an order in form C2 under the following provisions of the Children Act 1989—				
(a) section 4(1)(c) or (3) or 4A(1)(b) or (3) (parental responsibility);	£175	£200	Jan 2006	14.12%
(b) section 4ZA(1)(c) or (6) (parental responsibility);	£175	£200	May 2008	14.12% *
(c) section 5(1) or 6(7) (guardians);	£175	£200	Jan 2006	14.12%
(d) section 10(1) or (2) (section 8 orders);	£175	£200	Jan 2006	14.12%
(e) section 11J(2) (enforcement orders);	£175	£200	Nov 2008	14.12% *
(f) section 11O(2) (compensation for financial loss);	£175	£200	Nov 2008	14.12% *
(g) section 13(1) (change of child’s surname or removal from jurisdiction while residence order in force);	£175	£200	Jan 2006	14.12%

Number and description of fee	Old fee	New fee	Year of last increase	Inflationary rate used for increase
(h) section 14A(3) or (6)(a), 14C(3) or 14D(1) (special guardianship orders);	£140	£160	Jan 2006	14.12%
(i) section 25 (secure accommodation order);	£150	£170	May 2008	14.12% *
(j) section 33(7) (change of child's surname or removal from jurisdiction while care order in force);	£150	£170	Jan 2006	14.12%
(k) section 34(2), (3), (4) or (9) (contact with child in care);	£150	£170	Jan 2006	14.12%
(l) section 36(1) (education supervision order);	£150	£170	Jan 2006	14.12%
(m) section 39 (variation or discharge etc of care and supervision orders);	£150	£170	Jan 2006	14.12%
(n) section 43(1) (child assessment order);	£150	£170	Jan 2006	14.12%
(o) sections 44, 45 and 46 (emergency protection order);	£150	£170	May 2008	14.12% *
(p) section 48 (warrant to assist person exercising powers under emergency protection order);	£150	£170	May 2008	14.12% *
(q) section 50 (recovery order);	£150	£170	May 2008	14.12% *
(r) section 79K (cancellation, variation or removal or imposition of condition of registration of child minder or day carer);	£150	£170	Jan 2006	14.12%
(s) paragraph 4(2), 6(2), 7(2) or 9(2) of Schedule A1 (applications in respect of enforcement orders);	£80	£90	Nov 2008	14.12% *
(t) paragraph 5(2) of Schedule A1 (amendment of enforcement order by reason of change of address);	£40	£45	Nov 2008	14.12% *
(u) section 102 (warrant to assist person exercising powers to search for children or inspect premises);	£150	£170	May 2008	14.12% *
(v) paragraph 1(1) or (4), 2(1) or (5), 5(6), 6(5), (7) or (8), 8(2), 10(2), 11 or 14(1) of Schedule 1 (financial provision for children);	£175	£200	Jan 2006	14.12%
(w) paragraph 19(1) of Schedule 2 (approval of court for child in care of local authority to live abroad);	£150	£170	May 2008	14.12% *
(x) paragraph 6 of Schedule 3 (extension of supervision order);	£150	£170	Jan 2006	14.12%
(y) paragraph 15(2) or 17(1) of Schedule 3 (extension or discharge of education supervision order);	£150	£170	Jan 2006	14.12%
(z) paragraph 8(1) of Schedule 8 (appeals concerning foster parenting).	£150	£170	Jan 2006	14.12%
9 Proceedings under the Human Fertilisation and Embryology Act 2008				
9.1 On an application under section 54 (parental order).	£175	£200	Jan 2006	14.12%

Number and description of fee	Old fee	New fee	Year of last increase	Inflationary rate used for increase
10 Proceedings under the Adoption and Children Act 2002				
10.1 On an application or a request for permission to apply under any provision in Part 1 of the Adoption and Children Act 2002, other than an application under section 22 of that Act.	£140	£160	Jan 2006	14.12%
11 Proceedings under the Children and Adoption Act 2006				
11.1 On an application for a warning notice to be attached to a contact order.	£40	£45	Dec 2008	14.12% *

* These fees are **increased by more than the rate(s) of inflation** since the fees were last increased or introduced. These fees were introduced in 2008 or 2009 as a result of amendments to the Children Act 1989 at a level that aligned them with fees for similar proceedings which were last increased in 2006. Consequently the increases to these fees have been linked to the rate of inflation since 2006.

Title: Increases to Family Law Court Fees Lead department or agency: Ministry of Justice Other departments or agencies:	Impact Assessment (IA)
	IA No: MOJ002
	Date: 13/07/2010
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Catherine Bennion

Summary: Intervention and Options

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

The Ministry of Justice agreed in the Comprehensive Spending Review 2007 (CSR07) to bring all civil and family court fees to full cost levels. The full year income forecast for 2010/11 has been calculated as £467m, which shows a £45m shortfall against the target of £512m. Increases in civil fees, most recently on 13 July 2009, have brought this area to full cost recovery. Family fees however continue to be heavily subsidised by the taxpayer. Family business in 2009/10 recovered around 50% of the total cost of work involved.

What are the policy objectives and the intended effects?

The objectives are to ensure the fee system meets its financial targets whilst protecting access to justice. The effect of these proposals will transfer more of the cost of family business from the taxpayer to the users of the service and applies primarily to private law family cases. Fees payable for applications under section 31 of the Children Act 1989 (care and supervision orders) are not included in these proposals. The majority of family fees have not been increased since 2006 and the rate of Retail Prices Index (RPI) inflation since then is 14.12%. This represents a significant fall in income to HMCS in real terms. These fee increases will provide an effective interim measure to help reduce the family fee shortfall for 2010/11.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

As well as the 'do-nothing' base case the other option considered was to increase the fees by inflation based on the date they were last increased, with a few exceptions, as explained in the main text. Due to the significant under-recovery in family fees and the current income shortfall facing HMCS this is the preferred option. The majority of family fees have not been increased since 2006 and the overall rate of inflation since that time is 14.12%, representing a significant fall in income to HMCS in real terms. Ultimately the objective is for court fees in family proceedings to cover their full-cost. However, the MoJ and the Family Justice Review Panel are considering a number of proposals to change the way in which HMCS provide family justice. In light of this work, it would be premature to bring the fees to full-cost until any proposals have been finalised. Any fees set to full cost and based on current fee structures would be liable to change. The increases proposed will therefore provide an effective interim measure.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed 09/2015
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:.....  Date: 26/07/10

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year 2010	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	Minimal	9.2m	N/A

Description and scale of key monetised costs by 'main affected groups' Fees will increase based on the RPI inflationary rate since the date of last increase, except those harmonised to ensure consistency. Most fees haven't increased since 2006 and will increase based on the rate of inflation since then of 14.12%. The additional cost to court users is estimated at £2.6m in the current year (the policy will be implemented on 1 September) or £4.4m in a full year. The additional cost to HMCS of fee remissions is estimated to be £1.8m in year and £3.1m p.a.. There will be an estimated increase to legal aid costs of £1m in year and £1.7m p.a.

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

There may be some small intangible costs related to court staff familiarising themselves with the increased fees.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	9.2m	N/A

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

HMCS would benefit from the net income of increased court fees estimated at £2.6m in the current financial year and £4.4m in a full year. There will be an increase in fee remissions estimated at £1.8m in year and £3.1m in a full year. The Legal Services Commission (LSC) will benefit from an estimated £1m in the current year and £1.7m in a full year.

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

Increasing fees reduces the taxpayer subsidy required to run the service. As Government believes it is fairer for service users, rather than taxpayers, to pay for the service then the policy generates welfare improvements. There is also an efficiency gain from the reduced subsidisation.

The justice system may benefit from reduced demand due to increased incentives for court users to seek alternatives options to court services, although demand is not expected to reduce significantly.

Key assumptions/sensitivities/risks

Discount rate (%) N/A

Although the fee increases are not expected to significantly affect the volumes of cases, for illustrative purposes, if there were a 3% reduction in the number of applications the amount of fee income would reduce by around £0.8m. There is also an assumption of no net detrimental impact on outcomes for families or access to justice.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):		In scope
New AB: 0	AB savings: 0	Net: 0	Policy cost savings: 0		Yes/No

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?	01/09/2010				
Which organisation(s) will enforce the policy?	Her Majesty's Courts Service				
What is the annual change in enforcement cost (£m)?	Minimal/negligible				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	Yes/No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/Q		Non-traded: N/Q		
Does the proposal have an impact on competition?	Yes/No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: N/A		Benefits: N/A		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro N/Q	< 20 N/Q	Small N/Q	Medium N/Q	Large N/Q
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	Yes	10
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	10
Small firms Small Firms Impact Test guidance	No	10
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	10
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	10
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	10
Human rights Human Rights Impact Test guidance	No	10
Justice system Justice Impact Test guidance	Yes	10
Rural proofing Rural Proofing Impact Test guidance	No	10
Sustainable development Sustainable Development Impact Test guidance	No	10

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	The Family Proceedings Fees (Amendment) Order 2009 No. 1499 (L. 16)
2	The Family Proceedings Fees (Amendment No.2) Order 2008 No. 3106 (L. 27)
3	The Family Proceedings Fees (Amendment) Order 2008 No. 2856 (L. 22)
4	The Family Proceedings Fees Order 2008 No.1054 (L. 6)
5	The Magistrates' Courts Fees (Amendment) Order 2010 No. 731 (L.4)
6	The Magistrates' Courts Fees (Amendment) Order 2009 No. 1496 (L. 13)
7	The Magistrates' Courts Fees (Amendment) Order 2008 No. 2855 (L.21)
8	The Magistrates' Courts Fees Order 2008 No. 1052 (L. 4)

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Introduction

1. This Impact Assessment examines the options for increasing family court fees. Some fees, such as those payable for proceedings under section 31 of the Children Act 1989 (care and supervision orders) are excluded from this proposal. The aim of this policy is to increase cost recovery levels for family fees and increase fees based on the rate of inflation since the date of last increase.
2. The long-term strategy for family law fees, and court fees as a whole, is that they should be set at full-cost levels minus the cost of remissions. This policy can be summarised as full-cost pricing, rather than full-cost recovery. This means fees should be set at levels calculated to cover the full cost of the system if paid in full in every case (i.e. if no fees were remitted).² Full-cost pricing means that the taxpayer makes a contribution to the cost of running the civil and family courts, due to the system of fee remissions. This ensures access to justice for the less well-off and is the best way of targeting the taxpayer's contribution.
3. However, a number of proposals are being developed in family justice which may change the way in which cases are resolved, such as increasing the use of mediation which may provide court users with alternatives to court services. This could subsequently lead to changes in the cost base, which mean it would be premature to introduce fees to full-cost at the present time. Consequently, we propose to increase family fees by the rate of inflation since the date of last increase³ as an interim measure until these proposals are fully developed.

Problem under consideration

4. In 2009/10 court fees raised about £479 million and covered 82% of the full cost of running the civil and family courts.⁴ The total cost of running the civil and family courts in England and Wales is currently £619 million a year⁵. These costs include (but are not limited to) administrative and judicial salaries, accommodation costs, maintenance and IT costs.
5. The full year income forecast for 2010/11, which takes into account the reduction of work seen in 2009/10, has been calculated as £467m, which shows a £45m shortfall against the target of £512m.
6. Family court fees, for both private and public law combined, covered around 50% (around £110m) of the total cost of family proceedings in 2009/10.⁶ The relative breakdown between public and private cases is not known with certainty but almost full cost recovery currently operates in some public law cases, such as for applications for care and supervision orders. This means cost recovery for other family law cases, primarily for private law cases, is currently much lower than 50%. The remaining amounts not covered by fees are met by taxpayers as part of the resource budget of the MOJ. The taxpayer's contribution is made up of:
 - potential fee income foregone under the system of fee remissions; and
 - fees set below full-cost levels.
7. Family fees have historically been set well below full cost and have benefited from subsidies from undefended debt claims in civil proceedings and from the general taxpayer. This position is unsustainable.
8. HM Treasury (HMT) policy requires all fee-charging services to have an agreed financial objective, generally, that fees are set at levels to recover the full-cost of the service provided.⁷ The Ministry of Justice agreed with HMT in CSR07 that all fees, including family fees, would be at full-cost levels by March 2011. Increases in civil fees, most recently on 13 July 2009, have brought this area to full cost recovery.

² The fee remission system allows people to have their court fees waived in full or in part if they are: in receipt of specific benefits; have a gross annual income below a specified amount; or have a low monthly disposable income.

³ With the exception of some fees which would be harmonised to ensure consistency.

⁴ HMCS Annual Report and Accounts 2009/10

⁵ HMCS Annual Report and Accounts 2009/10

⁶ HMCS Annual Report and Accounts 2009/10

⁷ Managing Public Money – Fees, Charges and Levies – HM Treasury

9. MoJ officials and the Family Justice Review Panel are currently considering a number of proposals to change the way in which HMCS provide family justice in the courts, for example, by increasing the use of mediation or moving to a conciliation model. In light of this work it would have been premature to bring the fees to full-cost until these proposals are finalised. This increase will therefore provide an effective interim measure to help reduce the family fee shortfall for 2010/11.
10. The proposals covered in this Impact Assessment are essential. The majority of family law fees, particularly private law family fees, have not been increased since 2006 and the rate of inflation since then is 14.12%. This represents a significant fall in income to HMCS in real terms. If fee income is not raised to address this shortfall, court services may be affected.
11. The Ministry of Justice is committed to providing a long-term and sustainable strategy for funding the courts through court fees. The overall objectives are to ensure that the system:
 - meets its financial target for cost recovery and net expenditure;
 - protects access to justice through a well-targeted system of fee remissions; and
 - remains viable when patterns of demand change, by achieving as close a match between income and costs.

Rationale

12. The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society). In this case the government is intervening to improve efficiency and equity in HM Courts Service.
13. There are both efficiency and equity arguments for raising fees. Setting fees below cost equates to taxpayers providing a subsidy for those services. As the Government considers it fairer for service users to pay for the service they use rather than these services being subsidised by taxpayers (subject to the provision of fee remissions for the less well off to safeguard access to justice), raising fees generates equity gains.
14. As fees are below costs, for some users, the benefit of using the service (their willingness to pay) is less than the cost of providing the service. In effect the service is over consumed, which generates a welfare loss for society. Reducing subsidisation by increasing fees to a level closer to cost improves economic efficiency and reduces these welfare costs.
15. With the taxpayers contribution better targeted towards the fee remission system there are also distributional benefits.

Description of options

16. This Impact Assessment identifies both monetised and non-monetised impacts from society's perspective, with the aim of understanding what the net social impact to society might be from implementing these options. The costs and benefits of the option are compared to the "do-nothing" option. Impact Assessments place a strong emphasis on the monetisation of costs and benefits. However there are important aspects that cannot sensibly be monetised. These might be distributional impacts on certain groups of society or changes in equity or fairness, either positive or negative
17. While a number of different options to increase fees have been considered, particularly full-cost recovery, this impact assessment focuses on two options:
 - Option 0 – "Do Nothing"/Base Case, and,

- Option 1 – Increase court fees by the rate of inflation based on the date of last increase⁸

18. Full-cost recovery has been discounted at this present time as MoJ officials and the Family Justice Review Panel are currently considering a number of proposals to change the way in which HMCS provide family justice in the courts, for example, by increasing the use of mediation or moving to a conciliation model. In light of this work it would have been premature to bring the fees to full-cost until these proposals are finalised. This increase will therefore provide an effective interim measure to help reduce the family fee shortfall for 2010/11.

Affected Stakeholder groups, Organisations and Sectors

19. These changes will affect, primarily, private individual users of the family courts although a small amount will be paid by local authorities. The Legal Services Commission (LSC), which runs the legal aid scheme in England and Wales, will also be affected. The increased court fees will increase the cost to the LSC as legal aid includes the payment of court fees. It will also affect HMCS, as it will see an increase in fee income.

Option 0: “Do Nothing”/Base Case

20. Under the “do-nothing” base case family law fees and case volumes would remain unchanged. This will mean cost recovery in family remains at 50%, save for general fluctuations in volumes of work. The full year income forecast for civil and family proceedings, which takes into account the reductions in work seen in 2009/10, has been calculated as £467m which shows a £45 million shortfall in income compared to the £512 million target. The “do-nothing” option is compared against itself and therefore its costs and benefits are necessarily zero.

Option 1: Increase private family law fees by inflation based on the last date of increase

21. This option is to increase primarily private family law fees in the county, High and Magistrates’ courts by the rate of inflation based on the last date of increase. There are 75 fees that we propose to increase. The full list of fees, including the applicable inflationary rates, the current fee level and new fee level, can be found at **Annex C**. For example, fees that were last increased in January 2006 will increase by 14.12% and those last increased in May 2008 will increase by 2.6%. Table 1 presents the inflationary rates. There are, however, a few exceptions to ensure consistency and harmonisation. These are explained below.

22. The majority of fees in relation to proceedings under the Children Act 1989 were last increased in 2006. However, as a result of amendments to the Children Act 1989 and the introduction of fees to the Magistrates’ Courts Fees Order to align with those in the county courts a number of fees were introduced in 2008 and 2009. The fees for these new proceedings were introduced at the same rates as the 2006 fees to ensure consistency for processes that were essentially the same. Consequently, all fee increases to these fees have been linked to inflation since 2006, although some fees have only been payable since 2008 or 2009.

23. In order to ensure consistency those fees last increased in January 2005 will also be increased by the rate of inflation since January 2006. This also ensures that those Children Act fees that were last increased in January 2005 in the county courts and High court align with those in the Magistrates’ Courts which were last increased in January 2006.

24. Those fees which are common to both civil and family jurisdictions such as fees for sale, copy documents and the determination of costs, will not be increased in line with inflation. A significant amount of work has been undertaken in recent years to ensure such fees are aligned as they are often administered in the same courts and relate to similar work. To change these fees in relation to family work would cause confusion to court staff and users and runs contrary to our policy of aligning and simplifying those fees that relate to similar work and are carried out in several courts and/or jurisdictions.

25. The proposed fee increases have been rounded up or down to the nearest £5. This reflects previous fee increases, and is essential as to operate a fees order with a multitude of fee amounts would be confusing for both court users, court staff and for accounting purposes.

⁸ With the exception of some fees which would be harmonised to ensure consistency.

Costs of Option 1

Transitional costs

26. We expect to incur minimal costs of approximately £600 for changes to HMCS court publications. There may be some small intangible costs related to court staff familiarising themselves with the increased fees.

Ongoing costs

27. The increase in fees is based on the rate of Retail Prices Index (RPI) inflation between the date of the last increase and March 2010, with the exception of those fees referred at paragraphs 22 to 24. The date of the last increase in private family law fees varies and this has implications for the magnitude of the fee rises - the vast majority of fees (49%) were increased in January 2006⁹, with 24% last increased in January 2005, with 2% last increased in October 2007, 19% between May - December 2008 and 5% in July 2009. The rates of inflationary increase are as follows:

Table 1: Inflationary rates

Time Period	Inflation Rate
Jan 2005 (FY 2005/06 to 2009/10)	16.84%
Jan 2006 (FY 2005/06 to 2009/10)	14.12%
April 2006 (FY 05/06 to 2009/10)	12.32%
Oct 2007 (FY 2007/08 to 2009/10)	5.65%
May 2008 (FY 2008/09 to 2009/10)	2.60%
Nov 2008 (FY 2008/09 to 2009/10)	2.18%
Dec 2008 (FY 2008/09 to 2009/10)	3.67%
July 2009 (FY 2009/10)	3.42%
Sep 09 (FY 2009/10)	2.51%

28. The total additional cost to court users of the increased fees is estimated to be £2.6m for the current financial year of 2010/11 (as the proposal will only be implemented on 1 September this year), and £4.4m in a full year. Those users who are eligible for legal aid or a fee remission will not be affected by the increases.
29. We expect an increase to the total costs of fee remissions of £1.8m this year and by £3.1m in a full year.
30. The LSC will incur extra costs as legal aid includes the payment of court fees. Court fees are paid upfront by legal aid solicitors for clients who are in receipt of funding provided by the LSC for the purposes of the proceedings for which a certificate has been issued under the Funding Code, and then claimed back from the LSC when the case is finished. The impact of the proposed increases on the legal aid budget has been estimated at an increase of approximately £1m in the current year, and £1.7m year-on-year. This amount does not include savings from those fees which are recovered via costs orders or, over time, the statutory charge.
31. Private family law firms and legal professionals who deal with family courts may see a decrease in the number of applications being made. There may also be an impact on smaller firms of solicitors who have to pay court fees upfront and claim them back from the LSC when the case is finished. However, the rate of increase is not large and therefore any impact on the legal profession will be minimal.
32. As the fee structure has not changed, there should not be any additional ongoing costs for the administration of the increased fees.

Benefits of Option 1

Transitional benefits

⁹ This includes a small number of county court Children Act fees last increased in 2005 but which are being increased with the January 2006 inflation rate to ensure consistency between different jurisdictions.

33. There are no anticipated transitional benefits from increasing court fees by the rate of inflation since the date of last increase.

Ongoing Benefits

34. Under these proposals we anticipate cost recovery will increase to 52% (this includes those fees that are remitted, hence the final figure would be lower than this). HMCS would benefit from an estimated increased fee income of £4.4m in a full year and by £2.6m this financial year if the fees are increased from 1 September 2010. The benefits from additional fee remissions are estimated at £3.1m year-on-year and £1.8m this year. The LSC will benefit from an estimated £1m in the current year, and £1.7m year-on-year, which would be transferred from HMCS to the LSC.

Net Impact of Option 1

35. The increase in fees does not represent a cost or benefit overall but a transfer between taxpayers and court users. The operating cost of the courts also will not change as the current fee structure would continue to be used. The increase in fees would not impact those that are entitled to means tested benefits and will have greatest impact on those individuals that are outside eligibility for legal aid or a fee remission. Increased fees may incentivise court users to resolve issues without using the court system, potentially resulting in a reduced volume of court cases. However, given the relatively small increases to fees, we do not expect the volumes of cases to be significantly affected.

Enforcement and Implementation

36. All fees are payable in advance of the service being provided¹⁰. The sanction for non-payment is that the service, where appropriate, will not be provided. This would continue to apply under the option being considered.
37. The proposed date for implementation is 1 September 2010.

Assumptions

38. The volumes of fees applications have not been adjusted to reflect a reduction in demand for court services. We do not expect the fee increases to significantly affect the volumes of cases. However, for illustrative purposes, if there were a 3% reduction in the number of applications the amount of fee income would reduce by around £0.8m.
39. The projected case volumes for 2010/11 for civil and family proceedings were adjusted to take into account the affects of price sensitivity from fee changes in July 2009 and economic downturn observed from October 2009. The volumes were adjusted by taking actual volumes from October 2009 to March 2010 and extrapolating this data source to cover the period April 2010 to September 2010, (using working days). The data from April 2009 to September 2009 reflected a different fee charge.
40. The percentage of fees remitted in key Children Act 1989 applications, e.g. Section 8 applications (contact and residence) has been increased from 12.9% to 15% from September - anticipating a higher rate of people applying for fee remissions.
41. The impact on legal aid of the proposed fee increases has been calculated based on an analysis of private law family bills in 2005-2006, which provided estimates of court fees as a percentage of disbursements. This has been updated to 2007-08 in line with increases in family net fee income, and has been applied to 2008-09 LSC disbursements data. LSC spend on family court fees as a proportion of family net fee income has been estimated at 27% and applied to the additional net fee income, excluding Special Children Act cases.

¹⁰ In exceptional circumstances such as a matter involving domestic violence where an applicant has no access to finance or evidence to support a remission application, the court may consider the applicant providing an undertaking to pay the fee within 5 days of the date on which the fee was payable. This policy is unchanged and we do not expect any increase in the costs associated with it.

Risks

42. The main risk to the proposals is that case volumes will decline as a result of the fee increases. However, as the increases are based on inflation and will raise fees in real terms to previous levels the likelihood of this risk being realised is low.
43. The impact on legal aid costs of the proposed fee increases has been estimated on the basis of available evidence. However, some of the evidence is quite old and a range of assumptions were made to obtain an estimate for the current financial year and regarding fees applicable to different case categories. The actual additional legal aid costs may differ from the estimate.

Impact Tests

Equality Impact Assessment

44. An Equalities Impact Assessment initial screening has been completed and is attached.

Competition Assessment

45. We do not envisage any impact on competition.

Small Firms

46. The majority of fees that will be increased are paid by private individuals in private family proceedings. There are therefore no anticipated significant adverse impacts on small firms.

47. Private family law firms and legal professionals who deal with family courts may see a decrease in the number of applications being made. There may also be an impact on smaller firms of solicitors who have to pay court fees upfront and claim them back from the LSC when the case is finished. However, the rate of increase is not large and any impact on the legal profession will be minimal.

Carbon Assessment and Environmental Assessment

48. The proposals should not lead to a change in the emission of Greenhouse Gases or to the environment.

Health Impact Assessment

49. The proposals will not have a significant impact on health.

Human Rights

50. The proposals are compliant with the Human Rights Act.

Legal Aid and Justice Impact Test

51. The impact on the Justice System has been assessed as part of the options analysis. The LSC fund meets the cost of court fees for those in receipt of legal representation in the family courts. The additional cost as a result of fee increases has been estimated to be in the region of £1m in the current year, and £1.7m year-on-year, although there would be a transfer of this extra cost from HMCS to the LSC. This does not include savings from those fees which are recovered via costs orders or, over time, the statutory charge.

Rural Proofing

52. There are no specific rural impacts from the proposals.

Sustainable Development

53. The proposals ensure that HMCS continues to run in a sustainable manner. Court fees ensure that the courts are properly funded, both now and in the future, with the taxpayers contribution focused towards those that require a fee remission.

Annexes

Annex A sets out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex A: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p> <p>To evaluate the amount of fee income realised as a result of fee increases and assess the impact on case volumes. It is likely that we will be reviewing the policy of full-cost recovery in relation to family fees before 2015 as outlined in this impact assessment. The fee increases outlined are intended as an interim measure until such a time as full-cost recovery can be properly assessed. In that event a PIR focusing only on the impact of inflationary increases will not take place.</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The post implementation review will analyse the impact in terms of income and case volumes of these fee increases. It will also check there was no negative impact on access to justice. However, once the outcomes of the Family Justice Review has become clear and any changes are made to family law processes, the need to increase family fees to full-cost levels will be considered again. It is likely that this will take place prior and in replacement of a review of these fee increases.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>The review approach will be a monitoring framework. The policy is an increase to existing fees, with the fee structure remaining the same. The increased fees should reduce the subsidisation of the service users by taxpayers (subject to the provision of fee remissions), increasing cost recovery levels for family court fees. Information on volumes of fees applications and income levels is currently collected by HMCS and will be monitored in the period between implementation and the PIR.</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>The current baseline is the projected fee income and case volumes predicted for 2010/11 if no changes were made.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p> <p>Increase in net fee income of £2.6m in the current financial year and £4.4m p.a. in the steady state.</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>Court user feedback will be monitored through treat officials, ministerial correspondence and parliamentary questions. HMCS Civil and Family Operations also provide Civil and Family Fees Policy with feedback from the queries they have received from court staff and users. Fee income levels are also monitored at regular intervals to see if there are any changes in case levels. Judicial statistics also provide indications of court user behaviour.</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p>

Equality Impact Assessment Initial Screening – Relevance to Equality Duties

1. Name of the proposed new or changed legislation, policy, strategy, project or service being assessed

The MOJ proposes to introduce increases to family law court fees, primarily those paid for private law family court proceedings, by the rate of inflation since the date of last increase in the county courts, magistrates' courts and High Court.

2. Individual officer(s) & Unit responsible for completing the Equality Impact Assessment:

Catherine Bennion - Civil & Family Fees Policy

3. What is the main aim or purpose of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

Aims/objectives	Outcomes
<ol style="list-style-type: none"> The proposals in this paper aim to achieve inflationary increases to family law court fees, primarily those paid for private law family court proceedings based on the rate of inflation since the last date of increase. To continue to protect those who cannot afford court fees access to justice through the system of fee remissions. 	<ol style="list-style-type: none"> Fee increases in family business in the County Courts, High Court and Magistrates' Court so that they match previous levels in real terms. Deliver income requirements for MoJ for 2010/11 and beyond. The suggested increases equate to £6.1m additional fee income in a full year (does not include income lost to fee remissions). Despite any increases fees remissions will remain in place to protect access to the courts to those that cannot otherwise afford fees.

4. What existing sources of information will you use to help you identify the likely equality on different groups of people?

(For example statistics, survey results, complaints analysis, consultation documents, customer feedback, existing briefings submissions or business reports, comparative policies from external sources and other Government Departments)

It is difficult to collect data on the type of people who pay court fees. Data on the general demographics and income of the population of England and Wales will enable an assessment of the likely impact of the proposals on different groups. Information has been obtained from the Office of National Statistics (ONS), the Department for Work and Pensions and CAFCASS. This includes:

- Statistical details of cases received by CAFCASS 2008/09 (data from CAFCASS Case Management System (CMS)), includes all applicants who returned a diversity monitoring form, for cases received between 1st April 2008 and 31st March 2009).
- 2008 Annual Survey of Hours and Earnings (ASHE), Office of National Statistics
- Households below average income, An analysis of the income distribution 1994/95 – 2007/08, Department of Work and Pensions
- Office for National Statistics Labour Force Survey, Jan - March 2009
- Published research papers and articles - "Women in the Labour Market", ONS; "[Ethnicity data for Jobseeker's Allowance claimants](#)", ONS; "[What's cost got to do with it? The impact of changing court fees on users](#)", MoJ.

5. Are there gaps in information that make it difficult or impossible to form an opinion on how your proposals might affect different groups of people. If so what are the gaps in the information and how and when do you plan to collect additional information?

Note this information will help you to identify potential equality stakeholders and specific issues that affect them - essential information if you are planning to consult as you can raise specific issues with

particular groups as part of the consultation process. EIAs often pause at this stage while additional information is obtained.

Users of the Civil and Family Courts who have to pay court fees are not required to provide personal information about themselves. Consequently, at this stage we are only able to assume the likely impacts on various groups based on statistics gathered from the Office of National Statistics, CAF/CASS, other government departments and published research papers.

6. Having analysed the initial and additional sources of information including feedback from consultation, is there any evidence that the proposed changes will have a **positive impact** on any of these different groups of people and/or promote equality of opportunity?

Please provide details of who benefits from the positive impacts and the evidence and analysis used to identify them.

No positive equality impact on any of the different groups has been identified.

7. Is there any feedback or evidence that additional work could be done to promote equality of opportunity?

If the answer is yes, please provide details of whether or not you plan to undertake this work. If not, please say why.

There is no information to suggest any additional work would promote equality of opportunity. Due to the variety of fees and different services offered and our remission system being designed for those who would suffer financial hardship.

Recent research¹¹ into the fee remission system has proposed that further efforts should be made to increase awareness amongst court users that they may qualify for a fee remission. We are currently identifying what steps may be taken to increase awareness.

8. Is there any evidence that proposed changes will have **an adverse equality impact** on any of these different groups of people?

Please provide details of who the proposals affect, what the adverse impacts are and the evidence and analysis used to identify them.

There are no anticipated adverse equality impacts as a result of the proposed changes.

The family fee increases proposed are based on the rate of inflation since the date of last increase. The majority of these fees have not been increased since 2006 and therefore there is a significant loss of income on Her Majesty's Courts Service (HMCS) in real terms. This policy impacts on all groups irrespective of any differences between groups and similarly the fee remission system is open to all people who have a low income or are in receipt of state benefits. Fee increases that have already been implemented and those that are proposed cover a wide variety of proceedings in all courts. For these reasons we believe there is a neutral impact on all groups.

Due to the very nature of the proposals any impact on different groups will primarily be financial. It is clear that in relation to gender, race, disability and age there is some income and employment disparity between different groups, see detailed analysis at **Annex B1**. However, the wide variety of cases and services covered by the proposals and the availability of the fee remission system means that this impact is neutral. The fee remission system covers all those on specified state benefits or on a low income. In addition, the fee increases in question are relatively small and only raising fees to previous levels in real terms. Research conducted by the MoJ showed that the cost of proceedings is not the most significant factor for parties when deciding to go to court; with family cases being the least price sensitive. Primary drivers were those relating to resolution such as 'getting a final decision' (especially for those going through a divorce or in child contact/residency claims)¹². Consequently we do not expect to have an adverse equality impact on any minority groups as a result of the proposals.

9. Is there any evidence that the proposed changes have **no equality impacts**?

¹¹ 'Is the 2007 court fee remission system working?' available at www.justice.gov.uk

¹² "What's cost got to do with it? The impact of changing court fees on users" published in May 2007 (<http://www.justice.gov.uk/publications/research280607.htm>)

Please provide details of the evidence and analysis used to reach the conclusion that the proposed changes have no impact on any of these different groups of people.

We expect the proposals to have an equality impact, as outline above, although there is no evidence this will be an adverse equality impact.

10. Is a full Equality Impact Assessment Required?

No

(If no, please explain why not)

As we do not expect to have an adverse equality impact on any minority groups as a result of the proposals we do not anticipate that a full Equality Impact Assessment will be required.

NOTE - You will need to complete a full EIA if:

- the proposals are likely to have equality impacts and you will need to provide details about how the impacts will be mitigated or justified
- there are likely to be equality impacts plus negative public opinion or media coverage about the proposed changes
- you have missed an opportunity to promote equality of opportunity and need to provide further details of action that can be taken to remedy this

11. If a full EIA is not required, you are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts. Please provide details of how you will monitor evaluate or review your proposals and when the review will take place.

Court user feedback will be monitored through treat officials, ministerial correspondence and parliamentary questions. HMCS Civil and Family Operations also provide Civil and Family Fees Policy with feedback from the queries they have received from court staff and users. Fee income levels are also monitored at regular intervals throughout the year to see if there are any changes in case levels that would warrant further investigation.

12. Name of Senior Manager and date approved

(Note - sign off at this point should **only** be obtained if:

- there are no equality impacts
- the changes have promoted equality of opportunity

You should now complete a brief summary (if possible, in less than 50 words) **setting out which policy, legislation or service the EIA relates to, how you assessed it, a summary of the results of consultation a summary of the impacts (positive and negative) and, any decisions made, actions taken or improvements implemented as a result of the EIA**, including the review mechanism. The summary will be published on the external MoJ website.

This equality impact assessment relates to increases to family court fees based on the rate of inflation since the last date of increase. The proposals do not impact on proceedings in relation to care and supervision orders (s.31 Children Act 1989). This initial screening focused on income differences between groups. No adverse equality impacts were identified given that the proposed fee increases are modest, impact a wide variety of court fees and that the remission system assists those with a lower income or in the receipt of state benefits.

Name (must be grade 5 or above):

Department:

Date:

Note: If a full EIA is required hold on to the initial screening and when the full EIA is completed send the

initial and full screening together. **If a full EIA is not required send the initial screening by email to the Equality, Diversity and Human Rights Division for publication**

Gender (including gender identity)

It is widely accepted that because mothers are usually awarded residence of children by the courts, fathers are more likely to make Children Act applications; in particular, applications for contact and residence orders. Information from CAFCASS indicates that the large majority (67.5%) of Children Act applications are made by men¹³. Any impact in terms of gender would be closely related to the difference in income between men and women. On average women's weekly earnings are lower than men's with a 12.8% gender pay gap in 2008 according to the Office of National Statistics¹⁴. This is due in part to the fact that more women work part time and on average part-time employees receive lower hourly earnings than full-time employees¹⁵. As women earn less on average than men and there are proportionately more men in employment¹⁶ it is foreseeable that women will be impacted to a greater degree by the proposed fee increases. However, despite the differences in those who make these applications and income levels the suggested fee increases impact on a wide variety of court fees and the remission system assists those with a lower income or in the receipt of specified state benefits it is not expected that a particular group will be adversely impacted upon by the proposals. The fee increases in question are relatively modest and only raising fees to previous levels in real terms.

There is no evidence that shows those of different gender identities use the courts any differently in relation to the cases being considered or experience income disparity. Consequently, the impact on this group should be the same as any other group.

Race

There is no evidence to suggest that an increase in fees will automatically disadvantage court users from minority ethnic backgrounds. The Department of Work and Pension's *Households Below Average Income Analysis 1994/5-2007/8*¹⁷ shows that households headed by someone from a minority ethnic group were more likely to have a lower household disposable income. Ethnicity data for Jobseekers Allowance (JSA) claimants shows that a higher proportion of the ethnic minority working age population in England are claiming JSA compared with the white population¹⁸. From these statistics it may seem that minority ethnic groups may be impacted to a higher degree than other groups on grounds of income. However, the fee remission system means that those on a low income or in receipt of specified state benefits (e.g. JSA) will be eligible for a fee remission and so there is no predicted impact. In addition, the fee increases in question are relatively modest and only raising fees to previous levels in real terms.

Disability

There is no evidence to suggest that an increase in fees will disproportionately impact individuals due to disability. Disabled households tend to have a lower household disposable income than non-disabled families. The Department of Work and Pension's *Households Below Average Income Analysis 1994/5-2007/8* shows 55% of disabled households in the two lower disposable income quintiles compared to 36% of non disabled households. Nonetheless, the fee remission system is in place to allow those on a lower income or receiving state benefits to gain a full or part remission and therefore the proposed fee increases have no anticipated equality impact on this group. The fee increases in question are relatively small and only raising fees to previous levels in real terms.

Religion & Beliefs

There is a lack of information available concerning the earning of different religious groups and this information is not collected by HMCS in relation to court users. Given that the proposed fee increases impact a wide variety of court fees and that the remission system assists those with a lower income or in the receipt of state benefits it is not expected that there will be any impact on people owing to their religion or beliefs. These increases are relatively modest and only raising fees to previous levels in real terms and therefore should not impact any group disproportionately.

Age

Individuals under the age of eighteen do not pay court fees so an increase in fees will have no impact on this group. There is however an earnings disparity between those aged over 18 with mean gross weekly earnings increasing from the 18-21 age bracket until the 45-49 age bracket and decreasing thereafter¹⁹. This would suggest that young adults and those in the 60+ category would be adversely affected by the

¹³ Statistics provided by CAFCASS, cases received by CAFCASS 2008/09 (data from Cafcass Case Management System (CMS)), includes all applicants who returned a diversity monitoring form, for cases received between 1st April 2008 and 31st March 2009).

¹⁴ 2008 Annual Survey of Hours and Earnings (ASHE), Office of National Statistics (ONS), p. 6

¹⁵ 2008 Annual Survey of Hours and Earnings (ASHE), ONS, p. 5

¹⁶ "Women in the Labour Market", ONS, published March 2009 (<http://www.statistics.gov.uk/cci/nugget.asp?id=2145>)

¹⁷ Households below average income, An analysis of the income distribution 1994/95 – 2007/08, Department of Work and Pensions, p. 32

¹⁸ "Ethnicity data for Jobseeker's Allowance claimants", ONS, published February 2007 (<http://www.statistics.gov.uk/cci/article.asp?id=1725>)

¹⁹ 2008 Annual Survey of Hours and Earnings (ASHE), ONS, p.8

proposed fee changes. Nevertheless, since those who are on lower incomes or in receipt of specified state benefits can apply for a fee remission this impact is neutral. It is also worth noting that those in receipt of state pension guarantee credit will qualify for an automatic fee remission. The fee increases proposed will return fee levels to those of previous years and so should not create hardship to those of any age.

Sexual Orientation

There is no available evidence concerning the breakdown of court users based on sexual orientation nor is there any evidence to suggest that a persons sexual orientation would result in an adverse equality impact. All the proceedings being considered impact on a variety of court fees which are available to those of all sexual orientations; since 2002 civil partners have been able to apply for adoption orders in the same way as married couples and unmarried couples²⁰. Consequently, there is no foreseeable adverse impact on any group as a result of their sexual orientation and any impact owing to income disparity will be addressed by the fee remission system.

²⁰ The Adoption and Children Act 2002 provides for an adoption order to be made in favour of single people, married couples and, for the first time, civil partners, and unmarried couples (whether of different sexes or the same sex) living as partners in an enduring family relationship.

Table 1 – Proposed fee increases in the Family Proceedings Fees Order 2008

Number and description of fee	Current fee	Proposed fee	Date of last increase	Rate of inflation used to calculate increase
SECTION 1: FEES TO BE TAKEN IN THE HIGH COURT AND IN COUNTY COURTS				
1 Commencement of proceedings				
1.1 On filing originating proceedings where no other fee is specified.	£200	£230	Jan 2006	14.12%
1.2 On presenting any petition, including a petition for a declaration of parentage, divorce or dissolution of civil partnership, other than a second petition with permission granted under rule 2.6(4) or (4A) of the Family Proceedings Rules 1991.	£300	£340	Jan 2006	14.12%
1.3 On applying for a non-molestation order, an occupation order or a forced marriage protection order under Part 4 or Part 4A of the Family Law Act 1996 (or on applying for two or more of those orders).	£60	£70	Jan 2006	14.12%
1.4 On amending a petition or presenting a second or subsequent petition with permission granted under rule 2.6(4) or (4A) of the Family Proceedings Rules 1991.	£80	£90	Jan 2006	14.12%
1.5 On filing an answer to a petition or a cross-petition.	£200	£230	Jan 2006	14.12%
1.6 On applying for an order under Part 3 of the Solicitors Act 1974 for the assessment of costs payable to a solicitor by a client; or on the commencement of costs-only proceedings.	£40	£40	July 2009	3.42% *
2 Proceedings under the Children Act 1989				
2.1 On an application for an order in form C1 or form C100 (free-standing application), form C79 (application related to enforcement of a contact order), form C2 (application in existing proceedings) or a request for permission to apply for an order in form C2 under the following provisions of the Children Act 1989—				
(a) section 4(1)(c) or (3), 4A(1)(b) or (3) (parental responsibility);	£175	£200	Jan 2006	14.12%
(aa) section 4ZA(1)(c) or (6) (parental responsibility);	£175	£200	Sept 2009	14.12% **
(b) section 5(1) or 6(7) (guardians);	£175	£200	Jan 2006	14.12%
(c) section 10(1) or (2) (section 8 orders);	£175	£200	Jan 2006	14.12%
(ca) section 11J(2) (enforcement orders);	£175	£200	Dec 2008	14.12% **

Number and description of fee	Current fee	Proposed fee	Year of last increase	Rate of inflation since last increase
(cb) section 11O(2) (compensation for financial loss);	£175	£200	Dec 2008	14.12% **
(d) section 13(1) (change of child's surname or removal from jurisdiction while residence order in force);	£175	£200	Jan 2006	14.12%
(e) section 14A(3) or (6)(a), 14C(3) or 14D(1) (special guardianship orders);	£140	£160	Jan 2006	14.12%
(f) section 25 (secure accommodation order);	£150	£170	Jan 2005	14.12% ***
(g) section 33(7) (change of child's surname or removal from jurisdiction while care order in force);	£150	£170	Jan 2005	14.12% ***
(h) section 34(2), (3), (4) or (9) (contact with child in care);	£150	£170	Jan 2005	14.12% ***
(i) section 36(1) (education supervision order);	£150	£170	Jan 2005	14.12% ***
(j) section 39 (variation or discharge etc of care and supervision orders);	£150	£170	Jan 2005	14.12% ***
(k) section 43(1) (child assessment order);	£150	£170	Jan 2005	14.12% ***
(l) sections 44, 45 and 46 (emergency protection orders);	£150	£170	Jan 2005	14.12% ***
(m) section 48 (warrant to assist person exercising powers under emergency protection order);	£150	£170	Jan 2005	14.12% ***
(n) section 50 (recovery order);	£150	£170	Jan 2005	14.12% ***
(o) section 102 (warrant to assist person exercising powers to search for children or inspect premises);	£150	£170	Jan 2005	14.12% ***
(oa) paragraph 4(2), 6(2), 7(2) or 9(2) of Schedule A1 (applications in respect of enforcement orders);	£80	£90	Nov 2008	14.12% **
(ob) paragraph 5(2) of Schedule A1 (amendment of enforcement order by reason of change of address);	£40	£45	Nov 2008	14.12% **
(p) paragraph 1(1) or (4), 2(1) or (5), 5(6), 6(5), (7) or (8), 8(2), 10(2), 11 or 14(1) of Schedule 1 (financial provision for children);	£175	£200	Jan 2006	14.12%
(q) paragraph 19(1) of Schedule 2 (approval of court for child in care of local authority to live abroad);	£150	£170	Jan 2005	14.12% ***
(r) paragraph 6 of Schedule 3 (extension of supervision order);	£150	£170	Jan 2005	14.12% ***
(s) paragraph 15(2) or 17(1) of Schedule 3 (extension or discharge of education supervision order).	£150	£170	Jan 2005	14.12% ***
2.3 On commencing an appeal under section 94 of the Children Act 1989 relating to proceedings to which the following fees apply—				
(a) 2.1 (a) to (d) and (p);	£175	£200	Jan 2006	14.12%

Number and description of fee	Current fee	Proposed fee	Year of last increase	Rate of inflation since last increase
(b) 2.1 (e);	£140	£160	Jan 2006	14.12%
(c) 2.1 (f) to (o), (q) to (s) and 2.2.	£150	£170	Jan 2005	14.12% ***
2.4 On commencing an appeal under paragraph 23(11) of Schedule 2 to the Children Act 1989 (appeal against contribution order).	£150	£170	Jan 2005	14.12% ***
3 Adoption and wardship applications				
3.1 On applying or requesting permission to apply under any provision in Part 1 of the Adoption and Children Act 2002, other than an application under section 22 of that Act.	£140	£160	Jan 2005	14.12% ***
3.3 On applying for the exercise by the High Court of its inherent jurisdiction with respect to children.	£140	£160	Jan 2005	14.12% ***
4 Applications in proceedings				
4.1 On an application without notice or by consent (including an application to make a decree nisi absolute or a conditional order final) except where separately listed in this schedule.	£40	£45	Jan 2006	14.12%
4.2 On a request for directions for trial (other than in uncontested divorce or in dissolution proceedings, where no fee is payable).	£40	£45	Jan 2006	14.12%
4.3 On an application on notice except where separately listed in this schedule.	£80	£90	Jan 2005	14.12% ***
4.4 On an application on notice for ancillary relief, or on filing a notice of intention to proceed with an application for ancillary relief other than an application for an order by consent.	£210	£240	Jan 2005	14.12% ***
5 Appeal from a district judge				
5.1 On filing a notice of appeal from a district judge to a judge.	£100	£115	Jan 2006	14.12%
6 Searches				
6.1 On making a search in the central index of decrees absolute or of final orders kept at the Principal Registry of the Family Division for any specified period of ten calendar years or, if no such period is specified, for the ten most recent years, and, if appropriate, providing a certificate of decree absolute or of final order, as the case may be	£60	£60	July 2009	3.42% *
6.2 On making a search in the central index of parental responsibility agreements kept at the Principal Registry of the Family Division in accordance with regulations made under section 4(2) of the Children Act 1989 and, if appropriate, providing a copy of the agreement.	£40	£40	Oct 2007	5.65% *

Number and description of fee	Current fee	Proposed fee	Year of last increase	Rate of inflation since last increase
6.3 On making a search in the index of decrees absolute or of final orders kept at any designated county court or district registry for any specified period of ten calendar years or, if no period is specified, for the ten most recent years, and if appropriate, providing a certificate of decree absolute or of final order, as the case may be	£40	£40	Oct 2007	5.65% *
9 Registration of maintenance orders				
9.1 On an application for a maintenance order to be registered under the Maintenance Orders Act 1950 or the Maintenance Orders Act 1958.	£35	£40	Jan 2006	14.12%
9.2 On an application for a maintenance order to be sent abroad for enforcement under the Maintenance Orders (Reciprocal Enforcement) Act 1972.	£35	£40	Jan 2006	14.12%
10 Service				
10.1 On a request for service by bailiff of any document except— (a) an order for a debtor to attend the adjourned hearing of a judgment summons; (b) an interpleader summons under an execution; (c) an order made under section 23 of the Attachment of Earnings Act 1971 (enforcement provisions); or (d) an order for a debtor to attend an adjourned oral examination of means.	£100	£105	July 2009	3.42%

* These fees will **not be increased** as the rate(s) of inflation does not increase the fee by an amount that can be taken into account when the fees are rounded to the nearest £5.

** These fees are **increasing above the rate(s) of inflation** since the date of last increase. These fees were introduced as a result of amendments to the Children Act 198 and were introduced at a level that aligned them with fees for similar proceedings that were last increased in 2006. Consequently the increases to these fees have been linked to the rate of inflation since 2006.

*** These fees are **increasing below the rate(s) of inflation** since these fees were last increased or introduced in order to ensure the fee increases in the county courts align with those charged in the Magistrates courts. The same or similar fees in the Magistrates' courts are being increased at the rate of inflation since January 2006 and consequently the increases to these fees have been linked to the same rate of inflation. The fees not present in the Magistrates' Courts Fees Order are also increased based on the rate of inflation since January 2006 inline with the majority of increases in this order

Table 2 – Proposed fee increases in the Magistrates’ Courts Fees Order 2008

Number and description of fee	Current fee	Proposed fee	Year of last increase	Rate of inflation since last increase
2 Appeals				
2.2 Proceedings under the Child Support Act 1991 —				
(a) On commencing an appeal under section 20.	£130	£150	Jan 2006	14.12%
(b) On commencing an appeal against a deduction from earnings order.	£80	£90	Jan 2006	14.12%
6 Financial Provision				
6.1 Proceedings under the Domestic Proceedings and Magistrates’ Courts Act 1978 or Schedule 6 to the Civil Partnership Act 2004 — On an application for an order for financial provision (other than an application to vary or revoke such an order, or an application for an order for financial provision made for the benefit of, or against, a person residing outside the United Kingdom).	£175	£200	Jan 2006	14.12%
7 Proceedings under the Family Law Act 1986				
7.1 On an application for a declaration of parentage (each child).	£130	£150	Jan 2006	14.12%
8 Proceedings under the Children Act 1989				
8.1 On an application for an order in form C1 or form C100 (free-standing application), form C79 (application related to enforcement of a contact order), form C2 (application in existing proceedings) or a request for permission to apply for an order in form C2 under the following provisions of the Children Act 1989—				
(a) section 4(1)(c) or (3) or 4A(1)(b) or (3) (parental responsibility);	£175	£200	Jan 2006	14.12%
(b) section 4ZA(1)(c) or (6) (parental responsibility);	£175	£200	May 2008	14.12% *
(c) section 5(1) or 6(7) (guardians);	£175	£200	Jan 2006	14.12%
(d) section 10(1) or (2) (section 8 orders);	£175	£200	Jan 2006	14.12%
(e) section 11J(2) (enforcement orders);	£175	£200	Nov 2008	14.12% *
(f) section 11O(2) (compensation for financial loss);	£175	£200	Nov 2008	14.12% *
(g) section 13(1) (change of child’s surname or removal from jurisdiction while residence order in force);	£175	£200	Jan 2006	14.12%
(h) section 14A(3) or (6)(a), 14C(3) or 14D(1) (special guardianship orders);	£140	£160	Jan 2006	14.12%
(i) section 25 (secure accommodation order);	£150	£170	May 2008	14.12% *
(j) section 33(7) (change of child’s surname or removal from jurisdiction while care order in force);	£150	£170	Jan 2006	14.12%

Number and description of fee	Current fee	Proposed fee	Year of last increase	Rate of inflation since last increase
(k) section 34(2), (3), (4) or (9) (contact with child in care);	£150	£170	Jan 2006	14.12%
(l) section 36(1) (education supervision order);	£150	£170	Jan 2006	14.12%
(m) section 39 (variation or discharge etc of care and supervision orders);	£150	£170	Jan 2006	14.12%
(n) section 43(1) (child assessment order);	£150	£170	Jan 2006	14.12%
(o) sections 44, 45 and 46 (emergency protection order);	£150	£170	May 2008	14.12% *
(p) section 48 (warrant to assist person exercising powers under emergency protection order);	£150	£170	May 2008	14.12% *
(q) section 50 (recovery order);	£150	£170	May 2008	14.12% *
(r) section 79K (cancellation, variation or removal or imposition of condition of registration of child minder or day carer);	£150	£170	Jan 2006	14.12%
(s) paragraph 4(2), 6(2), 7(2) or 9(2) of Schedule A1 (applications in respect of enforcement orders);	£80	£90	Nov 2008	14.12% *
(t) paragraph 5(2) of Schedule A1 (amendment of enforcement order by reason of change of address);	£40	£45	Nov 2008	14.12% *
(u) section 102 (warrant to assist person exercising powers to search for children or inspect premises);	£150	£170	May 2008	14.12% *
(v) paragraph 1(1) or (4), 2(1) or (5), 5(6), 6(5), (7) or (8), 8(2), 10(2), 11 or 14(1) of Schedule 1 (financial provision for children);	£175	£200	Jan 2006	14.12%
(w) paragraph 19(1) of Schedule 2 (approval of court for child in care of local authority to live abroad);	£150	£170	May 2008	14.12% *
(x) paragraph 6 of Schedule 3 (extension of supervision order);	£150	£170	Jan 2006	14.12%
(y) paragraph 15(2) or 17(1) of Schedule 3 (extension or discharge of education supervision order);	£150	£170	Jan 2006	14.12%
(z) paragraph 8(1) of Schedule 8 (appeals concerning foster parenting).	£150	£170	Jan 2006	14.12%
9 Proceedings under the Human Fertilisation and Embryology Act 2008				
9.1 On an application under section 54 (parental order).	£175	£200	Jan 2006	14.12%
10 Proceedings under the Adoption and Children Act 2002				
10.1 On an application or a request for permission to apply under any provision in Part 1 of the Adoption and Children Act 2002, other than an application under section 22 of that Act.	£140	£160	Jan 2006	14.12%
11 Proceedings under the Children and Adoption Act 2006.				
11.1 On an application for a warning notice to be attached to a contact order.	£40	£45	Dec 2008	14.12% *
12 Proceedings to vary, extend or revoke an order made in family proceedings				
12.1 On an application to vary, extend or revoke an order made in family proceedings where no other fee is specified.	£20	£20	April 2006	12.32% **

* These fees are **increasing above the rate(s) of inflation** since the date of last increase. These fees were introduced as a result of amendments to the Children Act 198 and were introduced at a level that aligned them with fees for similar proceedings that were last increased in 2006. Consequently the increases to these fees have been linked to the rate of inflation since 2006.

** These fees **will not be increased** as the rate(s) of inflation does not increase the fee by an amount that can be taken into account when the fees are rounded to the nearest £5.