

Title: Introduction of new fees in the Property Chamber, First-tier Tax Chamber, Upper Tribunal Tax Chamber, First-tier Immigration and Asylum Chamber, Lands Chamber and the General Regulatory Chamber.

IA No: MoJ020/2015

Lead department or agency: Ministry of Justice

Other departments or agencies: None

Impact Assessment (IA)

Date: 17/12/2015

Stage: Final

Source of intervention: Domestic

Type of measure: Secondary Legislation

Contact for enquiries:
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Summary: Intervention and Options

RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
-£0.5m	N/A	N/A	No	N/A

What is the problem under consideration? Why is government intervention necessary?
Her Majesty's Courts and Tribunal Service (HMCTS) do not recover the full costs of operating the Immigration and Asylum Chamber, the Property Chamber, the Lands Chamber, the Tax Chambers (First-tier and Upper Tribunal) and General Regulatory Chamber. In 2014-15 the operating cost of these tribunals was around £110 million while the fee income received was around £8.5 million. Government intervention is necessary to increase income from fees to cover more of the operating costs of these tribunals so reducing the burden on the tax payer.

What are the policy objectives and the intended effects?
The Ministry of Justice's policy is the fees charged by HMCTS should better reflect the cost of the services provided, while protecting access to justice for the less well-off, so reducing the taxpayer subsidy for the tribunal system. The policy objective is therefore to increase cost recovery compared to 2014-15 costs across the tribunals affected by these proposals. The proposals also seek to simplify the current fee structure to make it easier to understand and administer.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
In the recent consultation on this issue the following options were considered:

- Option 0: Do Nothing.
- Option 1: Establish a new fee structure in the Property Chamber which would to achieve around 25% cost recovery.
- Option 2: Establish a new fee structure in the Tax Chamber (First-tier) and Upper Tribunal Tax and Chancery, which would achieve around 25% cost recovery across the two tribunals as a whole.
- Option 3: Establish a new fee structure for all cases heard in the General Regulatory Chamber which would achieve around 25% cost recovery.
- Option 4: Increase fees for cases heard in the Immigration and Asylum Chamber which would achieve around 25% cost recovery.
- Option 5: Increase fees for cases heard in the Lands Chamber by 10%.

The Government's preferred option is to implement options 1-5 as this best meets the policy objective.

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

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

Signed by the responsible Minister: _____ **Shailesh Vara** _____ Date: 17/12/2015

Summary: Analysis & Evidence

Policy Option 1

Description: Establish a new fee structure in the Property Chamber aiming to achieve around 25% cost recovery.

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.1	High: -0.1	Best Estimate: -0.1

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.1	1	0.5	4.3
High	0.1		0.6	5.2
Best Estimate	0.1		0.6	4.7

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

HMCTS would face one-off transitional costs of less than £0.1 million from implementing the proposed changes. Tribunal users would incur an additional cost of approximately £0.6 million per annum in fees.

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

Successful claimants may face a cost in terms of a cash flow problem. Fees are initially paid upfront by both parties. After the settlement or judgement takes place and a decision is reached, the unsuccessful party will then repay the fee for the other claimant. There will be some minor familiarisation costs for tribunal users and their legal representatives.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	1	0.5	4.3
High	0		0.6	5.2
Best Estimate	0		0.6	4.7

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

The proposed fee levels would result in a net income to HMCTS of £0.6 million per annum. This income would manifest itself as a reduction in the amount of subsidy that taxpayers provide to the Tribunals service.

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

The introduction of fees may encourage some parties to settle disputes earlier, outside the tribunal. There may be a benefit to HMCTS by way of reduced running costs.

Key assumptions/sensitivities/risks	Discount rate	3.5%
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- Our central scenario is based on the assumption that fee changes will cause a five per cent fall in demand. Sensitivity analysis considers the impact of a zero per cent and a 10 per cent fall in caseloads. Our central scenario has been selected for reasons of prudence as, based on past fee reforms, we do not expect a reduction in caseloads of the amount suggested.
- It has also been assumed that there will be no detrimental impact on tribunal case outcomes, on access to justice and on the legal services used to pursue or defend claims from the increase in the fees.
- The central scenario does not take into account any changes in behaviour due to cases being issued early to avoid paying the new fees. The implications of this potential 'pull through effects' is the first year fee income estimates may be slightly overestimated. This is considered in the sensitivity analysis.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: : N/A	Benefits: : N/A	Net: N/A	No	N/A

Summary: Analysis & Evidence

Policy Option 2

Description: Establish a new fee structure in the Tax Chamber (First-tier) and Upper Tribunal Tax and Chancery, aiming to achieve around 25% cost recovery across the two tribunals as a whole.

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.1	High: -0.1	Best Estimate: -0.1

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.1	2.0	16.8
High	0.1	2.2	18.7
Best Estimate	0.1	2.1	17.8

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

HMCTS would face one-off transitional costs of less than £0.1 million in implementing the proposed changes. Tribunal users would incur an additional cost of approximately £2.1 million per annum in fees.

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

Successful claimants may face a cost in terms of a cash flow problem. Fees are initially paid upfront by both parties. After the settlement or judgement takes place and a decision is reached, the unsuccessful party will then repay the fee for the other claimant. There will be some minor familiarisation costs for tribunal users and their legal representatives.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	2.0	16.8
High	0	2.2	18.7
Best Estimate	0	2.1	17.8

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

The proposed fee levels would result in a net additional income to HMCTS of around £2.1 million per annum. This would manifest itself as a reduction in the subsidy taxpayers provide to the tribunals service.

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

The introduction of fees may encourage some parties to settle disputes earlier, outside of the tribunal. There may be a benefit to HMCTS by way of reduced running costs.

Key assumptions/sensitivities/risks	Discount rate	3.5%
<ul style="list-style-type: none"> Our central scenario calculations are based on the assumption that fee changes will cause a five per cent fall in demand. Sensitivity analysis considers the impact of both a zero per cent and a 10 per cent fall in caseloads. Our central scenario has been selected for reasons of produce as, based on past fee reforms, we do not expect a reduction in caseloads of the amount suggested. It has also been assumed that there will be no detrimental impacts on tribunal case outcomes, on access to justice and no impacts on the legal services used to pursue or defend claims from the increase in fees. The central scenario does take into account any changes in behaviour where claims are issued early to avoid paying the fees. The implications of this potential 'pull through' effect are that first year steady state figures for fee income may be slightly overestimated. This issue is considered in the sensitivity analysis. 		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	N/A

Summary: Analysis & Evidence

Policy Option 3

Description: Establish a new fee structure for all cases heard in the General Regulatory Chamber aiming to achieve around 25% cost recovery.

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.1	High: -0.1	Best Estimate: -0.1

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.1	0.1	1.3
High	0.1	0.2	1.4
Best Estimate	0.1	0.2	1.3

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

HMCTS would face one-off transitional costs of less than £0.1 million in implementing the proposed changes. Tribunal users would incur a cost of approximately £0.2 million per annum in court fees.

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

Successful claimants may face a cost in terms of a cash flow problem. Fees are initially paid upfront by both parties. After the settlement or judgement takes place and a decision is reached, the unsuccessful party will then repay the fee for the other claimant. There will be some minor familiarisation costs for tribunal users and their legal representatives.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0m	0.1	1.3
High	0m	0.2	1.4
Best Estimate	0m	0.2	1.3

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

The proposed fee levels would result in an additional income to HMCTS of just under £0.2 million per annum. This would manifest itself as a reduction in the subsidy taxpayers provide to the tribunals service.

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

The introduction of fees may encourage some parties to settle disputes earlier, outside of tribunal. There may be a benefit to HMCTS by way of reduced running costs.

Key assumptions/sensitivities/risks Discount rate 3.5%

- Our central scenario calculations are based on the assumption that fee changes will cause a five per cent fall in demand. Sensitivity analysis considers the impact of both a zero per cent and a 10 per cent fall in caseloads. Our central scenario has been selected for reasons of produce as, based on past fee reforms, we do not expect a reduction in caseloads of the amount suggested.
- It has also been assumed that there will be no detrimental impacts on tribunal case outcomes, on access to justice and no impacts on the legal services used to pursue or defend claims from the increase in fees.
- The central scenario does take into account any changes in behaviour where claims are issued early to avoid paying the fees. The implications of this potential 'pull through' effect are that first year steady state figures for fee income may be slightly overestimated. This issue is considered in the sensitivity analysis.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	N/A

Summary: Analysis & Evidence

Policy Option 4

Description: Increase fees in the First-tier Immigration and Asylum Chamber to achieve around 25% cost recovery.

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.1	High: -0.1	Best Estimate: -0.1

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.1	1	5.6	48.4
High	0.1		7.1	60.8
Best Estimate	0.1		6.3	54.6

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

HMCTS would face one-off transitional costs of less than £0.1 million in implementing the proposed changes. Tribunal users would incur an extra cost of approximately £6.3 million per annum in fees.

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

Successful claimants may face a cost in terms of a cash flow problem. Fees are initially paid upfront by both parties. After the settlement or judgement takes place and a decision is reached, the unsuccessful party will then repay the fee for the other claimant.

There will be some minor familiarisation costs for tribunal users and their legal representatives.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	1	5.6	48.4
High	0		7.1	60.8
Best Estimate	0		6.3	54.6

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

The proposed fee levels in the Immigration and Asylum Chamber would result in an additional £6.3m per annum in fee income to HMCTS. This would manifest itself as a reduction in subsidy that taxpayers provide to the tribunals service.

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

Key assumptions/sensitivities/risks

Discount rate

3.5

- Our central scenario calculations are based on the assumption that fee changes will cause a five per cent fall in demand. Sensitivity analysis considers the impact of both a zero per cent and a 10 per cent fall in caseloads. Our central scenario has been selected for reasons of produce as, based on past fee reforms, we do not expect a reduction in caseloads of the amount suggested.
- It has also been assumed that there will be no detrimental impacts on tribunal case outcomes, on access to justice and no impacts on the legal services used to pursue or defend claims from the increase in fees.
- The central scenario does take into account any changes in behaviour where claims are issued early to avoid paying the fees. The implications of this potential 'pull through' effect are that first year steady state figures for fee income may be slightly overestimated. This issue is considered in the sensitivity analysis.

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	N/A

Summary: Analysis & Evidence

Policy Option 5

Description: Increase fees for cases heard in the Lands Chamber by 10%.

FULL ECONOMIC ASSESSMENT

Price Base Year 2015	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.1	High: -0.1	Best Estimate: -0.1

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.1	1	0.0	-0.1
High	0.1		0.1	0.7
Best Estimate	0.1		0.0	0.3

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

HMCTS would face one-off transitional costs of less than £0.1 million in implementing the proposed changes. After the increase in fees, there would be a negligible impact on tribunal users.

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

Successful claimants may face a cost in terms of a cash flow problem. Fees are initially paid upfront by both parties. After the settlement or judgement takes place and a decision is reached, the unsuccessful party will then repay the fee for the other claimant.

There will be some minor familiarisation costs for tribunal users and their legal representatives.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	1	0.1	-0.1
High	0		0.1	0.7
Best Estimate	0		0.0	0.3

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

The proposed fee increases in the Lands Chamber would result in a negligible change in income to HMCTS. This would manifest itself as a reduction in the subsidy that taxpayers provide to the tribunals service.

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

The introduction of fees may encourage some parties to settle disputes earlier, outside of the tribunal. There may be a benefit to HMCTS by way of reduced running costs.

Key assumptions/sensitivities/risks

Discount rate

3.5%

- Our central scenario calculations are based on the assumption that fee changes will cause a five per cent fall in demand. Sensitivity analysis considers the impact of both a zero per cent and a 10 per cent fall in caseloads. Our central scenario has been selected for reasons of produce as, based on past fee reforms, we do not expect a reduction in caseloads of the amount suggested.
- It has also been assumed that there will be no detrimental impacts on tribunal case outcomes, on access to justice and no impacts on the legal services used to pursue or defend claims from the increase in fees.
- The central scenario does take into account any changes in behaviour where claims are issued early to avoid paying the fees. The implications of this potential 'pull through' effect are that first year steady state figures for fee income may be slightly overestimated. This issue is considered in the sensitivity analysis.

BUSINESS ASSESSMENT (Option 5)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	N/A

Evidence Base (for summary sheets)

A. Background

1. The Ministry of Justice's (MOJ) policy on fees is to achieve a coherent fee charging structure across Her Majesty's Courts and Tribunals Service (HMCTS) and to charge at full cost recovery where practical. There is also a need to raise income to help meet the Government's aim of reducing the deficit to help deliver a stronger economy. This Impact Assessment (IA) assesses the impact of the Government's preferred approach, following the recent consultation¹.
2. Court and tribunal fees are prescribed by the Lord Chancellor under statutory powers and they must comply with the general policy principles for statutory fee-charging services, as set out in HM Treasury's guidance 'Managing Public Money – Charges and Levies', which states that fees should normally be set at full cost levels. The Lord Chancellor does have a power to prescribe fees above cost under section 42 of the Tribunals, Courts and Enforcement Act 2007; however, there are no proposals to use this power in respect of tribunal fees at this stage.
3. Currently there are no fees charged in either the Tax Chamber (First-tier) or the Upper Tribunal (Tax and Chancery). Nor are there fees in the General Regulatory Chamber with the exception of the Gambling jurisdiction where fees are charged on the basis of the value of the licenses in dispute – a position we are not proposing to change. There are, however, some fees charged in the Property Chamber, Lands Chamber and in the Immigration and Asylum Chamber. In 2014-15 the current fees charged in tribunals raised £21 million in income. In contrast, over the same period the tribunals system cost £346 million² to run.

B. Policy Rationale and Objectives

4. The MoJ's aim is to maintain adequate resourcing for the tribunals, such that access to justice is protected, while the costs to the taxpayer are reduced. The policy aim is therefore:
 - To introduce or increase fees so that users of the system make a greater contribution towards the overall costs of HMCTS, in the specified jurisdictions.
 - To move towards a higher cost recovery level compared to 2014-15 costs across the tribunals in question, while making sure that the proposed fees are within the '*Managing Public Money – Charges and Levies*' guidelines. These proposals will reach 25% cost recovery.
 - Design a coherent fee charging system that is easier to understand and administer.

C. Affected Stakeholder Groups, Organisations and Sectors

5. The proposals are likely to affect the following groups:
 - Appellants within the Tribunals in England and in some cases, Wales, Northern Ireland and Scotland.
 - Respondents within the Tribunals in England and in some cases, Wales, Northern Ireland and Scotland.
 - Her Majesty's Courts and Tribunals Service (HMCTS) – the body that administers the Tribunal Service.
 - Legal services providers.
 - Third parties – business and individuals.
 - Taxpayers – through a reduction in the subsidy currently provided by the UK Exchequer towards the running and operating costs of HM Courts & Tribunals Service.

¹ https://consult.justice.gov.uk/digital-communications/further-fees-proposal-consultation/supporting_documents/Government%20response%20to%20consultation%20on%20enhanced%20fees%20and%20consultation%20on%20further%20fees%20proposals%20web.pdf

² Based on the 2014-15 say HMCTS jurisdictional cost model

D. Description of Options Considered

6. This IA identifies both monetised and non-monetised impacts with the aim of understanding what the net social impact might be from implementing the following options:
 - **Option 0: Do nothing. Maintain the current fee charging structures.**
 - **Option 1: Establish a new fee structure in the Property Chamber which would achieve around 25% cost recovery.**
 - **Option 2: Establish a new fee structure in the Tax Chamber (First-tier) and Upper Tribunal Tax and Chancery, which would achieve around 25% cost recovery across the two tribunals as a whole.**
 - **Option 3: Establish a new fee structure for all cases heard in the General Regulatory Chamber which would achieve around 25% cost recovery.**
 - **Option 4: Increase fees for cases in the First Tier Immigration and Asylum Chamber (IAC) which would achieve around 25% cost recovery.**
 - **Option 5: Increase fees for cases heard in the Lands Chamber by 10%.**
7. The Government's preferred approach is to implement options 1 to 5 as they best meet the policy objectives set out in paragraph 4.
8. In the rest of this section, each of these options is described in more detail. This is because, as a result of responses to the recent consultation, some of the proposals have been revised. The costs and benefits associated with each of these options are then presented in section E.

Option 1: Establish a new fee structure in the Property Chamber which would achieve around 25% cost recovery.

9. There are a number of jurisdictions within the Property Chamber which includes Residential Property; Land Registration; Agriculture Land and Drainage; and Valuation Office Agency right of entry for valuation purposes. The first jurisdiction which the fees will apply is to applications heard within the Residential Property Chamber. This is the largest of the Property Chambers' jurisdictions and presides over cases involving landlords, tenants, freeholders, leaseholders, park home occupiers and site owners. Cases can be broken down into the following broad categories:
 - **Rent Cases:** including Fair Rent and Market Rent disputes, these cases usually involve a tenant disputing the level of a rent increase, or the manner in which the increase was implemented
 - **Leasehold Management:** usually involves appeals by tenants to appoint a new manager to a building, or to take over management responsibilities themselves
 - **Leasehold Enfranchisement:** involve negotiations to extend or change the terms of a lease.
 - **Right to Buy:** involve applications by council tenants to purchase their principal home at a lower price than the market value.
 - **Park Homes:** involve disputes between residents of park homes and park owners about a variety of issues
 - **Housing Act:** concerns improvement notices and prohibition orders where the notice falls under the Housing Act, 2004.
10. The other jurisdiction in which the fees will apply is to the newly formed jurisdiction which handles Valuation Office Agency right of entry applications. Given that this is a newly formed jurisdiction, there is no caseload data available. We do, however, only anticipate a small number of appeals will be brought per annum and that the fees will have no deterrent effect.

11. Cases concerning rents, leasehold management and leasehold enfranchisement make up the majority of cases in the Property Chamber (20%, 34% and 39% of the caseload respectively in 2014-15).
12. In aggregate, the Property Chamber cost around £13.6 million in 2014-15 and generated an income of around £0.5 million across the cases where it currently charges fees. This represented a cost recovery rate of around 3 per cent.
13. In response to the recent consultation, Option 1 now proposes to charge a lower issue and hearing fee for leasehold enfranchisement cases. These now follow the same fee regime as the other case types. In addition, for rents and pitch fee review cases, the tribunal will charge a lower fixed fee of £20. The proposed fees are outlined in Table 1 below:

Table 1: Proposed fees for the Property Chamber

Case Type	Issue	Hearing
Leasehold Enfranchisement	£100	£200
Rents and pitch fee review	£20	-
Leasehold Management	£100	£200
Right to Buy	£100	£200
Park Homes	£100	£200
Housing Act	£100	£200
Valuation Office Agency Applications	£100	£200

Option 2: Establish a new fee structure in the Tax Chamber and Upper Tribunal Tax and Chancery, which would achieve around 25% cost recovery across the two tribunals as a whole.

14. The Tax Chamber (First-tier) deals with appeals from HMRC tax assessments and penalties notices.
15. When cases are first issued in the First-tier Tribunal, they are assigned a case category (Paper, Basic, Standard or Complex) by the tribunal. This category is determined on the basis of how long a case will take to resolve and/or the amount of sums that are in dispute.³ Many of the cases that are dealt with on the papers or assigned to the basic category relate to appeals against penalty notices issued by HMRC. These penalty notices can range in amount, however, a large percentage of these relate to small penalties issued, for example, where a party is late in filing his or her tax return. Further to consultation, the Government proposes to introduce a £20 fee for fixed penalty notice cases of £100 or less, to accurately reflect the cost of the sums involved.
16. Under Option 2, the Government proposes to charge a tiered fee structure in the First-tier Chamber as outlined in Table 2 below:

Table 2: Proposed fees for the First-tier Tax Chamber

Case Type	Issue	Hearing
Paper	£50	£ -
Paper – Fixed penalty notices of £100 or less	£20	£ -
Basic	£50	£200
Standard	£200	£500
Complex	£200	£1,000

17. The Upper Tribunal (Tax and Chancery) hears all onward appeals from the Tax Chamber (First Tier). However, it also hears other onward appeals, including from the General Regulatory Chamber in

³ See: Practice Direction First-tier Tribunal categorisation of cases in the Tax Chamber <<https://www.judiciary.gov.uk/wp-content/uploads/2014/12/categorisation-of-case-in-the-tax-chamber.pdf>>

relation to charities and the Property Chamber in relation to land registration issues. Our proposals in this Tribunal are limited to introducing fees for the onward appeals from the First-tier Tax Chamber.

18. Under Option 2, the Government proposes to charge a fee structure in the Upper Tribunal Chamber as outlined in Table 3 below:

Table 3: Proposed fees for the Upper Tribunal Tax Chamber

Case Type	Issue	Hearing
Permission to appeal	£100	£200
Appeal	£100	£2,000

Option 3: Establish a new fee structure for all cases heard in the General Regulatory Chamber which would achieve around 25% cost recovery.

19. The General Regulatory Chamber (GRC) hears a wide range of appeals on regulatory matters, for example charities, consumer credit, transport and appeals from decisions of the Information Commissioner.
20. There are no fees currently charged in this chamber, with the exception of appeals in relation to gambling licences where the fee is based on the value of the licences that are in dispute. We are not proposing to change this fee.
21. Under Option 3, the Government proposes to charge a separate fee for issue and hearing in the GRC as outlined below. Following the recent consultation, a decision on fees for Freedom of Information appeals has been deferred until the Independent Commission on Freedom of Information has reported next year. Therefore these cases are assumed to be exempt from the fees proposed which are set out in Table 4 below.

Table 4: Proposed fees for the GRC Fees

Case Type	Issue	Hearing
All applications (excluding gambling and Information Right cases)	£100	£500

Option 4: Increase fees for cases in the First-tier Immigration and Asylum Chamber (IAC) which would achieve around 25% cost recovery.

22. The Government introduced fees into the First-tier Tribunal (Immigration and Asylum Chamber) in December 2011 under the Lord Chancellor's power contained in section 42 of the Tribunal, Courts and Enforcement Act 2007 to charge fees for proceedings before tribunals.
23. The fees were not set to achieve full cost recovery although we expected fee income initially to deliver somewhere towards 25% of the costs of the tribunal. This resulted in fees being set at:
- £80 for a decision on the papers; and
 - £140 for an oral hearing.
24. However, the introduction of fees has only been partly successful in meeting the financial objectives. In 2014-15 fee income of around £7.4 million was recovered from those bringing appeals against a cost of around £84 million which equates to only 9% cost recovery.
25. The Government is proposing to double the fees charged to move cost recovery closer towards 25%. Table 5 shows the fees that are being proposed:

Table 5: Proposed fees for the First-tier Immigration and Asylum Chamber

Application Type	Fees
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Application for paper determination	£160
Application for oral hearing	£280
Application for paper determination (submitted online)	£140
Application for oral hearing (submitted online)	£250

26. In contrast to all other HMCTS jurisdictions which charge fees, the standard HMCTS fee remissions scheme does not apply in the First-tier Tribunal (Immigration and Asylum Chamber). This is because of the practical difficulties of applying the income and capital tests to those who may be based outside the United Kingdom. For this reason, in order to ensure that the Government met the third of its aims in introducing fees – to protect access to the Tribunal for those that need it – a set of exemptions were introduced removing the requirement to pay a fee in certain circumstances. These exemptions fall into two broad categories.
27. First, appellants in receipt of certain financial support are exempt from paying fees, specifically:
- those in receipt of Asylum Support (where the Home Office has already assessed a person as requiring financial assistance);
 - those in receipt of Legal Aid (where income has already been assessed as part of the Legal Aid award); and
 - those in receipt of support under section 17 of the Children Act (where a Local Authority has already assessed that the household requires additional funding to make sure the child within that household is not put at risk).
28. The second category of exemptions was originally put in place to exempt from fees appellants appealing against “state initiated action.” This was largely to cover circumstances where the state was seeking to remove someone from the country. However, a lot of these appeal rights have now been removed by the Immigration Act 2014.

Option 5: Increase fees for cases heard in the Lands Chamber by 10%.

29. Land Chamber costs in 2014-15 were around £1.7 million and generated an income of around £0.8 million across the cases where it currently charges fees. This represented a cost recovery rate of around 47%.
30. Under Option 5, the Government proposes to increase all fees charged in the Lands Chamber by 10%. The proposed fees are outlined in Table 6 below:

Table 6: Proposed fee uplifts for the Lands Chamber

Application type	Current	New
On lodging an application for permission to appeal under rule 21 (application to the Tribunal for permission to appeal)	£200	£220
On lodging a notice of reference under rule 28 (notice of reference) or a notice of appeal under rule 24 (notice of appeal)	£250	£275
On lodging an application for a determination under Schedule 2 to the Compulsory Purchase Act 1965 (absent or untraced owners) or section 58 of the Land Clauses Consolidation Act 1845 (compensation to absent parties to be determined by a surveyor appointed by two justices)	£500	£550

On lodging an application under rule 32 (method of making application) in respect of section 84 of the Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land)	£800	£880
On lodging an application under rule 41 (method of making application) in respect of section 2 of the Rights of Light Act 1959 (registration of notice in lieu of obstruction of access of light) —		
(a) for a definitive certificate	£1,200	£1,320
(b) for a temporary and definitive certificate	£1,500	£1,650
On lodging an interlocutory application	£100	£110
On lodging an application for a consent order (rule 50) (consent orders)	£150	£165
On the hearing of an appeal from the decision of a Tribunal with jurisdiction to hear rating appeals, 5 per cent of rateable value as determined in the final order of the Tribunal, subject to—		
(a) minimum fee	£250	£275
(b) maximum fee	£15,000	£16,500
On the hearing of a reference or an appeal against a determination or on an application for a certificate of value (excluding one where the hearing fee is calculated on the basis of rental value), 2 per cent of the amount awarded or determined by the Tribunal, agreed by the parties following a hearing, or determined in accordance with rule 44 (decision with or without a hearing), subject to—		
(a) minimum fee	£250	£275
(b) maximum fee	£15,000	£16,500
On the hearing of a reference or an appeal against a determination where the award is in terms of rent or other annual payment, two per cent of the annual rent or other payment determined by the Tribunal, agreed by the parties following a hearing, or determined in accordance with rule 46 (decision with or without a hearing), subject to—		
(a) minimum fee	£250	£275
(b) maximum fee	£15,000	£16,500
On the hearing of an application or the making of any order under section 84 of the Law of Property Act		

1925 (power to discharge or modify restrictive covenants affecting land)—		
(a) a hearing as to entitlement under section 84(3A)	£500	£550
(b) order without a hearing (rule 46)	£250	£275
(c) substantive hearing of an originating application	£1,000	£1,100
(d) engrossing Minutes of Order	£200	£220
On the hearing or preliminary hearing of a reference or appeal (not being the determination of an application under paragraph 11 above) where either the amount determined is nil or the determination is not expressed in terms of an amount	£500	£550

E. Costs and Benefits

31. This IA identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact on society might be from implementing the proposed fees. The costs and benefits of each proposal are compared to Option 0, the Do Nothing case, where the fees are maintained at their current level.

Key data sources

32. The assessment of costs and benefits in this IA is based on the following key sources of evidence:
- Detailed court data published in tribunal statistics⁴, relating to the volumes of cases heard within the tribunals;
 - Internal management information provided by the HMCTS, which provides information on targets for the time taken to dispose of cases, the number of cases that are issued and the number which reach the hearing stage in a given year. This has been used to calculate how many cases would pay an issue and hearing fee;
 - HMCTS finance data, which outlines income and expenditure across the tribunals each financial year;
 - HMRC internal management information, which provides outcomes of tax cases by case type, appellant and value under dispute. This has been used to gain a better understanding of the profile of users of the tax tribunal; and
 - Estimates by HMCTS staff regarding the time spent in various administrative and judicial functions in the GRC.

Key Assumptions

33. Detailed unit costs by activity, case stage and case types are not available. We have therefore had to model unit costs using the following assumptions and methodology described below.

Methodology

34. In establishing the appropriate fees for cases in the Property Chamber, GRC and the Tax Chambers, the length of time taken for cases to progress through the system, from issue to disposal, was estimated and the associated resource costs calculated.

⁴ <https://www.gov.uk/government/statistics/tribunal-and-gender-recognition-statistics-quarterly-october-to-december-2014>

35. To differentiate between the different case types within the tribunal, the average time to disposal was weighted across case types and used as a proxy for resource consumption. Therefore the longer a case takes to dispose the greater the associated cost and therefore fee.
36. Table 7 shows the assumptions we have made concerning the split of resources between the issue and hearing stage:

Table 7: Assumed resource splits between issue and hearing stages

Cost Type	Issue Stage Resource Allocation	Hearing Stage Resource Allocation
Estates	50%	50%
IT	50%	50%
Judicial Salaries - Fee Paid	0%	100%
Judicial Salaries - Salaried	0%	100%
Other	50%	50%
Other Judicial Costs	0%	100%
Other Non-Cash	50%	50%
Other Staff Costs	50%	50%
Staff Cost - Wages & Salaries	50%	50%

37. Case progressions statistics, HMCTS costs and case volumes for the Property, Tax and GRC from 2013-14 were used to calculate the levels of resource across the different case types in the consultation IA. The same split in resource has been assumed for this IA, but volumes and costs have been updated to 2014-15 levels.

Refunds

38. For simplicity, we assume that there are no refunds of tribunal fees.

Remissions

39. We assume that the existing remissions scheme remains in place. As qualification for remissions is based on an income and capital-based test, this implies individuals' eligibility for remissions will be unchanged.
40. For the Property Chamber and GRC we have assumed that the percentage of income remitted will be similar to remission rates within the Employment Tribunal (ET). In 2014-15 around 25% of fee income was remitted in the ET.
41. However, the majority of claimants within the Tax Chamber are private companies, local authorities or non-profit making bodies, so we assume a lower rate of remissions. According to HMRC internal management information around 20% of cases involve individuals. Applying the rate of remissions in the ET to the proportion of cases assumed to involve individuals, we estimate a remissions rate of five per cent in the Tax Chamber.
42. For the IAC, we have assumed a remissions rate of zero per cent. This is because volumes are based on the number of appellants who have paid the fee and as such, were not eligible for the remission scheme⁵. In 2014-15 around 30% of claimants were subject to a remission and exemption.

Volumes

43. Tribunal volumes are based on 2014-15 HMCTS management information data, which is found in Annex A.

⁵ The IAC has a separate remissions and exemptions scheme compared with other Tribunals

44. There is a risk that the number of cases presented in Annex A will be an overestimate as a result of the way the Tribunals exercise their case management powers. Under the respective rules of procedure, Tribunals are able to group together individual applications for the purposes of disposing of cases. This could have the effect of reducing the number of cases recorded and also have an impact on the amount of income generated from hearing fees.
45. Annex B provides a comprehensive list of all the fees which would be impacted by this option.

Demand

46. Tribunal user demand may change in response to planned fee rises. This effect is known as the price elasticity of demand. The IA models three scenarios that consider both reductions in demand of five per cent and 10 per cent, as well as a 'best case' scenario where demand (behaviour) is not affected by fee increases.
47. The central scenario assumes a five per cent fall in demand compared to the baseline. The fee increases are not seen as high risk after taking into a number of factors such as:
 - the overall size of fee increase;
 - the size of fee relative compared to the value of the remedy sought; and
 - the size of fee compared to other costs incurred.
48. As the size of the new fee is likely to be relatively small in comparison to the overall value of the claim, the price elasticity is assumed to be relatively small.
49. The rationale behind modelling a 10 per cent reduction in demand, is that it refers to a worst case scenario and accounts a greater level of risk compared to the central scenario. It is unlikely, however, that caseloads will fall by this amount.

Net Present Value

50. The Net Present Value is calculated over a ten-year period, under the assumption that fees do not increase in line with inflation. In this way, it likely underestimates nominal fee income, as the existing powers to increase fees in line with inflation is likely to be applied at various points during the ten-year period. However, inflation should also drive up the income of applicants, so the financial burden of fees will not increase in real terms. Fees are not included in the overall NPV as they represent a transfer payment between claimants and HMCTS.

Option 0: Do Nothing – Maintain the current fee structure including enhanced fees for money claims

51. Under the Do Nothing option the proposals highlighted in Options 1-5 would not be implemented and is used as the baseline against which other options are compared. The Do Nothing is compared to itself and therefore the costs and benefits are necessarily zero, as is its net present value (NPV).

Option 1: Establish a new fee structure in the Property Chamber which would achieve around 25% cost recovery.

Costs of Option 1

Transitional costs

Transitional costs to HMCTS

52. HMCTS expects to incur costs for changes to court publications, for destroying old stock, making amendments to court IT systems and those related to court staff having to spend some time familiarising themselves with the new fees. These one-off transitional costs for HMCTS are expected to be less than **£0.1 million**.

Transitional costs to tribunal users and legal services providers

53. Familiarisation and awareness costs might also be incurred by court users and their legal services providers. These have not been monetised and are not expected to be significant.

Ongoing costs

Costs to tribunal users

54. Multiplying the volume of claims shown in Annex A, Table 11, by the fee schedule shown in Table 1, we assume fee income will increase by between £0.4 million and £0.6 million.
55. Under our central assumptions, the total additional cost to users of the Property Chamber is estimated to be around **£0.5 million per annum** compared to the base case. This figure is the net amount of extra fee income paid by tribunal users after remissions have been provided. It is assumed that 25% of fees would be remitted which amount to £0.2 million per annum.
56. Tribunal fees are usually paid upfront by the claimant. The MoJ proposes to allow the cost of fees to be recoverable from the defendant where the claimant wins. Therefore, in most cases where the reforms apply, the extra costs will be met by unsuccessful claimants or by losing defendants. However, there may be a cash flow cost to successful claimants as the higher court fees they pay are recoverable only once the case has been settled. These cash flow costs have not been monetised.

Benefits of Option 1

Ongoing benefits

Benefits to HMCTS

57. Under our central assumptions the proposed fee levels in the Property Chamber would result in net income to HCMTS of approximately £0.6 million per annum. This represents a gross cost recovery of around 10% after remissions.
58. There may also be a benefit to HMCTS by way of reduced running costs. If fees deter some claimants from appealing in the Tribunals, and instead those applicants find alternative means of dispute resolution, the tribunals will process fewer cases resulting in lower costs.

Wider benefits to society

59. Our proposal is expected to reduce the net costs of operating the Property Chamber and, therefore, reduce the level of public subsidy required. This will fall by the total increase in fee income after remissions have been applied.
60. The introduction of fees may encourage some parties to settle disputes earlier, outside of the tribunal. Although this assumption has not explicitly fed in to caseload assumptions for the base case, it can be thought of as a driver in causing volumes to fall, which is picked up in the elasticity assumptions mentioned above.

Net impact of Option 1

61. HMCTS is expected to incur transitional costs from implementing the new fee regime (estimated at less than £0.1 million). Tribunal staff, tribunal users and legal services providers are also expected to incur negligible costs from having to familiarise themselves with the new fee structure.
62. On an ongoing basis the proposals are expected to generate additional increased fee income for HMCTS of around £0.6 million per annum after remissions have been applied. As the benefit to HMCTS will be offset by the additional cost to court users, **the net economic impact is estimated to be minimal.**

Option 2: Establish a new fee structure in the Tax Chamber and Upper Tribunal Tax and Chancery, which would achieve around 25% cost recovery across the two tribunals as a whole.

Costs of Option 2

Transitional costs

Transitional costs to HMCTS

63. HMCTS expects to incur costs for changes to court publications, for destroying old stock, making amendments to court IT systems and those related to court staff having to spend some time familiarising themselves with the new fees. These one-off transitional costs for HMCTS are expected to be less than **£0.1 million**.

Transitional costs to tribunal users and legal services providers

64. Familiarisation and awareness costs might also be incurred by court users and their legal services providers. These have not been monetised and are not expected to be significant.

Ongoing costs

Costs to tribunal users

65. Multiplying the volume of claims shown in Annex A, Table 12, by the fee schedule shown in Table 2 and Table 3, we assume HMCTS fee income will increase by between £1.8 million and £2.2 million.
66. Under our central assumptions, the total additional cost to users of the Tax Chamber (First-tier) is estimated to be around **£2.1 million per annum**; the Upper Tribunal Tax and Chancery Chamber is estimated to account for £0.2 million of this. These figures are the net amount of extra fee income paid by tribunal users after remissions have been provided. It is assumed that 5% of fees would be remitted which would amount to £0.1 million per annum.
67. Tribunal fees are usually paid upfront by the claimant. The MoJ proposes to allow the cost of fees to be recoverable from the defendant where the claimant wins. Therefore, in most cases where the reforms apply, the extra costs will be met by unsuccessful claimants or by losing defendants. However, there may be a cash flow cost to successful claimants as the higher court fees they pay are recoverable only once the case has been settled. These cash flow costs have not been monetised.

Benefits of Option 2

Ongoing benefits

Benefits to HMCTS

68. Under our central assumptions the proposed fee levels across the Tax Chambers would result in a net income to HMCTS of around **£2.1 million per annum**. This represents gross cost recovery of around 25%.
69. There may also be a benefit to HMCTS by way of reduced running costs. If fees deter some claimants from appealing in the Tribunals, and instead those applicants find alternative means of dispute resolution, the tribunals will process fewer cases resulting in lower costs.

Wider benefits to society

70. Our proposal is expected to reduce the net costs of operating the both the First-tier and Upper Tribunal Chambers and, therefore, reduce the level of public subsidy required. This will fall by the total increase in fee income after remissions have been applied.
71. The introduction of fees may encourage some parties to settle disputes earlier, outside of the tribunal. Although this assumption has not explicitly fed in to caseload assumptions for the base case, it can be thought of as a driver in causing volumes to fall, which is picked up in the elasticity assumptions mentioned above.

Net impact of Option 2

72. HMCTS is expected to incur transitional costs from implementing the new fee regime estimated at less than £0.1 million. Tribunal staff, tribunal users and legal services providers are also expected to incur negligible costs from having to familiarise themselves with the new fee structure.
73. On an ongoing basis the proposals are expected to generate increased fee income for HMCTS of around **£2.1 million per annum** after remissions have been applied. As the benefit to HMCTS will be offset by the additional cost to court users, the **net economic impact is estimated to be minimal**.

Option 3: Establish a new fee structure for all cases heard in the General Regulatory Chamber which would achieve 25% cost recovery.

Costs of Option 3

Transitional costs

Transitional costs to HMCTS

74. HMCTS expects to incur costs for changes to court publications, for destroying old stock, making amendments to court IT systems and those related to court staff having to spend some time familiarising themselves with the new fees. These one-off transitional costs for HMCTS are expected to be around **£0.1 million**.

Transitional costs to tribunal users and legal services providers

75. Familiarisation and awareness costs might also be incurred by court users and their legal services providers. These have not been monetised and are not expected to be significant.

Ongoing costs

Costs to tribunal users

76. Multiplying the volume of claims shown in Annex A, Table 13, by the fee schedule shown in Table 4, we assume fee income will increase by between £0.1 million and £0.2 million.
77. Under our central assumptions, the total additional cost to users of the GRC is estimated to be about **£0.2 million per annum** compared to the base case. This figure is the net amount of extra fee income paid by tribunal users after remissions have been provided. Around 25% of fees would be remitted which would amount to under **£0.1 million per annum** in remitted fee income.

Benefits of Option 3

Ongoing benefits

Benefits to HMCTS

78. Under our central assumptions the proposed fee levels would result in a gross income to HMCTS of around **£0.2 million per annum**. This represents a net cost recovery of around 15 per cent after remissions have been granted.
79. There may also be a benefit to HMCTS by way of reduced running costs. If fees deter some claimants from appealing in the Tribunals, and instead those applicants find alternative means of dispute resolution, the tribunals will process fewer cases resulting in lower costs.

Wider benefits to society

80. Our proposal is expected to reduce the net costs of operating the chamber and, therefore, reduce the level of public subsidy required. This will fall by the total increase in fee income, after remissions have been granted.
81. The introduction of fees may encourage some parties to settle disputes earlier, outside of the tribunal. Although this assumption has not explicitly fed in to caseload assumptions for the base case, it is a driver of the downside sensitivity analysis.

Net impact of Option 3

82. HMCTS is expected to incur transitional costs from implementing the new fee regime estimated at **around £0.1 million**. Tribunal staff, tribunal users and legal services providers are also expected to incur negligible costs from having to familiarise themselves with the new fee structure.
83. On an ongoing basis the proposals are expected to generate increased fee income for HMCTS of around **£0.2 million per annum** after remissions have been applied. As the benefit to HMCTS will be offset by the additional cost to court users, the net economic impact is estimated to be minimal.

Option 4: Increase fees in the First-tier Immigration and Asylum Chamber which would achieve around 25% cost recovery.

Costs of Option 4

Transitional costs

Transitional costs to HMCTS

84. HMCTS expects to incur costs for changes to court publications, for destroying old stock, making amendments to court IT systems and those related to court staff having to spend some time familiarising themselves with the new fees. These one-off transitional costs for HMCTS are expected to be less than **£0.1 million**.

Transitional costs to tribunal users and legal services providers

85. Familiarisation and awareness costs might also be incurred by tribunal users and their legal services providers. These have not been monetised and are not expected to be significant.

Ongoing costs

Costs to tribunal users

86. Multiplying the volume of claims shown in Annex A, Table 14, by the fee schedule shown in Table 5, we assume fee income will increase by between £4.9 million and £7.1 million.
87. Under our central assumptions, the total additional cost to users of the Immigration and Asylum Chamber arising from the increase of fees is estimated to be around **£6.3 million per annum** compared to the base case.

Benefits of Option 4

Ongoing benefits

Benefits to HMCTS

88. The proposed fee levels in the Immigration and Asylum Chamber would result in an additional **£6.3m per annum** in fee income. This represents a net cost recovery of around 16%. If every claimant was required to pay a fee then the cost recovery rate would be around 25%.

Wider benefits to society

89. Our proposal is expected to reduce the net costs of operating both the First-tier and Upper Tribunal Chamber and, therefore, reduce the level of public subsidy required. This will fall by the total increase in fee income after remissions have been applied.
90. The introduction of fees may encourage some parties to settle disputes earlier, outside of court. Although this assumption has not explicitly fed in to caseload assumptions for the base case, it is a driver of the downside sensitivity analysis.

Net impact of Option 4

91. HMCTS is expected to incur transitional costs from implementing the new fee regime estimated at less than £0.1 million. Tribunal staff, tribunal users and legal services providers are also expected to incur negligible costs from having to familiarise themselves with the new fee structure.
92. On an ongoing basis the proposals are expected to generate increased fee income for HMCTS of around **£6.3 million per annum** after remissions have been applied. As the benefit to HMCTS will be offset by the additional cost to court users, the net economic impact is estimated to be minimal.

Option 5: Increase fees for cases heard in the Lands Chamber by 10%.

Costs of Option 5

Transitional costs

Transitional costs to HMCTS

93. HMCTS expects to incur costs for changes to court publications, for destroying old stock, making amendments to court IT systems and those related to court staff having to spend some time familiarising themselves with the new fees. These one-off transitional costs for HMCTS are expected to be less than £0.1 million.

Transitional costs to tribunal users and legal services providers

94. Familiarisation and awareness costs might also be incurred by tribunal users and their legal services providers. These have not been monetised and are not expected to be significant.

Ongoing costs

Costs to tribunal users

95. We assume fee income will range from an increase of £0.1 million to there being no substantial difference. Under the worst case scenario, any reduction in income is very unlikely.
96. Under our central assumptions, the total additional cost to users of the Lands Chamber arising from the increase of fees is estimated to be negligible compared to the base case.

Benefits of Option 5

Ongoing benefits

Benefits to HMCTS

97. Under our central assumptions the proposed fee levels in the Lands Chamber would result in a gross income to HM Courts & Tribunals Service of approximately nearly £0.1 million per annum. Total cost recovery will increase from around 47% to 51%.
98. There may also be a benefit to HMCTS by way of reduced running costs. If fees deter some claimants from appealing in the Tribunals, and instead those applicants find alternative means of dispute resolution, the tribunals will process fewer cases resulting in lower costs.

Wider benefits to society

99. Our proposal is expected to reduce the net costs of operating the Chamber and, therefore, reduce the level of public subsidy required. This will fall by the total increase in fee income after remissions have been applied.
100. The uplift in fees may encourage some parties to settle disputes earlier, outside of court. Although this assumption has not explicitly fed in to caseload assumptions for the base case, it is a driver of the downside sensitivity analysis.

Net impact of Option 5

101. HMCTS is expected to incur transitional costs from implementing the new fee regime (estimated at up to around £0.1 million). Tribunal staff, tribunal users and legal services providers are also expected to incur negligible costs from having to familiarise themselves with the new fee structure.
102. On an ongoing basis the proposals are expected to generate increased fee income for HMCTS of around **£0.1 million per annum**. As the benefit to HMCTS will be offset by the additional cost to court users, the net economic impact is estimated to be minimal.

F. Summary of Recommendation

103. The preferred option is to implement Options 1 – 5. This is expected to deliver additional fee income to HMCTS of between £8.2 million and £10.1 million. Under the central scenario which models a five per cent fall in demand, the combined proposals (Options 1 – 5) are expected to generate additional fee income to HMCTS of around **£9.1 million per annum**. This is offset by costs to claimants of the same amount.
104. Table 8 shows the expected total gross income when the preferred options are implemented against 2014-15 total cost. This enables us to estimate the expected cost recovery levels in the relevant tribunals.

Table 8: Comparing fee income against cost

Tribunal	Total gross income	Total Cost (2014-15)	Cost recovery
Property Chamber	£1.4m	£13.6m	10%
Lands Chamber	£0.9m	£1.7m	49%
General Regulatory Chamber	£0.2m	£1.6m	14%
First-tier and Upper Tribunal Tax Chamber	£2.3m	£8.6m	26%
Immigration and Asylum Chamber	£22.7m	£84.2m	27%

G. Sensitivity Analysis

Elasticity of demand impact

105. As discussed in the assumptions above, the demand for services of the Property Chamber, First-tier Tax Chamber, Upper Tribunal Tax and Chancery, GRC, Lands Chamber and Immigration and Asylum Chamber may fall when fees are introduced or existing fees are raised. If demand were to change, the expected income from the proposals would be affected.
106. To assess this risk, we have modelled three theoretical situations in which demand:
- is unaffected;
 - falls by five per cent; and
 - falls by 10 per cent.
107. These scenarios have been applied to our baseline case volume figures and are seen in Table 9. They show the impact on estimated additional annual income from the fee changes.

Table 9: Additional net fee income under different demand scenarios

	No Change in Demand	5% fall in demand	10% fall in demand
Property Chamber	£0.6m	£0.5m	£0.5m
Lands Chamber	£0.1m	£0.0m	£0.0m
General Regulatory Chamber	£0.2m	£0.2m	£0.1m

First-tier and Upper Tribunal Tax Chambers	£2.2m	£2.1m	£2.0m
Immigration and Asylum Chamber	£7.1m	£6.3m	£5.6m
Total	£10.1m	£9.1m	£8.2m

Note: Totals may not sum due to rounding

108. The central scenario models a five per cent fall in demand. This is an adjustment from the previous consultation IA, where the best estimate assumed no change in demand. This change was due to internal discussions to try to better reflect future caseloads and risks – one factor may be that some litigants reconsider whether they wish to pursue their case in light of the introduction of fees. It is expected the actual number of cases will fall somewhere between zero and five per cent; any decrease in demand over that is considered unlikely.

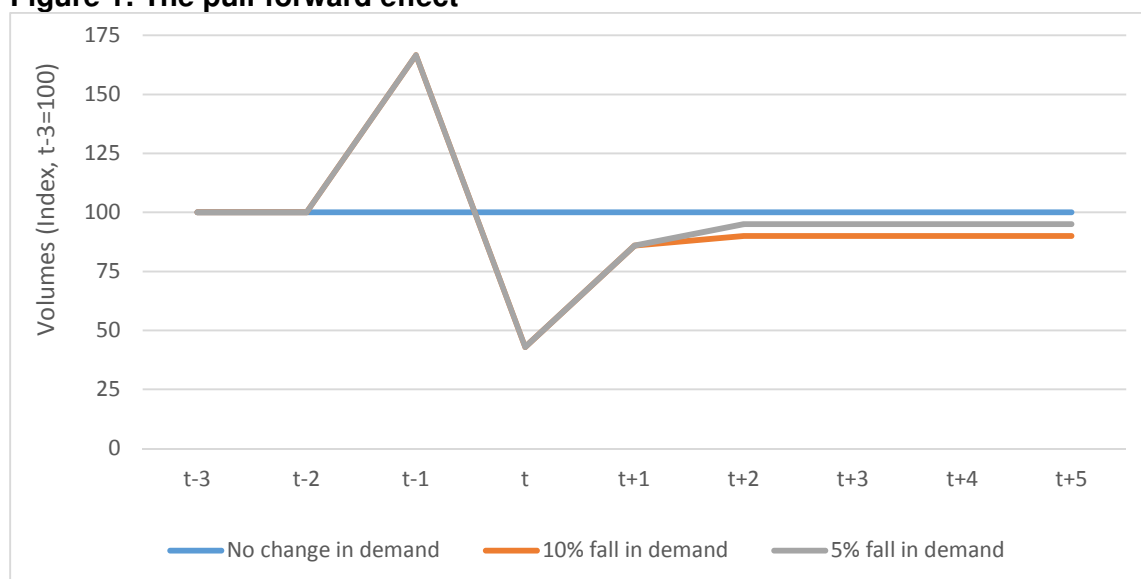
The pull-forward effect

109. Before a planned fee increase, there is also a risk that consumers will bring their case forward to avoid paying the new or increased fee. This can create a distortion – or blip – in caseloads, followed by a trough in the following months. Demand should then return to normal levels, taking into account any decrease in volume due to any price elasticity effects.

110. Figure 1 illustrates this pull-through effect. It has been modelled based on the spike in claims seen for lower value unspecified money claims where, in the month prior to the introduction of enhanced fees for these claims, there was an issue spike of around 67%. After the initial spike in cases the trough in caseload is assumed to last approximately two to three months (depending on the price elasticity) before returning to the steady state level.

111. In the central demand forecasts, once volumes return to 95 per cent of their normal level, a ‘cap’ is reached; for the 10 per cent reduction in demand forecast, this ‘cap’ is reached quicker. Where there is no change in demand, we assume there is no blip effect as users will not be deterred by the future price increase. This is based on the assumption that the demand for tribunal services are perfectly price inelastic, representing the best case scenario.

Figure 1: The pull-forward effect



Note: “t” refers to the period where fees were introduced or increased. The diagram is for illustrative purposes only.

112. If the spike in claims in the period immediately before fees are increased is 67 per cent, and there is a resulting fall in caseloads in the following quarter, then fee income across these five tribunals is

expected to amount to £8.2 million in the first year if caseloads fell by five per cent. By factoring in this risk, HMCTS would lose out on £0.9 million of additional fee income in year one – this is around 10 per cent of additional income. Subsequent year’s income would return to the steady state, delivering an annual additional income of £9.1 million in the central scenario. Table 10 summarises these figures for each tribunal.

Table 10: Additional net fee income in year 1 after accounting for the pull forward effect

	No Change in Demand	5% fall in demand	10% fall in demand
Property Chamber	£0.6m	£0.5m	£0.5m
Lands Chamber	£0.1m	£0.0m	£0.0m
General Regulatory Chamber	£0.2m	£0.1m	£0.1m
First-tier and Upper Tribunal Tax Chambers	£2.2m	£2.0m	£1.9m
Immigration and Asylum Chamber	£7.1m	£5.6m	£5.1m
Total	£10.1m	£8.2m	£7.5m

Note: Totals may not sum due to rounding

H. Enforcement and Implementation

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

I. One In Two Out

114. The Regulatory Framework Group has considered these proposals and decided that they do not constitute regulation. This means they are out of scope of the One In Two Out framework.

Annex A: 2014-15 Tribunal volumes⁶

Table 11: Property Chamber

	Issue	Hearing
Rents	1,422	1,226
Leasehold Management	2,634	1,880
Leasehold Enfranchisement	4,816	319
RTB	85.5	70
Park Homes	221.35	130
Housing Act	325.85	202
Total	9,505	3,828

Table 12: First-tier and Upper Tribunal Tax Chambers

		Issue	Hearing
First-tier	Paper	0	0
	Paper (fixed penalty notice of £100 or under)	1,315	540
	Basic	1,083	851
	Standard	4,610	1,253
	Complex	512	139
	Total First-tier	7,520	2,783
Upper Tribunal	UT permission to appeal	150	73
	UT Appeal	164	95
	Total Upper Tribunal	314	168
Total	7,834	2,951	

Table 13: General Regulatory Chamber⁷

	Issue
Paper	924
Oral	212
Total	1,136

Table 14: Immigration and Asylum Chamber

Appeal Type	Hearing	Receipt	Fee Paid Volumes
Asylum	Oral	Online	106
	Oral	Other	1,128
	Paper	Online	3
	Paper	Other	11
Managed Migration	Oral	Online	4,950
	Oral	Other	23,979
	Paper	Online	1,642
	Paper	Other	2,138

⁶ Volumes for the Lands Chamber are not available at the granularity required to estimate the impact of the fee increases. Therefore, the additional income expected from raising fees by 10% in the Lands Chamber is estimated by increasing current income in 2014-15 (£0.8m) by 10%. This is then adjusted for to account for the elasticity assumptions mentioned in the IA.

⁷ For the General Regulatory Chamber we assume issue volumes are the same as hearing volumes.

Deportation Appeal	Oral	Online	0
	Oral	Other	0
	Paper	Online	0
	Paper	Other	0
Immigration ECO	Oral	Online	1,528
	Oral	Other	12,189
	Paper	Online	505
	Paper	Other	2,581
Visit Visa	Oral	Online	760
	Oral	Other	2,502
	Paper	Online	1,430
	Paper	Other	1,113

Annex B: Schedule of revised fees

Table 15: Lands Chamber – 10% general uplift

	Current	New
On lodging an application for permission to appeal under rule 21 (application to the Tribunal for permission to appeal)	£200	£220
On lodging a notice of reference under rule 28 (notice of reference) or a notice of appeal under rule 24 (notice of appeal)	£250	£275
On lodging an application for a determination under Schedule 2 to the Compulsory Purchase Act 1965 (absent or untraced owners) or section 58 of the Land Clauses Consolidation Act 1845 (compensation to absent parties to be determined by a surveyor appointed by two justices)	£500	£550
On lodging an application under rule 32 (method of making application) in respect of section 84 of the Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land)	£800	£880
On lodging an application under rule 41 (method of making application) in respect of section 2 of the Rights of Light Act 1959 (registration of notice in lieu of obstruction of access of light) —		
(c) for a definitive certificate	£1,200	£1,320
(d) for a temporary and definitive certificate	£1,500	£1,650
On lodging an interlocutory application	£100	£110
On lodging an application for a consent order (rule 50) (consent orders)	£150	£165
On the hearing of an appeal from the decision of a Tribunal with jurisdiction to hear rating appeals, 5 per cent of rateable value as determined in the final order of the Tribunal, subject to—		
(c) minimum fee	£250	£275
(d) maximum fee	£15,000	£16,500

	Current	New
On the hearing of a reference or an appeal against a determination or on an application for a certificate of value (excluding one where the hearing fee is calculated on the basis of rental value), 2 per cent of the amount awarded or determined by the Tribunal, agreed by the parties following a hearing, or determined in accordance with rule 44 (decision with or without a hearing), subject to—		
(c) minimum fee	£250	£275
(d) maximum fee	£15,000	£16,500
On the hearing of a reference or an appeal against a determination where the award is in terms of rent or other annual payment, two per cent of the annual rent or other payment determined by the Tribunal, agreed by the parties following a hearing, or determined in accordance with rule 46 (decision with or without a hearing), subject to—		
(c) minimum fee	£250	£275
(d) maximum fee	£15,000	£16,500
On the hearing of an application or the making of any order under section 84 of the Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land)—		
(e) a hearing as to entitlement under section 84(3A)	£500	£550
(f) order without a hearing (rule 46)	£250	£275
(g) substantive hearing of an originating application	£1,000	£1,100
(h) engrossing Minutes of Order	£200	£220
On the hearing or preliminary hearing of a reference or appeal (not being the determination of an application under paragraph 11 above) where either the amount determined is nil or the determination is not expressed in terms of an amount	£500	£550

Table 16: Immigration and Asylum Chamber

	Current	New
Application for paper determination	£80	£160
Application for oral hearing	£140	£280
Application for paper determination (submitted online)	£80	£140
Application for oral hearing (submitted online)	£140	£250

Table 17: Property Chamber

	Current	New
Issue	No fee or £65-£440 depending on case type	£100
Hearing	No fee or £194 depending on case type	£200
Rents and pitch fee review applications	No fee	£20

Table 18: General Regulatory Chamber

	Current	New
Issue - All other applications except gambling appeals and freedom of information appeals	No fee	£100
Hearing - All other applications except gambling appeals and freedom of information appeals	No fee	£500 (oral hearing)

Table 19: Tax Chamber

	Current	New
First-tier Tax Chamber		
Appeals against fixed tax penalties of £100 or less	No fee	£20
Paper – Issue	No fee	£50
Paper – Hearing	No fee	No fee
Basic - Issue	No fee	£50

	Current	New
Basic - Hearing	No fee	£200
Standard - Issue	No fee	£200
Standard – Hearing	No fee	£500
Complex – Issue	No fee	£200
Complex - Hearing	No fee	£1,000
Upper Tribunal Tax and Chancery		
Permission to appeal - Issue	No fee	£100
Permission to appeal - Hearing	No fee	£200
Appeal – Issue	No fee	£100
Appeal - Hearing	No fee	£2,000