

**EXPLANATORY MEMORANDUM TO  
THE CIVIL PROCEEDINGS FEES (AMENDMENT) ORDER 2011**

**2011 No. 586 (L. 2)**

**THE FAMILY PROCEEDINGS FEES (AMENDMENT) ORDER 2011**

**2011 No. 587 (L. 3)**

**AND**

**THE NON-CONTENTIOUS PROBATE FEES (AMENDMENT) ORDER 2011**

**2011 No. 588 (L. 4)**

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instruments**

- 2.1 Amendments are made to the Civil Proceedings, Family Proceedings and Non-Contentious Probate Fees Orders so as to increase the majority of civil court and non-contentious probate and some family court fees based on the cumulative rate of Consumer Price Index inflation since the date on which they were last increased. Details are provided at **Annex A**.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 Fees 14.1 and 14.2 of the family order have been increased by more than the cumulative rate of Consumer Price Index inflation since they were last increased. These fees were aligned to fee 7.1 and 7.5 of the Civil Proceedings Fees Order 2008 (S.I. 2008/1053 as amended) on 13 July 2009. They have been increased by the cumulative rate of Consumer Price Index inflation since 4 January 2005 when fees 7.1 and 7.5 of the Civil Proceedings Fees Order 2008 were last increased. This is being done to provide consistency between equivalent fees.
- 3.2 Fee 5.2(a) of the civil order has been increased by less than the cumulative rate of Consumer Price Index inflation since it was last increased. This fee is aligned to fee 8.1(a) of the Family Proceedings Fees Order 2008 (S.I. 2008/1054 as amended). Fee 5.2(a) of the civil order was last increased on 4 January 2005. Fee 8.1(a) of the family order was last increased on 1 October 2007. Both fees have been increased by the cumulative rate of Consumer Price Index inflation since 1 October 2007 to provide consistency between equivalent fees.
- 3.3 For the majority of the fees included in these amendments, the date used to calculate the inflation increase is the date when they were last increased. However, for some fees this date refers to when they introduced or decreased.

- 3.4 The fees payable for civil proceedings issued through electronic channels (Money Claims OnLine, Possession Claims OnLine and Claim Production Centre) are not included in these proposals. This is to maintain the incentives for court users to issue claims electronically.

#### **4. Legislative Context**

- 4.1 The Civil Proceedings, Family Proceedings and Non-Contentious Probate Fees Order amendments increase the majority of civil, non-contentious probate and some family proceedings fees based on the cumulative rate of Consumer Price Index inflation since the date they were last increased. The last increase to the majority of fees amended by these orders was in 2007.
- 4.2 The Civil Proceedings Fees (Amendment) Order 2011 amends The Civil Proceedings Fees Order 2008 (S.I 2008/1053) as amended. The Family Proceedings Fees (Amendment) Order 2011 amends The Family Proceedings Fees Order 2008 (S.I 2008/1054) as amended. The Non-Contentious Probate Fees (Amendment) Order 2011 amends The Non-Contentious Probate Fees Order 2004 (S.I 2004/3120) as amended.

#### **5. Territorial Extent and Application**

- 5.1 This instrument applies to England and Wales.

#### **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

#### **7. Policy background**

- 7.1 The Ministry of Justice's long term aim is to achieve full cost recovery in all areas of civil, family and probate business, as set out in the Comprehensive Spending Review Settlements for both 2007 and 2010, whilst protecting access to justice for the less well off. Many of the fees increased for Non-Contentious Probate services have not been increased in nominal terms since 1999 and the majority of civil fees contained in these amendments have not been increased since 2007. This means that while in general UK prices have been rising, court and probate fees have fallen in real terms. The policy objectives are to ensure that the fee scheme meets the Ministry of Justice's financial targets and achieves a higher rate of cost recovery whilst protecting access to justice.
- 7.2 A number of proposals are being developed in both civil and family justice which may change the way in which HMCS provides civil and family justice in the courts, for example, by increasing the use of mediation, which may provide court users with alternatives to court services. In light of this work it would have been premature to bring the fees to full-cost until these proposals are finalised. These increases will therefore provide an effective interim measure to help reduce the overall fee shortfall for 2011/12.
- 7.3 19% of fees have not been increased since 2005 with an overall rate of inflation since then of 16.53% and 45% have not been increased since 2007 with an overall rate of inflation since then of 9.12%. This represents a significant fall in income to HMCS in real terms. The fee increases set out in these amendment

orders are based on the rates of inflation since the dates of last increase. However, some fees have been increased by different amounts for alignment and consistency reasons as set out in paragraph 3.

- 7.4 In the case of civil and family court and probate fees, a system of fee remissions is available to protect access to justice for the less well-off. A remission is available to anyone on a specified means tested benefit, with an income below a certain level or with a low monthly disposable income. In 2009/10, 173,899 fee remissions were granted at a value of £25.7m.

## **8. Consultation outcome**

- 8.1 On the basis that these fee increases are modest and inflation-linked, and in the absence of any past practice of consulting on fee increases or promise to do so we have not gone to full public consultation.
- 8.2 Under section 92(5) and (6) of the Courts Act 2003 the Lord Chancellor is required to consult the Lord Chief Justice, Master of the Rolls, President of the Queen's Bench Division, President of the Family Division, Chancellor of the High Court, Head of Civil Justice, Deputy Head of Civil Justice, Civil Justice Council and the Family Justice Council before making a fee order. The Lord Chancellor has sent a letter to these statutory consultees and they have made no objection to the fee increases.

## **9. Guidance**

- 9.1 Since the amendments are to existing fees, no new guidance has been issued. The websites of Her Majesty's Courts Service and the Ministry of Justice will have information providing court staff and users with information about the amended fees orders in advance of implementation dates.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies is likely to be broadly Neutral.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment is attached to this memorandum at **Annex B** and will be published alongside the Explanatory Memorandum on [www.legislation.gov.uk](http://www.legislation.gov.uk). instrument.

## **11. Regulating small business**

- 11.1 The legislation will not apply specifically to small business, but to all users of the civil and family courts and probate service.

## **12. Monitoring & review**

- 12.1 Fees and the impact of any changes are constantly monitored by way of feedback from courts and customers and the monitoring of fee income and volumes. Policy officials meet regularly and fees orders are reviewed every six months.

### **13. Contact**

Cara Mitchell-Langford, Head of Civil and Family Fees Policy, Ministry of Justice,  
Tel: 0203 334 3174 or email: [cara.mitchell-langford@justice.gsi.gov.uk](mailto:cara.mitchell-langford@justice.gsi.gov.uk) can answer any queries regarding the instrument.

Table 1 - Fee increases to the Civil Proceedings Fees Order 2008

Number and description of fee	Old fee	New fee	Date of last increase	Rate of inflation used to calculate increase
<b>1 Starting proceedings (High Court and county court)</b>				
<b>1.1</b> On starting proceedings (including proceedings issued after permission to issue is granted but excluding Claim Production Centre cases brought by Centre users or cases brought by Money Claim OnLine users) to recover a sum of money where the sum claimed—				
(a) does not exceed £300;	£30	£35	01/04/03**	18.82%
(b) exceeds £300 but does not exceed £500;	£45	£50	01/10/07*	9.12%
(c) exceeds £500 but does not exceed £1,000;	£65	£70	25/09/07	9.64%
(d) exceeds £1,000 but does not exceed £1,500;	£75	£80	25/09/07	9.64%
(e) exceeds £1,500 but does not exceed £3,000;	£85	£95	25/09/07	9.64%
(f) exceeds £3,000 but does not exceed £5,000;	£108	£120	01/10/07*	9.12%
(g) exceeds £5,000 but does not exceed £15,000;	£225	£245	01/10/07*	9.12%
(h) exceeds £15,000 but does not exceed £50,000;	£360	£395	01/10/07*	9.12%
(i) exceeds £50,000 but does not exceed £100,000;	£630	£685	01/10/07*	9.12%
(j) exceeds £100,000 but does not exceed £150,000;	£810	£885	01/10/07*	9.12%
(k) exceeds £150,000 but does not exceed £200,000;	£990	£1,080	01/10/07*	9.12%
(l) exceeds £200,000 but does not exceed £250,000;	£1,170	£1,275	01/10/07*	9.12%
(m) exceeds £250,000 but does not exceed £300,000;	£1,350	£1,475	01/10/07*	9.12%
(n) exceeds £300,000 or is not limited.	£1,530	£1,670	01/10/07*	9.12%
<b>1.4</b> On starting proceedings for the recovery of land—				
(a) in the High Court;	£400	£465	04/01/05	16.53%
(b) in the county court, other than where fee 1.4(c) applies;	£150	£175	04/01/05	16.53%
<b>1.5</b> On starting proceedings for any other remedy (including proceedings issued after permission to issue is granted)—				

<b>Number and description of fee</b>	<b>Old fee</b>	<b>New fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
—in the High Court	£400	£465	04/01/05	16.53%
—in the county court	£150	£175	04/01/05	16.53%
<b>1.6</b> On the filing of proceedings against a party or parties not named in the proceedings.	£40	£45	01/10/07*****	9.12%
<b>1.7</b> On the filing of a counterclaim. Fee payable is the same fee as if the remedy sought were the subject of separate proceedings.	See Fee 1.1		See Fee 1.1	
<b>1.8 (a)</b> On an application for permission to issue proceedings.	£40	£45	01/10/07	9.12%
(b) On an application for an order under Part 3 of the Solicitors Act 1974(5) for the assessment of costs payable to a solicitor by a client or on starting costs-only proceedings.	£40	£45	01/10/07	9.12%
<b>1.9 (a)</b> On starting proceedings for judicial review.	£50	£60	04/01/05	16.53%
(b) if the judicial review procedure has been started.	£180	£215	01/04/03	18.82%
(c) if the claim for judicial review was started otherwise than by using the judicial review procedure.	£50	£60	04/01/05	16.53%
<b>2 General Fees (High Court and county courts)</b>				
<b>2.1</b> On the claimant filing an allocation questionnaire:				
(a) if the case is on the small claims track and the claim exceeds £1,500;	£35	£40	01/10/07*	9.12%
(b) if the case is on the fast track or multi-track.	£200	£220	01/10/07	9.12%
<b>2.2</b> On the claimant filing a pre-trial check list (listing questionnaire); or where the court fixes the trial date or trial week without the need for a pre-trial check list, within 14 days of the date of despatch of the notice (or the date when oral notice is given if no written notice is given) of the trial week or the trial date if no trial week is fixed.	£100	£110	01/10/07*	9.12%
<b>2.3</b> On the occasion of fee 2.2 becoming payable; or where the claim is on the small claims track, within 14 days of the date of despatch of the notice (or the date when oral notice is given if no written notice is given) of the trial week or the trial date if no trial week is fixed a fee payable for the hearing of—				

<b>Number and description of fee</b>	<b>Old fee</b>	<b>New fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
(a) a case on the multi-track;	£1,000	£1,090	01/10/07***	9.12%
(b) a case on the fast track;	£500	£545	01/10/07***	9.12%
(c) a case on the small claims track where the sum claimed—				
(i) does not exceed £300;	£25	£25	01/10/07***	9.12%
(ii) exceeds £300 but does not exceed £500;	£50	£55	01/10/07***	9.12%
(iii) exceeds £500 but does not exceed £1,000;	£75	£80	01/10/07***	9.12%
(iv) exceeds £1,000 but does not exceed £1,500;	£100	£110	01/10/07***	9.12%
(v) exceeds £1,500 but does not exceed £3,000;	£150	£165	01/10/07***	9.12%
(vi) exceeds £3,000.	£300	£325	01/10/07***	9.12%
<b>2.4</b> In the High Court on filing an appellant's notice, or a respondent's notice where the respondent is appealing or wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court.	£200	£235	04/01/05	16.53%
<b>2.5</b> In the county court on filing an appellant's notice, or a respondent's notice where the respondent is appealing or wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court				
(a) in a claim allocated to the small claims track;	£100	£115	10/01/06	14.33%
(b) in all other claims.	£120	£135	10/01/06	14.33%
<b>2.6</b> On an application on notice where no other fee is specified.	£75	£80	01/10/07	9.12%
<b>2.7</b> On an application by consent or without notice for a judgment or order where no other fee is specified.	£40	£45	01/10/07	9.12%
<b>2.8</b> On an application for a summons or order for a witness to attend court to be examined on oath or an order for evidence to be taken by deposition, other than an application for which fee 7.2 or 8.3 is payable.	£35	£40	10/01/06	14.33%
<b>2.9</b> On an application to vary a judgment or suspend enforcement, including an application to suspend a warrant of possession.	£35	£40	10/01/06	14.33%
<b>2.10</b> Register of judgments kept under section 98 of the Courts Act 2003 - On a	£15	£15	10/01/06	14.33%

<b>Number and description of fee</b>	<b>Old fee</b>	<b>New fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
request for the issue of a certificate of satisfaction.				
<b>3 Companies Act 1985(6), Companies Act 2006(7) and Insolvency Act 1986(8) (High Court and county court)</b>				
<b>3.1</b> On entering a bankruptcy petition—				
(a) if presented by a debtor or the personal representative of a deceased debtor;	£150	£175	04/01/05	16.53%
(b) if presented by a creditor or other person.	£190	£220	04/01/05	16.53%
<b>3.2</b> On entering a petition for an administration order.	£150	£175	04/01/05	16.53%
<b>3.3</b> On entering any other petition.	£190	£220	04/01/05	16.53%
<b>3.4</b> (a) On a request for a certificate of discharge from bankruptcy.	£60	£70	01/04/03	18.82%
(b) and after the first certificate, for each copy.	£5	£5	01/10/07	9.12%
<b>3.5</b> On an application under the Companies Act 1985, the Companies Act 2006 or the Insolvency Act 1986 other than one brought by petition and where no other fee is specified.	£130	£155	01/04/03***	18.82%
<b>3.6</b> On an application for the conversion of a voluntary arrangement into a winding up or bankruptcy under Article 37 of Council Regulation (EC) No 1346/2000.	£130	£155	01/04/03***	18.82%
<b>3.7</b> On an application, for the purposes of Council Regulation (EC) No 1346/2000, for an order confirming creditors' voluntary winding up (where the company has passed a resolution for voluntary winding up, and no declaration under section 89 of the Insolvency Act 1986 has been made).	£30	£35	01/04/03***	18.82%
<b>3.8</b> On filing a notice of intention to appoint an administrator under paragraph 14 of Schedule B1 to the Insolvency Act 1986 or in accordance with paragraph 27 of that Schedule; or a notice of appointment of an administrator in accordance with paragraphs 18 or 29 of that Schedule.	£30	£35	01/04/03***	18.82%
<b>3.9</b> On submitting a nominee's report under section 2(2) of the Insolvency Act 1986.	£30	£35	01/04/03***	18.82%
<b>3.10</b> On filing documents in accordance with paragraph 7(1) of Schedule A1 to the Insolvency Act 1986.	£30	£35	01/04/03***	18.82%
<b>3.11</b> On an application by consent or without notice within existing proceedings where no other fee is specified.	£30	£35	04/01/05***	16.53%



<b>Number and description of fee</b>	<b>Old fee</b>	<b>New fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>3.12</b> On an application with notice within existing proceedings where no other fee is specified.	£60	£70	04/01/05***	16.53%
<b>3.13</b> On a search in person of the bankruptcy and companies records, in a county court.	£40	£45	01/10/07	9.12%
<b>4 Copy Documents</b> (Court of Appeal, High Court and county court) On a request for a copy of a document (other than where fee 4.2 applies)				
<b>4.1</b> (a) for ten pages or less;	£5	£5	01/10/07	9.12%
<b>4.2</b> On a request for a copy of a document on a computer disk or in other electronic form, for each such copy.	£5	£5	01/10/07	9.12%
<b>5 Determination of costs</b> (Supreme Court and county court)				
<b>5.1</b> On the filing of a request for detailed assessment where the party filing the request is legally aided or is funded by the LSC and no other party is ordered to pay the costs of the proceedings in the Supreme Court and county court	£140	£145	13/07/09	3.61%
<b>5.2</b> On the filing of a request for detailed assessment in any case where fee 5.1 does not apply; or on the filing of a request for a hearing date for the assessment of costs payable to a solicitor by a client pursuant to an order under Part 3 of the Solicitors Act 1974 where the amount of the costs claimed—				
(a) does not exceed £15,000;	£300	£325	01/10/07++	9.12%
(b) exceeds £15,000 but does not exceed £50,000;	£600	£655	01/10/07	9.12%
(c) exceeds £50,000 but does not exceed £100,000;	£900	£980	01/10/07	9.12%
(d) exceeds £100,000 but does not exceed £150,000;	£1,200	£1,310	01/10/07	9.12%
(e) exceeds £150,000 but does not exceed £200,000;	£1,500	£1,635	01/10/07	9.12%
(f) exceeds £200,000 but does not exceed £300,000;	£2,250	£2,455	01/10/07	9.12%
(g) exceeds £300,000 but does not exceed £500,000;	£3,750	£4,090	01/10/07	9.12%
(h) exceeds £500,000.	£5,000	£5,455	01/10/07	9.12%
<b>5.3</b> On a request for the issue of a default costs certificate in the Supreme Court and county court.	£60	£60	13/07/09	3.61%
<b>5.4</b> On an appeal against a decision made in detailed assessment proceedings in the	£200	£205	13/07/09****	3.61%

<b>Number and description of fee</b>	<b>Old fee</b>	<b>New fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
Supreme Court and county court.				
<b>5.5</b> On applying for the court's approval of a certificate of costs payable from the Community Legal Service Fund in the Supreme Court and county court.	£50	£50	13/07/09*****	3.61%
<b>5.6</b> On a request or application to set aside a default costs certificate in the Supreme Court and county court.	£100	£105	13/07/09*****	3.61%
<b>6 Determination in the Supreme Court of costs incurred in the Court of Protection</b>				
<b>6.1</b> On the filing of a request for detailed assessment—				
(a) where the amount of the costs to be assessed (excluding VAT and disbursements) does not exceed £3,000;	£100	£110	01/10/07+	9.12%
(b) in all other cases.	£200	£220	01/10/07+	9.12%
<b>6.2</b> On an appeal against a decision made in detailed assessment proceedings.	£60	£65	01/10/07+	9.12%
<b>6.3</b> On a request or application to set aside a default costs certificate.	£60	£65	01/10/07+	9.12%
<b>7 Enforcement in the High Court</b>				
<b>7.1</b> On sealing a writ of execution/possession/delivery.	£50	£60	04/01/05	16.53%
<b>7.5</b> On a request or application to register a judgment or order, or for permission to enforce an arbitration award, or for a certificate or a certified copy of a judgment or order for use abroad.	£50	£60	04/01/05	16.53%
<b>8 Enforcement in the county court</b>				
<b>8.2</b> On a request for a further attempt at execution of a warrant at a new address following a notice of the reason for non-execution (except a further attempt following suspension and CCBC cases brought by Centre users).	£25	£30	10/01/06	14.33%
<b>8.6</b> On the issue of a warrant of possession or a warrant of delivery.	£95	£110	10/01/06	14.33%
<b>8.9</b> On the application for the recovery of a tribunal award.	£35	£40	10/01/06	14.33%
<b>8.10</b> On a request for an order to recover a sum that is a specified debt within the meaning of the Enforcement of Road Traffic Debts Order 1993(9) as amended from time to time; or pursuant to an enactment, treated as a specified debt for the purposes of that Order.	£5	£7	01/04/93*****	39.78%

Number and description of fee	Old fee	New fee	Date of last increase	Rate of inflation used to calculate increase
<b>-FEES PAYABLE IN HIGH COURT ONLY</b>				
<b>10 Miscellaneous proceedings or matters</b>				
<b>Bills of Sale</b>				
<b>10.1</b> On filing any document under the Bills of Sale Acts 1878( <b>11</b> ) and the Bills of Sale Act (1878) Amendment Act 1882( <b>12</b> ) or on an application under section 15 of the Bills of Sale Act 1878 for an order that a memorandum of satisfaction be written on a registered copy of the bill.	£25	£25	01/10/07	9.12%
<b>Searches</b>				
<b>10.2</b> For an official certificate of the result of a search for each name, in any register or index held by the court; or in the Court Funds Office, for an official certificate of the result of a search of unclaimed balances for a specified period of up to 50 years.	£40	£45	01/10/07	9.12%
<b>10.3</b> On a search in person of the bankruptcy and companies records, including inspection, for each 15 minutes or part of 15 minutes.	£5	£7	30/10/95***	32.83%
<b>Judge sitting as arbitrator</b>				
<b>10.4</b> On the appointment of—				
(a) a judge of the Commercial Court as an arbitrator or umpire under section 93 of the Arbitration Act 1996(13); or	£1,800	£2,390	30/10/95	32.83%
(b) a judge of the Technology and Construction Court as an arbitrator or umpire under section 93 of the Arbitration Act 1996.	£1,400	£1,860	30/10/95	32.83%
<b>10.5</b> For every day or part of a day (after the first day) of the hearing before—				
(a) a judge of the Commercial Court; or	£1,800	£2,390	30/10/95	32.83%
(b) a judge of the Technology and Construction Court, so appointed as arbitrator or umpire.	£1,400	£1,860	30/10/95	32.83%
<b>11 Fees payable in Admiralty matters</b>				
In the Admiralty Registrar and Marshal's Office—				
<b>11.1</b> On the issue of a warrant for the arrest of a ship or goods.	£200	£220	01/10/07	9.12%
<b>11.3</b> On entering a reference for hearing by the Registrar.	£50	£70	11/01/94	39.27%
<b>FEES PAYABLE IN HIGH COURT AND COURT OF APPEAL ONLY</b>				

<b>Number and description of fee</b>	<b>Old fee</b>	<b>New fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>12 Affidavits</b>				
<b>12.1</b> On taking an affidavit or an affirmation or attestation upon honour in lieu of an affidavit or a declaration except for the purpose of receipt of dividends from the Accountant General and for a declaration by a shorthand writer appointed in insolvency proceedings—	£10	£11	01/10/07	9.12%
<b>FEES PAYABLE IN COURT OF APPEAL ONLY</b>				
<b>13 Fees payable in appeals to the Court of Appeal</b>				
<b>13.1(a)</b> Where in an appeal notice permission to appeal or an extension of time for appealing is applied for (or both are applied for) on filing an appellant’s notice, or where the respondent is appealing, on filing a respondent’s notice.	£200	£235	04/01/05	16.53%
(b) Where permission to appeal is not required or has been granted by the lower court on filing an appellant’s notice, or on filing a respondent’s notice where the respondent is appealing.	£400	£465	04/01/05	16.53%
(c) On the appellant filing an appeal questionnaire (unless the appellant has paid fee 13.1(b), or on the respondent filing an appeal questionnaire (unless the respondent has paid fee 13.1(b)).	£400	£465	04/01/05	16.53%
<b>13.2</b> On filing a respondent’s notice where the respondent wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court.	£200	£235	04/01/05	16.53%
<b>13.3</b> On filing an application notice.	£200	£235	04/01/05	16.53%
* These fees were decreased at the date shown				
**These fees were subject to increase or decrease at date shown as a single fee replaced a banded fee.				
***These fees were new at date shown				
**** County Court fees were aligned to High Court fees at date shown.				
***** These fees were subject to increase or decrease at date shown as single fee replaced 2 separate fees – amalgamation of High Court and County Court fee				
+ Date that these Court of Protection fees were added to the Civil Proceeding Fees Order				
++ These fees are in both the Civil Proceedings Fees Order (CPFO) and the Family Proceedings Fees Order (FPFO) and are subject to different rates of				

Number and description of fee	Old fee	New fee	Date of last increase	Rate of inflation used to calculate increase
inflation due to the fact that the date of last increase differs. The most recent date of last increase was in the FPFO and has been used for this fee increase as opposed to the last increase in the CPFO which was on 04.01.2005 (16.53%).				

**Table 2 - Fee increases to the Family Proceedings Fees Order 2008**

Number and description of fee	Old fee	New fee	Date of last increase	Rate of inflation used to calculate increase
<b>8 Determination of costs</b> (High Court and county court)				
<b>8.1</b> On the filing of a request for detailed assessment where the party filing the request is legally aided or is funded by the LSC and no other party is ordered to pay the costs of the proceedings in the Supreme Court and county court	£140	£145	13/07/09*	3.61%
<b>8.2</b> On the filing of a request for detailed assessment in any case where fee 8.1 does not apply; or on the filing of a request for a hearing date for the assessment of costs payable to a solicitor by a client pursuant to an order under Part 3 of the Solicitors Act 1974 where the amount of the costs claimed—				
(a) does not exceed £15,000;	£300	£325	01.10.07**	9.12%
(b) exceeds £15,000 but does not exceed £50,000;	£600	£655	01/10/07***	9.12%
(c) exceeds £50,000 but does not exceed £100,000;	£900	£980	01/10/07***	9.12%
(d) exceeds £100,000 but does not exceed £150,000;	£1,200	£1,310	01/10/07***	9.12%
(e) exceeds £150,000 but does not exceed £200,000;	£1,500	£1,635	01/10/07***	9.12%
(f) exceeds £200,000 but does not exceed £300,000;	£2,250	£2,455	01/10/07***	9.12%
(g) exceeds £300,000 but does not exceed £500,000;	£3,750	£4,090	01/10/07***	9.12%
(h) exceeds £500,000.	£5,000	£5,455	01/10/07***	9.12%

<b>Number and description of fee</b>	<b>Old fee</b>	<b>New fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>8.3</b> On a request for the issue of a default costs certificate.	£60	£60	13/07/09*	(3.61%)
<b>8.4</b> On commencing an appeal against a decision made in detailed assessment proceedings.	£200	£205	13/07/09	3.61%
<b>8.5</b> On applying for the court's approval of a certificate of costs payable from the Community Legal Service Fund in the Supreme Court and county court.	£50	£50	13/07/09	3.61%
<b>8.6</b> On an application to set aside a default costs certificate.	£100	£105	13/07/09	3.61%
<b>12 Enforcement in the county court</b>				
<b>12.2</b> On a request for a further attempt at execution of a warrant at a new address where the warrant has been returned to the court not executed (except where the warrant has been returned after it has been suspended by the court).	£25	£30	10/01/06	14.33%
<b>12.3</b> On the issue of a warrant of possession or a warrant of delivery.	£95	£110	10/01/06	14.33%
<b>14 Enforcement in the High Court</b>				
<b>14.1</b> On sealing a writ of execution/possession/delivery.	£50	£60	04/01/05****	16.53%
<b>14.2</b> On a request or application to register a judgment or order, or for permission to enforce an arbitration award, or for a certificate or a certified copy of a judgment or order for use abroad.	£50	£60	04/01/05****	16.53%
* These fees are in both the Civil Proceedings Fees Order (CPFO) and the Family Proceedings Fees Order (FPFO) and are subject to different rates of inflation due to the fact that the date of last increase differs. The most recent date of last increase was in the CPFO and has been used for this fee increase as opposed to the last increase in the FPFO which was on 10.01.2006 (14.33%).				
** These fees are in both the Civil Proceedings Fees Order (CPFO) and the Family Proceedings Fees Order (FPFO) and are subject to different rates of inflation due to the fact that the date of last increase differs. The most recent date of last increase was in the FPFO and has been used for this fee increase as opposed to the last increase in the CPFO which was on 04.01.2005 (16.53%).				
***These fees were new at date shown				
**** These fees are in both the Civil Proceedings Fees Order (CPFO) and the Family Proceedings Fees Order (FPFO). They were aligned in the FPFO to the CPFO on 13.07.2009 but the last increase to this fee was on 04.01.2005 in the CPFO and as such this is the date of last increase used to calculate the rate of inflation.				

**Table 3 - Fee increases to the Non Contentious Probate Fees Order 2004**

<b>Number and description of fee</b>	<b>Old fee</b>	<b>New fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>Application for a grant</b> 1 On an application for a grant (or for resealing a grant) other than on an application to which fee 3 applies, where the assessed value of the estate exceeds £5,000	£40	£45	04/01/05*	16.53%
<b>Personal application fee</b> 2 Where the application under fee 1 is made by a personal applicant (not being an application to which fee 3 applies) fee 2 is payable in addition to fee 1, where the assessed value of the estate exceeds £5,000	£50	£60	04/01/05*	16.53%
<b>Special applications</b> 3.1 For a duplicate or second or subsequent grant (including one following a revoked grant) in respect of the same deceased person, other than a grant preceded only by a grant limited to settled land, to trust property, or to part of the estate	£15	£20	26/04/99	24.35%
3.2 On an application for a grant relating to a death occurring on or after 20 <sup>th</sup> March 2003 and in respect of an estate exempt from inheritance tax by virtue of section 154 of the Inheritance Tax Act 1984 (exemption for members of the armed forces etc)	£8	£10	30/05/03**	18.82%
<b>Caveats</b> 4 For the entry or the extension of a caveat	£15	£20	26/04/99	24.35%
<b>Search</b> 5 On an application for a standing search to be carried out in an estate, for each period of six months including the issue of a copy grant and will, if any (irrespective of the number of pages)	£5	£6	26/04/99	24.35%
<b>Deposit of wills</b> 6 On depositing a will for safe custody in the principal registry or a district registry	£15	£20	26/04/99	24.35%
<b>Inspection</b> 7 On inspection of any will or other document retained by the registry (in the presence of an officer of the registry)	£15	£20	26/04/99	24.35%
<b>Copy documents</b>				

<b>Number and description of fee</b>	<b>Old fee</b>	<b>New fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>8</b> On a request for a copy of any document whether or not provided as a certified copy:				
(a) for the first copy	£5	£6	26/04/99	24.35%
(b) for every subsequent copy of the same document if supplied at the same time	£1	£1	26/04/99	24.35%
(c) where copies of any document are made available on a computer disk or in other electronic form, for each such copy	£3	£4	26/04/99**	24.35%
(d) where a search of the index is required, in addition to fee 8(a), (b) or (c) as appropriate, for each period of 4 years searched after the first 4 years	£3	£4	26/04/99**	24.35%
<b>Oaths</b>				
<b>9</b> Except on a personal application for a grant, for administering an oath,				
<b>9.1</b> for each deponent to each affidavit	£5	£6	26/04/99	24.35%
<b>9.2</b> for marking each exhibit	£2	£2	26/04/99	24.35%
<b>Determination of costs</b>	The same fees are payable for determination of costs as stated in the Civil Proceedings Fees Order 2004 (Sch 1, Fee 5)			
<b>10</b> For determining costs				
<b>Settling documents</b>				
<b>11</b> For perusing and settling citations, advertisements, oaths, affidavits, or other documents, for each document settled	£10	£12	26/04/99	24.35%
* These fees were decreased at the date shown				
** These fees were new at date shown				



<b>Title:</b> <b>Increases to Civil, Family and Non-Contentious Probate Court Fees</b>  <b>Lead department or agency:</b> Ministry of Justice <b>Other departments or agencies:</b> HMCS	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> MOJ061
	<b>Date:</b> 14/01/2010
	<b>Stage:</b> Final
	<b>Source intervention:</b> Domestic
	<b>Contact for enquiries:</b> Diane Flanders 0203 334 3134

## Summary: Intervention and Options

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

To achieve full cost recovery in the civil and family courts and the probate service, fees should be set to recover the total costs of services provided. For the latest financial year for which data are available, gross fee income only recovers 82% of the costs – i.e. in 2009/10 the total cost was £619m and the fees recovered were £507m in nominal terms, amounting to a shortfall of £112m. However, as HMCS is required to operate a fee remission scheme – providing a public subsidy to protect access to justice for the less well off – the actual shortfall for 2009/10 is nearer £140m (£112m plus £28m income lost to remissions). Failure to reduce the income shortfall would inevitably result in cuts to services, given the limits on the available level of subsidy from the Exchequer.

### What are the policy objectives and the intended effects?

The Ministry of Justice's long term aim is to achieve full cost recovery in all areas of civil and family business, as set out in the Comprehensive Spending Review Settlements for both 2007 and 2010, whilst protecting access to justice for the less well off. The fees payable for Non-Contentious Probate services have not been increased in nominal terms since 1999 and the majority of civil fees contained in these proposals have not been increased since 2007. This means that while the general UK price level has been rising, court and probate fees have fallen in real terms. The policy objectives are to ensure that the fee scheme meets MoJ's financial targets and achieves a higher rate of cost recovery whilst protecting access to justice.

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

Option 0 – Do nothing – retain current fee levels for all civil, family and non-contentious probate fees.

Option 1 – Increase certain civil, family and non-contentious probate fees by the cumulative rate of Consumer Price Index (CPI) inflation (from the date that they were last uplifted to September 2010).

Option 1 is the preferred option since it addresses the issues of overall under-recovery in fees caused by inflation and thus mitigates the current income shortfall facing HMCS.

This proposal is not in scope of One in, One Out, which is a government policy where all new burdens on businesses or the third sector must be matched by a equivalent burden that is removed.

<b>When will the policy be reviewed to establish the actual cost and benefits and the achievements of the policy objectives?</b>	It will be reviewed 04/2016
<b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b>	Yes

**SELECT SIGNATORY Sign-off** For consultation stage Impact Assessments:

***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 SELECT SIGNATORY: ...



... Date: 22<sup>nd</sup> February 2011.....

# Summary: Analysis and Evidence

# Policy Option 1

**Description:** Increase certain civil, family and non-contentious probate fees by the cumulative rate of CPI inflation (from the date that they were last uplifted until September 2010).

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0
2010/11	2010/11	10			

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
<b>Best Estimate</b>	<b>£15,000</b>	<b>£32 million</b>	<b>£275 million</b>

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

Transition costs including costs of minor adjustments to court IT systems, expected to be no more than £15,000. Ongoing costs to court and probate users is estimated at £31m in the next financial year. The additional cost to HMCS of fee remissions is estimated to be £1.3m annually. The costs to the legal aid budget are expected to be minimal, given that legal aid for civil non-family proceedings is limited and only a small number of fees payable for family proceedings are affected.

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

There may be minimal transitional costs related to HMCS staff familiarising themselves with the increased fees.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
<b>Best Estimate</b>	<b>0</b>	<b>£32 million</b>	<b>£275 million</b>

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

Ongoing benefits including increased fee income to HMCS of £31m annually. Taxpayers benefit by an equivalent amount as less subsidy is required overall. HMCS users would benefit from an increase in fee remissions estimated at £1.3m annually.

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

Society as a whole benefits from the move towards greater cost-recovery.

### Key assumptions/sensitivities/risks

The change to fees is assumed not to affect the volumes of cases. However, for illustrative purposes we have outlined two scenarios, a 3% and 7% reduction in volumes. If volumes reduce by 3%, average annual costs/benefits are £23m, and if the reduction is 7% these are £10m. It has also been assumed that there is no net detrimental impact on outcomes in either civil or family court cases or for probate users or access to justice. The impact of possible future changes to the civil and family justice system is not considered, as policy is still being developed.

Impact on admin burden (£m):			Impact on policy costs (£m):			In scope
Costs: N/A	Benefit: N/A	Net: N/A	Costs: N/A	Benefits: N/A	Net: N/A	No

What is the geographic coverage of the policy/option?	England and Wales
---	-------------------

From what date will the policy be implemented?	04/04/2011				
Which organisation(s) will enforce the policy?	Her Majesty's Courts Service				
What is the total annual cost (£m) of enforcement for these organisations?	Minimal/negligible				
Does enforcement comply with Hampton principles?	<b>Yes</b>				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/Q		<b>Non-traded:</b> N/Q		
Does the proposal have an impact on competition?	<b>No</b>				
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	<b>Micro</b> N/Q	<b>&lt; 20</b> N/Q	<b>Small</b> N/Q	<b>Medium</b> N/Q	<b>Large</b> N/Q
Are any of these organisations exempt?	No	No	No	No	No

## Specific Impact Tests: Checklist

Set out in the table below where information on any specific impact tests 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, click on the link for the guidance provided by the relevant department. (Double-click to open links in browser.)

	Impact	Page ref within IA
<b>Statutory equality duties<sup>1</sup>?</b> <a href="#">Women Equality Unit: Gender Impact Assessment (PDF)</a> <a href="#">Disability Rights Commission: Disability Equality Scheme</a> <a href="#">Commission for Race Equality: Race equality impact assessment: a step-by-step guide</a>	Yes	p.13
<b>Economic impacts</b>		
Competition? <a href="#">Competition Impact Assessment</a>	No	p.13
Small firms? <a href="#">Small Firms Impact Test</a>	Yes	p.13
<b>Environmental impacts</b>		
Carbon emissions? <a href="http://www.defra.gov.uk/environment/index.htm">http://www.defra.gov.uk/environment/index.htm</a>	No	p.13
Wider environmental issues? <a href="#">Guidance has been created on the Defra site</a>	No	p.13
<b>Social impacts</b>		
Health and well-being? <a href="#">Health: Health Impact Assessment</a>	No	p.13
Human rights? <a href="#">Ministry of Justice: Human Rights</a>	No	p.13
Justice? <a href="http://www.justice.gov.uk/guidance/justice-impact-test.htm">http://www.justice.gov.uk/guidance/justice-impact-test.htm</a>	Yes	p.13
Rural proofing? <a href="#">Commission for Rural Communities</a>	No	p.13
<b>Sustainability?</b> <a href="#">Defra: Think sustainable</a>	No	p.13

<sup>1</sup> Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2010, once the Equalities Bill comes into force.

## 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, Implementation).

No.	Legislation or publication
1	The Civil Proceedings Fees (Amendment) Order 2009 No.1498 (L.15)
2	The Civil Proceedings Fees (Amendment) Order 2008 No. 2853 (L.19)
3	The Civil Proceedings Fees Order 2008 No. 1053 (L.5)
4	The Family Proceedings Fees (Amendment) Order 2010 No.1916 (L.10)
5	The Family Proceedings Fees (Amendment) Order 2009 No.1499 (L.16)
6	The Family Proceedings Fees (Amendment) (No.2) Order 2008 No.3106 (L.27)
7	The Family Proceedings Fees (Amendment) Order 2008 No.2856 (L.22)
8	The Family Proceedings Fees Order 2008 No.1054 (L.6)
9	The Non-Contentious Probate Fees (Amendment) Order 2009 No. 1497 (L.14)
10	The Non-Contentious Probate Fees (Amendment) Order 2008 No. 2854 (L.20)
11	The Non-Contentious Probate Fees (Amendment) Order 2007 No. 2174 (L.14)
12	The Non-Contentious Probate Fees Order 2004 No. 3120 (L.22)

### 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 policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains a saving emissions table that you will need to fill in if your measure has an impact on Carbon emissions.

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

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>										
<b>Annual recurring cost</b>	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m
<b>Total annual costs</b>	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m
<b>Transition benefits</b>										
<b>Annual recurring benefits</b>	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m
<b>Total annual benefits</b>	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m	£32m

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

# Evidence Base (for summary sheets)

## 1. Introduction

- 1.1 Litigants have always paid a fee to make use of the civil courts in England & Wales since as early as the 19th century. Originally user fees were paid directly to the judges of the courts, who retained them personally. With major reforms of public administration, including the establishment of the court system in broadly its modern form and the introduction of judicial salaries, fee setting powers eventually passed to the Lord Chancellor under Section 165 of the County Courts Act 1888. Hence, it has long been the case that civil justice is not publicly funded and that users must pay for the service that they use. Since the 2007 Spending Review settlement, the policy has been to remove any outstanding subsidy provided by the taxpayer, save for the cost of providing the remission system (i.e. a system of fee waivers for the less well off). Although progress has been made towards eliminating the outstanding taxpayer subsidy, apart the amount needed to finance remissions, this policy goal has yet to be achieved.
- 1.2 This Impact Assessment examines the options for increasing civil and family court and non-contentious probate fees. Some fees, such as those payable for electronic issue (namely Claim Production Centre, Money Claim OnLine and Possession Claim OnLine<sup>2</sup>), the majority of family proceeding fees and enforcement proceeding fees which were increased in July 2009 are excluded from this proposal. The aim of this policy is to increase cost recovery levels for civil, family and non-contentious probate fees based on the cumulative rate of inflation since the dates of the last fee increases.
- 1.3 The long-term strategy for court and probate fees as a whole is that they should be set at full-cost levels minus the cost of remissions (i.e. fee discounts given to particular groups of people). This policy can be summarised as “full-cost pricing”, rather than strict full-cost recovery. The latter means fees should be set at levels calculated to cover the overall cost of the system if paid in full in every case (i.e. if no fees were remitted). Full-cost pricing means that the taxpayer will continue to make a contribution to the cost of running the civil and family courts, through the scheme of fee remissions. This ensures access to justice for the less well-off and is the best way of targeting the taxpayer’s contribution.
- 1.4 However, a number of proposals are being developed in both civil and family justice which may change the way in which proceedings are commenced and 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 move fee rates to overall full-cost levels at the present time. Consequently, as an interim measure until these proposals are fully developed, we propose to increase civil and family court and non-contentious probate fees by the rise in the UK’s general price level since the dates of the last increases.
- 1.5 The Ministry of Justice remains committed to delivering a simpler and more sustainable fees regime that delivers full cost recovery, excluding the cost of remissions, for civil justice which is based on a solid understanding of the evidence and which fits around the planned major reforms of the justice system. Our aim is that by the end of the 2010 Spending Review period there will be an equalised expenditure and income in line with the full cost recovery principle, net of remitted fee income. A significant amount of the present shortfall in income is fees that are not yet at full cost levels, particularly in family cases. We will wait for the outcome of the Family Justice Review to provide a blueprint for the family courts and to make recommendations about the way that family business is brought to and conducted through the courts before considering substantive changes to fees in this jurisdiction.
- 1.6 Included in the Ministry's 2010 Spending Review proposals are a number of policy and efficiency measures that should reduce, respectively, the volume of cases and the cost of civil and family court business compared to the status quo. As a result, it is too early to be able to accurately assess how these changes will impact on the total cost of the civil justice system. However, it is recognised that it is important to view costs and income together, so it will not be a matter of taking costs as given and then setting future fee levels to match. Indeed, the requirement to fund

---

<sup>2</sup> Claim Production Centre, Money Claims Online and Possession Claims Online are all IT systems which allows court users to issue claims and responses online via the internet as opposed to creating hard copies and sending to the relevant court for processing.

most of the business from user fees creates a strong onus to maximise efficiency in the civil justice system.

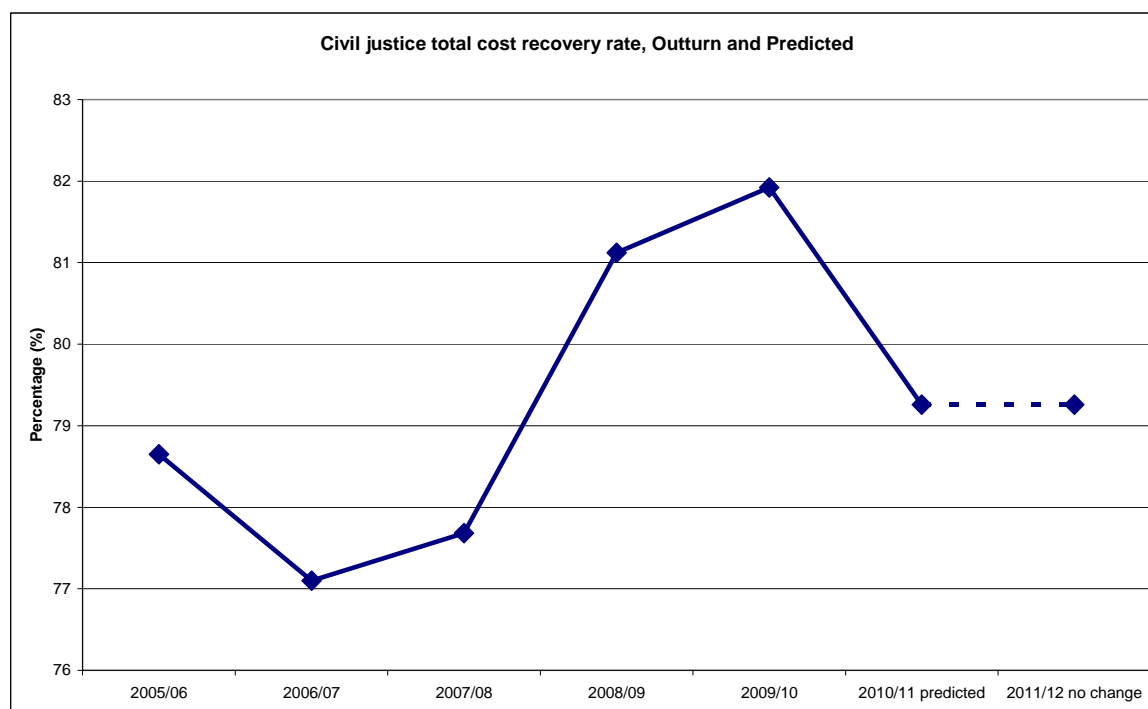
### Problem under consideration

- 1.7 In 2009/10 court fees raised about £479 million and covered 82% (excluding the cost of remissions) of the full cost of running the civil and family courts and probate service. The total cost of running both the civil and family courts and probate service in England and Wales is currently £619 million a year. These costs include (but are not limited to) administrative and judicial salaries, accommodation costs, maintenance and IT costs.
- 1.8 The overall fee income shortfall for HMCS is calculated by taking the difference between the gross income and total cost of civil, family and probate business (the total cost includes the cost of providing the remission system). In 2009/10 the shortfall was £112m, plus the income lost to fee remissions of £28m, a total of £140m.

2009-10	Gross Fee Income	Lost Fee income (Remission)	Net Fee Income	Expenditure	Net Surplus / Deficit (Net Exp)	Gross Surplus / Deficit (Gross Exp)	Fee Recovery Gross v Exp
	£m	£m	£m	£m	£m	£m	%
Family	109.6	15.2	94.4	220.7	(126.3)	(111.1)	50
Civil inc High Court	363.9	12.6	351.3	363.7	(12.4)	0.2	100
Probate	16.3	0.01	16.3	13.4	2.9	2.9	121
Civil Mags	17.3	0.08	17.2	21.2	(4)	(3.9)	82
<b>Total</b>	<b>507.1</b>	<b>27.9</b>	<b>479.2</b>	<b>619</b>	<b>(139.8)</b>	<b>(111.9)</b>	<b>82</b>

Source: Her Majesty's Courts Service Annual Report and Accounts 2009/10

- 1.9 The following graph illustrates the trend in the total cost recovery rate since the creation of HMCS in 2005/06. Based on the information currently available, the graph also shows the cost recovery rate in 2011/12 if the proposed interim fee changes are not implemented.<sup>3</sup>



One can see that progress has been made in raising the total cost recovery rate between 2006/07 and 2009/10, but that the rate has fallen by around 3 percentage points in 2010/11, which is unlikely to improve if the policy proposal does not take effect.

<sup>3</sup> Assumes (i) 2009/10 cost base; and (ii) volumes in 2010/11 will be the same as in 2011/12. Note that the Court of Protection was not part of the HMCS cost base before 2009/10; the Court of Protection cost and income stream has therefore been included in the cost recovery rate from 2009/10 onwards.

- 1.10 The income shortfall not recovered from fees is met by taxpayers as part of the HMCS budget funded through the Ministry of Justice resource budget. The taxpayer's contribution is made up of:
- potential fee income lost under the scheme of fee remission scheme; and
  - fees set below full-cost recovery levels.
- 1.11 Family fees have historically been set below full cost and have benefited from subsidies from undefended debt claims in civil proceedings and from the general taxpayer. It could be argued that increases should be made to the fees charged in this area but given that the Family Justice Review is currently looking at reforming the way in which HMCS provides these services there could be a significant change in the cost of the service. Any changes to these fees at this time would therefore be premature. However, family fees were increased in September 2010, by the same inflationary principle as set out in this proposal though using Retail Prices Index (RPI) rates, to help reduce the 2010/11 fee income shortfall. The Government's decision to change the indexation of all benefits, tax credits and public pensions to Consumer Prices Index (CPI) rates with effect from April 2011 has meant that CPI rates have now been used.
- 1.12 Civil magistrates' fees are also showing an under recovery but there are no plans to increase fees in this area of the business. The increases introduced in July 2009 were intended to bring civil magistrates' income to full cost. The current shortfall shown is the effect of the fluctuating cost base due to the shared service provided within the Magistrates' courts – between criminal and civil business. The costs between criminal and civil business is calculated using a percentage split between weighted caseload between criminal and civil business in the Magistrates' courts. If the weighted caseload percentage changes e.g. criminal business volumes decrease, then the cost is then allocated to civil business and vice-versa. As a result this means that cost of civil is an assumption rather than fact. This limitation needs to be addressed and work is underway to improve the way in which data is captured and costs are calculated.
- 1.13 Ultimately the objective is for court and probate fees to cover the overall full-cost of the service being provided by HMCS, but no more. However, given the number of proposals underway to change the way in which HMCS provide both civil and family justice, 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 repeated change as the reforms bed in. Furthermore there is the issue that the services HMCS provides are done so as part of an integrated and interdependent operating model where resources are 'pooled' regardless of the business area through co-located courts and dedicated business centres with common infrastructure, judiciary and staff.
- 1.14 Whilst the anticipated additional fee income does not meet our commitment to increase cost recovery in HMCS to full cost, excluding the cost of remissions, it will work as an interim measure whilst other projects such as reforms under Transforming Justice and the Family Justice Review develop. This increase will therefore provide an effective interim measure to help reduce the overall fee shortfall for 2011/12.
- 1.15 The proposals covered in this Impact Assessment are essential. The majority of civil fees contained in these proposals have not been increased since 2007 and the UK's general price level, as defined by the Consumer Prices Index (CPI), since the start of 2007 has risen by around 9.5% (up to September 2010), representing a significant fall in income to HMCS in real terms, other things being equal. If fee income is not raised to keep pace with inflation, court and probate services may be affected.
- 1.16 The Ministry of Justice is committed to providing a long-term and sustainable strategy for funding the courts and probate service through user fees. The overall objectives are to ensure that the system:
- meets its financial target for cost recovery and net expenditure;
  - protects access to justice for those less well-off through a well-targeted scheme of fee remissions; and
  - remains viable when patterns of demand change, by achieving as close a match between income and costs as possible.

## Rationale

- 1.17 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 clear 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 reasons of fairness (e.g. to reallocate goods and services to the more needy groups in society).
- 1.18 There are efficiency arguments for raising fees. Overall fee rates are below the costs of provision for some users, which means that the service is over consumed compared to what would happen if full-cost recovery prevailed. In economics terms this over-consumption generates a “deadweight loss” to society as a whole compared to the situation under full-cost recovery. Increasing fees to a level closer to overall cost recovery therefore improves economic efficiency<sup>4</sup> by reducing these ‘economic welfare’ losses.
- 1.19 The proposed fee increases unambiguously benefits taxpayers as they pay less subsidy than they currently provide to HMCS users.

### Affected Stakeholder Groups, Organisations and Sectors

- 1.20 Users of High Court, County Court and Probate Service will be affected. These changes will affect, primarily small businesses and individuals pursuing debts in the courts though research<sup>5</sup> published by the Ministry of Justice in 2007 suggests that fees are not a major factor in the decision making process when individuals are considering court action. The fee increases to family proceedings will primarily affect individual users of the service. Users of the Probate Service may view these increases as an additional financial burden especially given that there are no alternatives to this service. However, access to all court and probate services is protected for those individuals who have insufficient means to pay the fees by the existence of a remission scheme.

## 2. Cost and Benefits

### Description of options

- 2.1 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 reasonably be monetised. These might be distributional impacts on certain groups of society or changes in equity or fairness, either positive or negative.
- 2.2 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 increase.
- 2.3 Full-cost recovery has been discounted at this present time as there are a number of proposals underway to change the way in which HMCS provide both civil and family justice, for example, by increasing the use of mediation. In light of this work it would be premature to bring the fees to full-cost until any proposals have been finalised as 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 to help reduce the overall fee shortfall for 2011/12.

### Base Case / Option 0

- 2.4 Under the “do-nothing” base case, civil, family and probate fees would remain constant in money terms indefinitely. Assuming that the UK’s general price level continues to rise over time, then

<sup>4</sup> In technical terms, allocative efficiency increases.

<sup>5</sup> “What’s costs got to do with it? The impact of changing court fees on users” published May 2007 (<http://www.justice.gov.uk/publications/research280607.htm>)



this would mean that rates would continue to fall in real terms. It is likely that the rate of cost recovery will decline over time and that increasing amounts of subsidy would therefore be required from the Exchequer to help finance the same volume of court services in future years. The full year income forecast for civil, family and probate proceedings for 2011/12, which takes into account the reductions in work seen in 2009/10, has been calculated as £460m which shows a £125m shortfall in income compared to the £615m cost. Although cost is expected to fall in light of efficiency saving proposed for the CSR10 period, it is still unclear to what extent, and the gap between cost and fee income will remain.

- 2.5 Because the do-nothing option is compared against itself its costs and benefits and necessarily zero, as is its Net Present Value (NPV) 6.

## Option 1

- 2.6 This option is to increase civil and a small number of family fees in the High Court and County Courts and Probate Service by the cumulative rate of CPI inflation based on the last date of increase. There are 128 fees that we propose to increase. The full list of fees, including the applicable adjustment factors, the current fee level and new fee level, can be found at Annex C. For example, fees that were last increased in January 2005 will increase by 16.53% and those last increased in October 2007 will increase by 9.12%. Table 1 presents the Consumer Price Index inflationary rates. There are, however, a few exceptions to ensure consistency and harmonisation. These are explained below.

Table 1: Table of inflationary rates

Initial Time Period	CPI cumulative inflation rate up to September 2010	Number of fees affected
Apr 1993	39.78%	1
Jan 1994	39.27%	1
Oct 1995	32.83%	5
April 1999	24.35%	10
April/May 2003	18.82%	10
January 2005	16.53%	24
January 2006	14.33%	9
September 2007	9.64%	3
October 2007	9.12%	57
July 2009	3.61%	8
	<b>Total</b>	128
	<b>Of which, Civil</b>	90
	<b>Family</b>	15
	<b>Probate</b>	23

- 2.7 The fees payable for civil proceedings issued through electronic channels (Money Claims OnLine, Possession Claims OnLine and Claim Production Centre) are not included in these proposals. This is to maintain the incentives for court users to issue claims electronically and to maintain cost-reflectivity i.e., electronic channels are more cost effective than hard copy process through the courts for both HMCS and users of the service including small business.
- 2.8 The private law family fee increases introduced in September 2010 excluded the fees payable for determination of costs and copy documents to ensure that the harmonisation of fees that were stated in both the Family Proceedings Fees Order and Civil Proceedings Fees Order was maintained. This proposal includes inflationary rate increases for those fees in both areas. To ensure harmonisation of fees that are payable under different fees orders but for essentially the same service, where the date of last increase differs between the two fees orders the rate of inflation used is the lowest one. For example the fee to file a detailed assessment where the

6 The Net Present Value (NPV) shows the total net value of a project over a specific time period. The value of the costs and benefits in an NPV are adjusted to account for inflation and the fact that we generally value benefits that are provided now more than we value the same benefits provided in the future.

costs claimed do not exceed £15,000 has been increased by the inflationary rate applicable to family to £325 as opposed to £350 as determined by the inflationary rate applicable to civil.

- 2.9 This proposal excludes the fees for enforcement proceedings in the High Court and County Court that were increased in July 2009. However, this proposal does include a small number of enforcement fees in the High Court and County Court that are set out in both the civil and family fees orders and which have not been increased since 2005/06. Where the date of last increase differs between the two fees orders, the inflationary rate for civil proceedings has been used to harmonise the fees. Although this process is set out in the family proceedings fees order, it is a civil process, and only a small number of the overall issue volumes relate to family proceedings. For example, the fee payable for sealing a writ of execution/possession/delivery will increase by £10 as opposed to nil if the family rate had been used.
- 2.10 For the majority of the fees included in this proposal the date used to calculate the inflationary increase refers to the date they were last increased. However, for some fees this date refers to when they were either introduced, aligned or decreased at the date used to calculate the inflationary increase. Full details can be found at the end of each of the tables at Annex C.
- 2.11 The proposed fee increases have been rounded up or down to the nearest £5 except for fee changes to fees that are £10 or less, which have been rounded to the nearest £1. 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.

## Costs of Option 1

### Transitional Costs

#### *Costs to HMCS:*

- 2.12 We expect to incur costs of approximately £5,000 for changes to HMCS court publications, destroying old stock, and minor amendments to court IT systems are expected to be no more than £10,000. There may be some small intangible costs related to court staff having to spend some time familiarising themselves with the increased fees.

### Ongoing Costs

- 2.13 The increase in fees is based on the rate of CPI inflation between the date of the last increase and September 2010, with the exception of those fees referred at paragraph 2.7– 2.9. The date of the last increase in civil, family and probate fees varies and this has implications for the magnitude of the fee rises.

#### *Costs to HMCS users:*

- 2.14 The total additional cost to court users of the increased fees is estimated to be £31m for a full financial year (based on actual and forecast volumes reductions for 2010/11). For the purposes of illustration, if we experience a drop in volumes by 3% the additional cost to users would be £23m and if the decrease were 7% it would be £9m, other things being equal. Unfortunately, uncertainty around the price responsiveness of court services to fee changes means that we cannot specify the exact impact on volumes.<sup>7</sup> Those users who are eligible for legal aid or a fee remission will not be affected by the increases.
- 2.15 The introduction of the proposed fee increases may result in a decrease in the number of applications being made in civil proceedings, although the electronic channels of issue are not subject to these proposals and HMCS may therefore see a further shift in ‘hard copy’ issue to this method.
- 2.16 Demand is assumed not to reduce, partly as the majority of fee increases will be in the order of £5. If demand were to fall this would equate to HMCS users finding an alternative means of

---

<sup>7</sup> Due to the lack of information on the possible reduction in demand following an increase in the fee, and in order to avoid spuriously accurate estimates, we have assumed that the 3% and 7% apply across all fee levels. In practice, we would expect users to be more responsive to fee changes for some services and less for others. More information is available in the Assumptions/Risks section.

addressing their dispute, or perhaps choosing not to resolve it. The impact of such switching on outcomes for (ex) HMCS users is unknown.

#### *Costs to HMCS:*

- 2.17 Raising fees may lead to an increase in fee remissions in that the amounts being remitted are higher and customers are more likely to question their ability to pay than before, although the majority of fees are not increased by more than £5. We expect an increase to the total costs of fee remissions in the region of £1.3m if the volume of work remains similar to figures shown for 2009/10 for a full financial year. If the volumes drop by 3% this figure would reduce to £0.9m and if volumes drop by 7% the change in remissions would amount £0.5m.
- 2.18 Users of the Probate Service may see the proposed increases as an additional financial burden to obtaining willed or intestate monies for widowers/families especially given that there are no alternatives to the probate service. The remission scheme will provide a robust means of access to justice as court users who face financial hardship because of fees can apply for the fee to be waived in full or part.
- 2.19 As the fee structures have not changed, there should not be any additional ongoing costs for the administration of the increased fees.

#### *Costs to Legal Services Commission ("LSC"):*

- 2.20 Legal aid includes the payment of court fees. Court fees are paid upfront by legal aid solicitors for clients who are in receipt of funding by the 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 impacts of these proposals are expected to be minimal given that Legal Aid is predominantly only payable for family matters, and the majority of these fee increases relate to non-family civil matters.

#### *Costs to legal services professionals:*

- 2.21 Volumes are not expected to fall. If they did, probate practitioners and legal professionals who deal with civil cases may see a decrease in the number of applications being made, other thing being equal.
- 2.22 There may also be a cash flow 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 majority of fee increases are no more than £5 and therefore any impact on the legal profession will be minimal.

#### *Wider social and economic costs:*

- 2.23 Volumes are not expected to fall. If they did, there might be an impact on outcomes for (ex) HMCS users. If outcomes were significantly worse there may be adverse implications for wider social and economic costs. These are not expected but are mentioned for the sake of completeness.

#### *Distributional costs:*

- 2.24 The fee remissions scheme is designed to ensure that any distributional implications remain acceptable. The proposals will be associated with an aggregate financial transfer from HMCS users to general taxpayers and there may be distributional implications depending upon the relative wealth of both groups.

## **Benefits of Option 1**

### **Transition benefits**

- 2.25 No transition benefits have been identified

## Ongoing benefits

### *Benefits to HMCS:*

- 2.26 Under these proposals HMCS would benefit from an estimated increased fee income of £31m in a full year ignoring the offsetting rise in remissions (£1.3m) and assuming no decrease in case volumes.
- 2.27 HMCS may benefit from these proposed fee increases as court users may seek alternative option to court services, although demand is not expected to reduce significantly.

### *Benefits to HMCS users:*

- 2.28 Raising fees may lead to an increase in fee remissions in that the amount remitted is higher and customers are more likely to question their ability to pay than before, although the majority of fees are not increased by more than £5. As a result of these proposals, it is expected that court users would benefit from additional fee remissions of approximately £1.3m to £0.5m for a full financial year depending on the volume of cases affected by fees going through the courts.

### *Benefits to other service providers:*

- 2.29 Court case volumes are not expected to fall. If they did this might relate to (ex) HMCS users selecting alternative means of dispute resolution. This diversion of activity would have positive implications for the providers of alternative resolution services and products.

### *Benefits to society:*

- 2.30 Given that HMCS services (as a whole) are currently being offered below the full cost of providing them, increasing fees would reduce the level of subsidy that taxpayers currently provide to users of the courts and probate registries. This represents a net gain for society overall because the over-consumption of services and associated "deadweight loss" (in economics terms) falls as fee rates move closer to the levels implied by full cost-recovery. Unfortunately, uncertainty around the underlying customer demand for these court services as fee rates change means that we cannot estimate the monetary net gain to society.

## Net Impact of Option 1

- 2.31 The increase in fee rates reduces the subsidy paid by taxpayers to court users, other things being equal. It is not anticipated that there would be a change in unit costs of court service as no changes in volumes are expected as a result of these proposals. The increase in fees would not impact those who 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. In the case of the proposed civil fee increases, the 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 assume that the volume of cases will not change.

## Enforcement and Implementation

- 2.32 All fees are payable in advance of the service being provided. The sanction for non-payment is that the service, where appropriate, will not be provided. This would continue to apply under the option being considered.
- 2.33 The proposed date for implementation is 4 April 2011.

## Assumptions/Risks

- 2.34 In the main body of the options analysis above, the volume of fee applications has not been adjusted to reflect a reduction in demand for court services that might result from increasing fee levels. The main issue at stake is whether the proposed fee increases would lead to the expected increases in fee income. Other things being equal, the price elasticity of demand measures the responsiveness of customer demand to a change in the price of the good/service in question.

- 2.35 It is especially important to determine whether the demand for the good/service is elastic (i.e. if price increases by 1%, demand decreases by more than 1%), unit-elastic (i.e. if price increases by 1%, demand decreases by 1%) or inelastic (i.e. if price increases by 1%, demand decreases by less than 1%). This is because the impact on revenues will differ: if the demand is price-elastic, then revenues will decrease if prices increase; but if it is price-inelastic, then revenues will increase.
- 2.36 The impact of fee increases in the volume of court cases will depend on a number of factors, such as:
- The availability of substitutes – if there is no close substitute to the service provided by the court (or there is a perception that there is no close substitute), then demand will be less elastic.
  - The nature of the claim – if the service provided is a necessity, then demand will be less elastic.
  - Fees as a proportion of total cost – if the court fees are a substantial proportion of the total cost of going to court (i.e. the cost of court fees and legal representation), then it is more likely that the court fees will have a big impact on the volume of court cases.
  - The funding of the applicant – if the applicant is privately funded, then they must bear the full costs of the fees, and the applicant will take into account the cost of the court fee when deciding whether to issue a claim. The privately funded applicant might substitute away from court and towards cheaper alternatives such as mediation. On the other hand, if the applicant is legally aided, the magnitude of the court fee will not impact on the likelihood of issuing a claim, as they will not be liable for the cost.
  - The transferability of court fees – if the fees are non-transferable and the cost must be borne by the claimant independently of whether they win the case, then the fees are more likely to impact on the volume of court cases.
- 2.37 Taking these factors into consideration, it is not expected that these fee increases would impact the volumes of cases. However, for illustrative purposes and given the uncertainty around the price elasticities of demand for the numerous court services in question, this section sets out what happens to projected case volumes and projected income across two stylised scenarios (i.e., volume reductions of 3% and 7%), holding all other variables constant. This is set out in the table below:

Table 2:

<b>% of decrease in case volumes</b>	<b>Additional fee income</b>
No decrease in case volume	£31m
3% decrease in case volumes	£23m
7% decrease in case volumes	£9m

- 2.38 The main risk to the proposals is that demand for the court services in question will prove to be more price sensitive and in particular, price elastic. In other words, revenues will fall because case volumes will decline by proportionately more than the fee level increases.

### **3. Specific Impact Tests**

#### **Equality Impact Assessment**

3.1 An Equality Impact Assessment initial screening has been completed and is attached at Annex B

#### **Competition Assessment**

3.2 It is not considered that there would be any significant impact on competition.

#### **Small Firms Impact Test**

3.3 Claimants are not required by the court rules to provide information that would make it possible to classify them as belonging to a particular group. It is therefore impossible to estimate the effect in isolation on the small business sector. Businesses in general, only pursue enforcement action when it is economical to do so, taking account of the likelihood of success. The fees paid for court proceedings are ultimately recoverable from the debtor, so the impact on the small business sector is likely to be broadly neutral. In addition, the fee increases in question are relatively small and only raising fees to previous levels in real terms.

#### **Carbon Assessment**

3.4 It is not considered that these proposals would lead to a change in carbon emissions.

#### **Other Environment**

3.5 It is not considered that these proposals would have any other environmental impacts.

#### **Health Impact Assessment**

3.6 It is not considered that these proposals would have any significant impact on health.

#### **Human Rights**

3.7 These proposals are compliant with Human Rights Act.

#### **Justice Impact Test**

3.8 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 aid. It is anticipated that there will be an increase to legal aid costs but that this will be minimal given that legal aid for civil non-family proceedings is limited and only a small number of fees payable for family proceedings is affected. Money would be transferred from HMCS LSC to fund this initiative.

#### **Rural proofing**

3.9 It is not considered that there would be any specific rural impacts from these proposals.

#### **Sustainable Development**

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

#### **Privacy Impact Test (an MoJ Specific Impact Test)**

3.11 It is not considered that these proposals will have any impact on the privacy of personal data as defined by the Data Protection Act 1998.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

### Annex 1: 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 actual 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><b>Basis of the review:</b> [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 of the court and probate services provided by HMCS 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 service recovery can be achieved. In that event a PIR focusing only on the impact of inflationary increases will not take place.</p>
<p><b>Review objective:</b> [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 Transforming Justice and Family Justice Review have become clear and any changes are made to the civil and family law processes, the need to increase fees 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><b>Review approach and rationale:</b> [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). 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><b>Baseline:</b> [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 2011/12 if no changes were made.</p>
<p><b>Success criteria:</b> [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 £31m in 2011/12.</p>
<p><b>Monitoring information arrangements:</b> [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 correspondence from the public 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><b>Reasons for not planning a PIR:</b> [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 civil, probate service and some family court fees by the rate of inflation since the date of last increase in the High Court, county courts and Probate Service.

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

Diane Flanders - 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

1. The proposals in this paper aim to achieve inflationary increases to civil, probate service and some family court fees by the rate of inflation since the last date of increase.
2. To continue to protect those who cannot afford court fees access to justice through the scheme of fee remissions.

### Outcomes

1. Fee increases in civil business in the High Court, County Courts and Probate Service so that they match previous levels in real terms.
2. Deliver income requirements for MoJ for 2011/12 and beyond.
3. The suggested increases equate to £31m additional fee income in a full year (does not include income lost to fee remissions) if there is no reduction in the number of cases going through the courts .
4. Despite any increases the scheme of fee 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)*

Users of the Civil and Family Courts and Probate Service who have to pay court fees are not required to provide personal information about themselves and as such MoJ/HMCS have no data on the type of people who pay court fees. A survey of users of the Probate Service was conducted in 2009 and provides some further information which has been considered. 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 CAF/CASS. This includes:

- 2010 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; "HM Courts Service Probate Service Survey 2009, 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 and Probate Service who have to pay court fees are not required to provide personal information about themselves. However, the information we have gathered is sufficient to make an assessment of the likely impacts of the proposals on different groups.

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 scheme being designed for those who would suffer financial hardship.

Research<sup>8</sup> into the fee remission scheme proposed that further efforts should be made to increase awareness amongst court users that they may qualify for a fee remission. The remission scheme was subject to a relaunch in November 2010 which consideration given to the research findings. All supporting documentation for both court users and staff was redrafted to provide a clearer application form and simpler explanations. The HMCS internet site was also amended to reflect these changes.

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 civil, family and probate service 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 2007 and therefore there is a significant loss of income to 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 scheme 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 scheme means that this impact is neutral. The fee remission scheme 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<sup>9</sup> conducted by the MoJ showed that the cost of proceedings is not the most significant factor for parties when deciding to go to court. 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**?

<sup>8</sup> 'Is the 2007 court fee remission system working?' available at [www.justice.gov.uk](http://www.justice.gov.uk)

<sup>9</sup> 'What's costs got to do with it? The impact of changing court fees on users' published 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 civil, probate service and some family court fees based on the rate of inflation since the last date of increase. 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 scheme 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)

On average women's weekly earnings are lower than men's with an 11.5% gender pay gap in 2010 according to the Office of National Statistics<sup>10</sup>. 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 employees<sup>11</sup>. As women earn less on average than men and there are proportionately more men in employment<sup>12</sup> 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 scheme 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 or probate service 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*<sup>13</sup> 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 population<sup>14</sup>. 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, any impact is mitigated by the existence of the fee remission scheme which subject to eligibility, allows those on a low income or in receipt of specified state benefits (e.g. JSA) a fee remission. 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, even though the proposed fee increases have no anticipated equality impact on this group, any impact is mitigated by the existence of the fee remission scheme, which subject to eligibility, allows those on a lower income or receiving state benefits to gain a full or part remission of the court fee. 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 or probate service users. Given that the proposed fee increases impact a wide variety of court and probate fees and that the remission scheme 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 thereafter<sup>15</sup>. This would suggest that young adults and those in the 60+ category would be adversely affected by the proposed fee changes. Nevertheless, any impact is mitigated by the existence of the fee remission scheme, which subject to eligibility, allows those who are on lower incomes or in receipt of specified

<sup>10</sup> 2010 The Gender pay gap in the UK, Office of National Statistics (ONS), p. 23, based on total median hourly earnings

<sup>11</sup> 2010 Annual Survey of Hours and Earnings (ASHE)

<sup>12</sup> "Women in the Labour Market", ONS, published March 2009 (<http://www.statistics.gov.uk/cci/nugget.asp?id=2145>)

<sup>13</sup> Households below average income, An analysis of the income distribution 1994/95 – 2007/08, Department of Work and Pensions, p. 32

<sup>14</sup> "Ethnicity data for Jobseeker's Allowance claimants", ONS, published February 2007 (<http://www.statistics.gov.uk/cci/article.asp?id=1725>)

<sup>15</sup> 2008 Annual Survey of Hours and Earnings (ASHE), ONS, p.8

state benefits to gain a full or part remission of the court fee. 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 and probate service users based on sexual orientation nor is there any evidence to suggest that a person's sexual orientation would result in an adverse equality impact. All the proceedings being considered impact on a variety of court and probate service 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 couples<sup>16</sup>. 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 scheme.

---

<sup>16</sup> 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 to the Civil Proceedings Fees Order 2008

Number of proposed fee increases	forecast additional net fee income (full year)	range of inflation % increase – current fee to proposed fee	year of last increase*	
90	£9.2 to £31m (Depending on drop in volume – illustratively shown – no change, 3% and 7%)	CPI – 3.61% to 39.27 = £0 to £590	1 – 1993 1 – 1994 5 – 1995 9 – 2003	20 – 2005 7 – 2006 44 – 2007 3 – 2009

Number and description of fee	Current fee	Proposed fee	Increase in fee	Date of last increase	Rate of inflation used to calculate increase
<b>1 Starting proceedings (High Court and county court)</b>					
<b>1.1</b> On starting proceedings (including proceedings issued after permission to issue is granted but excluding Claim Production Centre cases brought by Centre users or cases brought by Money Claim OnLine users) to recover a sum of money where the sum claimed—					
(a) does not exceed £300;	£30	£35	£5	01/04/03**	18.82%
(b) exceeds £300 but does not exceed £500;	£45	£50	£5	01/10/07*	9.12%
(c) exceeds £500 but does not exceed £1,000;	£65	£70	£5	25/09/07	9.64%
(d) exceeds £1,000 but does not exceed £1,500;	£75	£80	£5	25/09/07	9.64%
(e) exceeds £1,500 but does not exceed £3,000;	£85	£95	£10	25/09/07	9.64%
(f) exceeds £3,000 but does not exceed £5,000;	£108	£120	£12	01/10/07*	9.12%

<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
(g) exceeds £5,000 but does not exceed £15,000;	£225	£245	£20	01/10/07*	9.12%
(h) exceeds £15,000 but does not exceed £50,000;	£360	£395	£35	01/10/07*	9.12%
(i) exceeds £50,000 but does not exceed £100,000;	£630	£685	£55	01/10/07*	9.12%
(j) exceeds £100,000 but does not exceed £150,000;	£810	£885	£75	01/10/07*	9.12%
(k) exceeds £150,000 but does not exceed £200,000;	£990	£1,080	£90	01/10/07*	9.12%
(l) exceeds £200,000 but does not exceed £250,000;	£1,170	£1,275	£105	01/10/07*	9.12%
(m) exceeds £250,000 but does not exceed £300,000;	£1,350	£1,475	£125	01/10/07*	9.12%
(n) exceeds £300,000 or is not limited.	£1,530	£1,670	£140	01/10/07*	9.12%
<b>1.4 On starting proceedings for the recovery of land—</b>					
(a) in the High Court;	£400	£465	£65	04/01/05	16.53%
(b) in the county court, other than where fee 1.4(c) applies;	£150	£175	£25	04/01/05	16.53%
<b>1.5 On starting proceedings for any other remedy (including proceedings issued after permission to issue is granted)—</b>					
—in the High Court	£400	£465	£65	04/01/05	16.53%
—in the county court	£150	£175	£25	04/01/05	16.53%
<b>1.6 On the filing of proceedings against a party or parties not named in the proceedings.</b>	£40	£45	£5	01/10/07*****	9.12%
<b>1.7 On the filing of a counterclaim.</b> Fee payable is the same fee as if the remedy sought were the subject of separate proceedings.	See Fee 1.1			See Fee 1.1	
<b>1.8 (a) On an application for permission to issue proceedings.</b>	£40	£45	£5	01/10/07	9.12%
(b) On an application for an order under Part 3 of the Solicitors Act 1974(5) for the assessment of costs payable to a solicitor by a client or on starting costs-only proceedings.	£40	£45	£5	01/10/07	9.12%
<b>1.9 (a) On starting proceedings for judicial review.</b>	£50	£60	£10	04/01/05	16.53%
(b) if the judicial review procedure has been started.	£180	£215	£35	01/04/03	18.82%
(c) if the claim for judicial review was started otherwise than by using the judicial review procedure.	£50	£60	£10	04/01/05	16.53%

Number and description of fee	Current fee	Proposed fee	Increase in fee	Date of last increase	Rate of inflation used to calculate increase
<b>2 General Fees (High Court and county courts)</b>					
<b>2.1</b> On the claimant filing an allocation questionnaire:					
(a) if the case is on the small claims track and the claim exceeds £1,500;	£35	£40	£5	01/10/07*	9.12%
(b) if the case is on the fast track or multi-track.	£200	£220	£20	01/10/07	9.12%
<b>2.2</b> On the claimant filing a pre-trial check list (listing questionnaire); or where the court fixes the trial date or trial week without the need for a pre-trial check list, within 14 days of the date of despatch of the notice (or the date when oral notice is given if no written notice is given) of the trial week or the trial date if no trial week is fixed.	£100	£110	£10	01/10/07*	9.12%
<b>2.3</b> On the occasion of fee 2.2 becoming payable; or where the claim is on the small claims track, within 14 days of the date of despatch of the notice (or the date when oral notice is given if no written notice is given) of the trial week or the trial date if no trial week is fixed a fee payable for the hearing of—					
(a) a case on the multi-track;	£1,000	£1,090	£90	01/10/07***	9.12%
(b) a case on the fast track;	£500	£545	£45	01/10/07***	9.12%
(c) a case on the small claims track where the sum claimed—					
(i) does not exceed £300;	£25	£25	-	01/10/07***	9.12%
(ii) exceeds £300 but does not exceed £500;	£50	£55	£5	01/10/07***	9.12%
(iii) exceeds £500 but does not exceed £1,000;	£75	£80	£5	01/10/07***	9.12%
(iv) exceeds £1,000 but does not exceed £1,500;	£100	£110	£10	01/10/07***	9.12%
(v) exceeds £1,500 but does not exceed £3,000;	£150	£165	£15	01/10/07***	9.12%
(vi) exceeds £3,000.	£300	£325	£25	01/10/07***	9.12%
<b>2.4</b> In the High Court on filing an appellant's notice, or a respondent's notice where the respondent is appealing or wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court.	£200	£235	£35	04/01/05	16.53%
<b>2.5</b> In the county court on filing an appellant's notice, or a respondent's notice where the respondent is appealing or wishes to					

<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court					
(a) in a claim allocated to the small claims track;	£100	£115	£15	10/01/06	14.33%
(b) in all other claims.	£120	£135	£15	10/01/06	14.33%
<b>2.6</b> On an application on notice where no other fee is specified.	£75	£80	£5	01/10/07	9.12%
<b>2.7</b> On an application by consent or without notice for a judgment or order where no other fee is specified.	£40	£45	£5	01/10/07	9.12%
<b>2.8</b> On an application for a summons or order for a witness to attend court to be examined on oath or an order for evidence to be taken by deposition, other than an application for which fee 7.2 or 8.3 is payable.	£35	£40	£5	10/01/06	14.33%
<b>2.9</b> On an application to vary a judgment or suspend enforcement, including an application to suspend a warrant of possession.	£35	£40	£5	10/01/06	14.33%
<b>2.10</b> Register of judgments kept under section 98 of the Courts Act 2003 - On a request for the issue of a certificate of satisfaction.	£15	£15	-	10/01/06	14.33%
<b>3 Companies Act 1985(6), Companies Act 2006(7) and Insolvency Act 1986(8) (High Court and county court)</b>					
<b>3.1</b> On entering a bankruptcy petition—					
(a) if presented by a debtor or the personal representative of a deceased debtor;	£150	£175	£25	04/01/05	16.53%
(b) if presented by a creditor or other person.	£190	£220	£30	04/01/05	16.53%
<b>3.2</b> On entering a petition for an administration order.	£150	£175	£25	04/01/05	16.53%
<b>3.3</b> On entering any other petition.	£190	£220	£30	04/01/05	16.53%
<b>3.4 (a)</b> On a request for a certificate of discharge from bankruptcy.	£60	£70	£10	01/04/03	18.82%
(b) and after the first certificate, for each copy.	£5	£5	-	01/10/07	9.12%
<b>3.5</b> On an application under the Companies Act 1985, the Companies Act 2006 or the Insolvency Act 1986 other than one brought by petition and where no other fee is specified.	£130	£155	£25	01/04/03***	18.82%
<b>3.6</b> On an application for the conversion of a voluntary arrangement into a winding up or bankruptcy under Article 37 of Council	£130	£155	£25	01/04/03***	18.82%



<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
Regulation (EC) No 1346/2000.					
<b>3.7</b> On an application, for the purposes of Council Regulation (EC) No 1346/2000, for an order confirming creditors' voluntary winding up (where the company has passed a resolution for voluntary winding up, and no declaration under section 89 of the Insolvency Act 1986 has been made).	£30	£35	£5	01/04/03***	18.82%
<b>3.8</b> On filing a notice of intention to appoint an administrator under paragraph 14 of Schedule B1 to the Insolvency Act 1986 or in accordance with paragraph 27 of that Schedule; or a notice of appointment of an administrator in accordance with paragraphs 18 or 29 of that Schedule.	£30	£35	£5	01/04/03***	18.82%
<b>3.9</b> On submitting a nominee's report under section 2(2) of the Insolvency Act 1986.	£30	£35	£5	01/04/03***	18.82%
<b>3.10</b> On filing documents in accordance with paragraph 7(1) of Schedule A1 to the Insolvency Act 1986.	£30	£35	£5	01/04/03***	18.82%
<b>3.11</b> On an application by consent or without notice within existing proceedings where no other fee is specified.	£30	£35	£5	04/01/05***	16.53%
<b>3.12</b> On an application with notice within existing proceedings where no other fee is specified.	£60	£70	£10	04/01/05***	16.53%
<b>3.13</b> On a search in person of the bankruptcy and companies records, in a county court.	£40	£45	£5	01/10/07	9.12%
<b>4 Copy Documents</b> (Court of Appeal, High Court and county court) On a request for a copy of a document (other than where fee 4.2 applies)					
<b>4.1</b> (a) for ten pages or less;	£5	£5	-	01/10/07	9.12%
<b>4.2</b> On a request for a copy of a document on a computer disk or in other electronic form, for each such copy.	£5	£5	-	01/10/07	9.12%
<b>5 Determination of costs</b> (Supreme Court and county court)					

<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>5.1</b> On the filing of a request for detailed assessment where the party filing the request is legally aided or is funded by the LSC and no other party is ordered to pay the costs of the proceedings in the Supreme Court and county court	£140	£145	£5	13/07/09	3.61%
<b>5.2</b> On the filing of a request for detailed assessment in any case where fee 5.1 does not apply; or on the filing of a request for a hearing date for the assessment of costs payable to a solicitor by a client pursuant to an order under Part 3 of the Solicitors Act 1974 where the amount of the costs claimed—					
(a) does not exceed £15,000;	£300	£325	£25	01/10/07++	9.12%
(b) exceeds £15,000 but does not exceed £50,000;	£600	£655	£55	01/10/07	9.12%
(c) exceeds £50,000 but does not exceed £100,000;	£900	£980	£80	01/10/07	9.12%
(d) exceeds £100,000 but does not exceed £150,000;	£1,200	£1,310	£110	01/10/07	9.12%
(e) exceeds £150,000 but does not exceed £200,000;	£1,500	£1,635	£135	01/10/07	9.12%
(f) exceeds £200,000 but does not exceed £300,000;	£2,250	£2,455	£205	01/10/07	9.12%
(g) exceeds £300,000 but does not exceed £500,000;	£3,750	£4,090	£340	01/10/07	9.12%
(h) exceeds £500,000.	£5,000	£5,455	£455	01/10/07	9.12%
<b>5.3</b> On a request for the issue of a default costs certificate in the Supreme Court and county court.	£60	£60	-	13/07/09	3.61%
<b>5.4</b> On an appeal against a decision made in detailed assessment proceedings in the Supreme Court and county court.	£200	£205	£5	13/07/09****	3.61%
<b>5.5</b> On applying for the court's approval of a certificate of costs payable from the Community Legal Service Fund in the Supreme Court and county court.	£50	£50	-	13/07/09****	3.61%
<b>5.6</b> On a request or application to set aside a default costs certificate in the Supreme Court and county court.	£100	£105	£5	13/07/09****	3.61%
<b>6 Determination in the Supreme Court of costs incurred in the Court of Protection</b>					
<b>6.1</b> On the filing of a request for detailed assessment—					
(a) where the amount of the costs to be assessed (excluding VAT	£100	£110	£10	01/10/07+	9.12%

<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
and disbursements) does not exceed £3,000;					
(b) in all other cases.	£200	£220	£20	01/10/07+	9.12%
<b>6.2</b> On an appeal against a decision made in detailed assessment proceedings.	£60	£65	£5	01/10/07+	9.12%
<b>6.3</b> On a request or application to set aside a default costs certificate.	£60	£65	£5	01/10/07+	9.12%
<b>7 Enforcement in the High Court</b>					
<b>7.1</b> On sealing a writ of execution/possession/delivery.	£50	£60	£10	04/01/05	16.53%
<b>7.5</b> On a request or application to register a judgment or order, or for permission to enforce an arbitration award, or for a certificate or a certified copy of a judgment or order for use abroad.	£50	£60	£10	04/01/05	16.53%
<b>8 Enforcement in the county court</b>					
<b>8.2</b> On a request for a further attempt at execution of a warrant at a new address following a notice of the reason for non-execution (except a further attempt following suspension and CCBC cases brought by Centre users).	£25	£30	£5	10/01/06	14.33%
<b>8.6</b> On the issue of a warrant of possession or a warrant of delivery.	£95	£110	£15	10/01/06	14.33%
<b>8.9</b> On the application for the recovery of a tribunal award.	£35	£40	£5	10/01/06	14.33%
<b>8.10</b> On a request for an order to recover a sum that is a specified debt within the meaning of the Enforcement of Road Traffic Debts Order 1993(9) as amended from time to time; or pursuant to an enactment, treated as a specified debt for the purposes of that Order.	£5	£7	£2	01/04/93****	39.78%
<b>-FEES PAYABLE IN HIGH COURT ONLY</b>					
<b>10 Miscellaneous proceedings or matters</b>					
<b>Bills of Sale</b>					
<b>10.1</b> On filing any document under the Bills of Sale Acts 1878(11) and the Bills of Sale Act (1878) Amendment Act 1882(12) or on an application under section 15 of the Bills of Sale Act 1878 for an order that a memorandum of satisfaction be written on a registered copy of	£25	£25	-	01/10/07	9.12%

<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
the bill.					
<b>Searches</b>					
<b>10.2</b> For an official certificate of the result of a search for each name, in any register or index held by the court; or in the Court Funds Office, for an official certificate of the result of a search of unclaimed balances for a specified period of up to 50 years.	£40	£45	£5	01/10/07	9.12%
<b>10.3</b> On a search in person of the bankruptcy and companies records, including inspection, for each 15 minutes or part of 15 minutes.	£5	£7	£2	30/10/95***	32.83%
<b>Judge sitting as arbitrator</b>					
<b>10.4</b> On the appointment of—					
(a) a judge of the Commercial Court as an arbitrator or umpire under section 93 of the Arbitration Act 1996(13); or	£1,800	£2,390	£590	30/10/95	32.83%
(b) a judge of the Technology and Construction Court as an arbitrator or umpire under section 93 of the Arbitration Act 1996.	£1,400	£1,860	£460	30/10/95	32.83%
<b>10.5</b> For every day or part of a day (after the first day) of the hearing before—					
(a) a judge of the Commercial Court; or	£1,800	£2,390	£590	30/10/95	32.83%
(b) a judge of the Technology and Construction Court, so appointed as arbitrator or umpire.	£1,400	£1,860	£460	30/10/95	32.83%
<b>11 Fees payable in Admiralty matters</b>					
In the Admiralty Registrar and Marshal's Office—					
<b>11.1</b> On the issue of a warrant for the arrest of a ship or goods.	£200	£220	£20	01/10/07	9.12%
<b>11.3</b> On entering a reference for hearing by the Registrar.	£50	£70	£20	11/01/94	39.27%
<b>FEES PAYABLE IN HIGH COURT AND COURT OF APPEAL ONLY</b>					
<b>12 Affidavits</b>					

<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>12.1</b> On taking an affidavit or an affirmation or attestation upon honour in lieu of an affidavit or a declaration except for the purpose of receipt of dividends from the Accountant General and for a declaration by a shorthand writer appointed in insolvency proceedings—	£10	£11	£1	01/10/07	9.12%
<b>FEES PAYABLE IN COURT OF APPEAL ONLY</b>					
<b>13 Fees payable in appeals to the Court of Appeal</b>					
<b>13.1(a)</b> Where in an appeal notice permission to appeal or an extension of time for appealing is applied for (or both are applied for) on filing an appellant's notice, or where the respondent is appealing, on filing a respondent's notice.	£200	£235	£35	04/01/05	16.53%
(b) Where permission to appeal is not required or has been granted by the lower court on filing an appellant's notice, or on filing a respondent's notice where the respondent is appealing.	£400	£465	£65	04/01/05	16.53%
(c) On the appellant filing an appeal questionnaire (unless the appellant has paid fee 13.1(b), or on the respondent filing an appeal questionnaire (unless the respondent has paid fee 13.1(b)).	£400	£465	£65	04/01/05	16.53%
<b>13.2</b> On filing a respondent's notice where the respondent wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court.	£200	£235	£35	04/01/05	16.53%
<b>13.3</b> On filing an application notice.	£200	£235	£35	04/01/05	16.53%
* These fees were decreased at the date shown					
**These fees were subject to increase or decrease at date shown as a single fee replaced a banded fee.					
***These fees were new at date shown					
**** County Court fees were aligned to High Court fees at date shown.					
***** These fees were subject to increase or decrease at date shown as single fee replaced 2 separate fees – amalgamation of High Court and County Court fee					
+ Date that these Court of Protection fees were added to the Civil Proceeding Fees Order					
++ These fees are in both the Civil Proceedings Fees Order (CPFO) and the Family Proceedings Fees Order (FPFO) and are subject to different rates of inflation due to the fact that the date of last increase differs. The most recent date of last increase was in the FPFO and has					

Number and description of fee	Current fee	Proposed fee	Increase in fee	Date of last increase	Rate of inflation used to calculate increase
been used for this fee increase as opposed to the last increase in the CPFO which was on 04.01.2005 (16.53%).					

**Table 2 - Proposed fee increases to the Family Proceedings Fees Order 2008**

Number of proposed fee increases	forecast additional fee income(full year)	range of inflation % increase – current fee to proposed fee	year of last increase	
15	-£130,000 to £100,000 (Depending on drop in volume – 3 to 7%)  A 7% volume reduction will mean that volumes reduce more than the price increase, causing additional fee income to fall.	CPI – 3.61% to 16.53% = £0 to £455	2 – 2005 2 – 2006	8 – 2007 3 – 2009

Number and description of fee	Current fee	Proposed fee	Increase in fee	Date of last increase	Rate of inflation used to calculate increase
<b>8 Determination of costs</b> (High Court and county court)					
<b>8.1</b> On the filing of a request for detailed assessment where the party filing the request is legally aided or is funded by the LSC and no other party is ordered to pay the costs of the proceedings in the Supreme Court and county court	£140	£145	£5	13/07/09*	3.61%

<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>8.2</b> On the filing of a request for detailed assessment in any case where fee 8.1 does not apply; or on the filing of a request for a hearing date for the assessment of costs payable to a solicitor by a client pursuant to an order under Part 3 of the Solicitors Act 1974 where the amount of the costs claimed—					
(a) does not exceed £15,000;	£300	£325	£25	01.10.07**	9.12%
(b) exceeds £15,000 but does not exceed £50,000;	£600	£655	£55	01/10/07***	9.12%
(c) exceeds £50,000 but does not exceed £100,000;	£900	£980	£80	01/10/07***	9.12%
(d) exceeds £100,000 but does not exceed £150,000;	£1,200	£1,310	£110	01/10/07***	9.12%
(e) exceeds £150,000 but does not exceed £200,000;	£1,500	£1,635	£135	01/10/07***	9.12%
(f) exceeds £200,000 but does not exceed £300,000;	£2,250	£2,455	£205	01/10/07***	9.12%
(g) exceeds £300,000 but does not exceed £500,000;	£3,750	£4,090	£340	01/10/07***	9.12%
(h) exceeds £500,000.	£5,000	£5,455	£455	01/10/07***	9.12%
<b>8.3</b> On a request for the issue of a default costs certificate.	£60	£60	-	13/07/09*	(3.61%)
<b>8.4</b> On commencing an appeal against a decision made in detailed assessment proceedings.	£200	£205	£5	13/07/09	3.61%
<b>8.5</b> On applying for the court's approval of a certificate of costs payable from the Community Legal Service Fund in the Supreme Court and county court.	£50	£50	-	13/07/09	3.61%
<b>8.6</b> On an application to set aside a default costs certificate.	£100	£105	£5	13/07/09	3.61%
<b>12 Enforcement in the county court</b>					
<b>12.2</b> On a request for a further attempt at execution of a warrant at a new address where the warrant has been returned to the court not executed (except where the warrant has been returned after it has been suspended by the court).	£25	£30	£5	10/01/06	14.33%
<b>12.3</b> On the issue of a warrant of possession or a warrant of delivery.	£95	£110	£15	10/01/06	14.33%
<b>14 Enforcement in the High Court</b>					

Number and description of fee	Current fee	Proposed fee	Increase in fee	Date of last increase	Rate of inflation used to calculate increase
14.1 On sealing a writ of execution/possession/delivery.	£50	£60	£10	04/01/05****	16.53%
14.2 On a request or application to register a judgment or order, or for permission to enforce an arbitration award, or for a certificate or a certified copy of a judgment or order for use abroad.	£50	£60	£10	04/01/05****	16.53%
* These fees are in both the Civil Proceedings Fees Order (CPFO) and the Family Proceedings Fees Order (FPFO) and are subject to different rates of inflation due to the fact that the date of last increase differs. The most recent date of last increase was in the CPFO and has been used for this fee increase as opposed to the last increase in the FPFO which was on 10.01.2006 (14.33%).					
** These fees are in both the Civil Proceedings Fees Order (CPFO) and the Family Proceedings Fees Order (FPFO) and are subject to different rates of inflation due to the fact that the date of last increase differs. The most recent date of last increase was in the FPFO and has been used for this fee increase as opposed to the last increase in the CPFO which was on 04.01.2005 (16.53%).					
***These fees were new at date shown					
**** These fees are in both the Civil Proceedings Fees Order (CPFO) and the Family Proceedings Fees Order (FPFO). They were aligned in the FPFO to the CPFO on 13.07.2009 but the last increase to this fee was on 04.01.2005 in the CPFO and as such this is the date of last increase used to calculate the rate of inflation.					

**Table 3 - Proposed fee increases to the Non Contentious Probate Fees Order 2004**

Number of proposed fee increases	forecast additional fee income(full year)	range of inflation % increase – current fee to proposed fee	year of last increase	
23* (*includes Fee 5 – Determination of Costs from CPFO)	£1.2m to £2.6m (Depending on drop in volume – 3 to 7%)	CPI – 16.53% to 24.35% = £0 to £455	10 – 1999 1 – 2003 2 – 2005 8 – 2007*	2 – 2009* (*includes Fee 5 – Determination of Costs from CPFO)



<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>Application for a grant</b> 1 On an application for a grant (or for resealing a grant) other than on an application to which fee 3 applies, where the assessed value of the estate exceeds £5,000	£40	£45	£5	04/01/05*	16.53%
<b>Personal application fee</b> 2 Where the application under fee 1 is made by a personal applicant (not being an application to which fee 3 applies) fee 2 is payable in addition to fee 1, where the assessed value of the estate exceeds £5,000	£50	£60	£10	04/01/05*	16.53%
<b>Special applications</b> 3.1 For a duplicate or second or subsequent grant (including one following a revoked grant) in respect of the same deceased person, other than a grant preceded only by a grant limited to settled land, to trust property, or to part of the estate	£15	£20	£5	26/04/99	24.35%
3.2 On an application for a grant relating to a death occurring on or after 20 <sup>th</sup> March 2003 and in respect of an estate exempt from inheritance tax by virtue of section 154 of the Inheritance Tax Act 1984 (exemption for members of the armed forces etc)	£8	£10	£2	30/05/03**	18.82
<b>Caveats</b> 4 For the entry or the extension of a caveat	£15	£20	£5	26/04/99	24.35%
<b>Search</b> 5 On an application for a standing search to be carried out in an estate, for each period of six months including the issue of a copy grant and will, if any (irrespective of the number of pages)	£5	£6	£1	26/04/99	24.35%
<b>Deposit of wills</b> 6 On depositing a will for safe custody in the principal registry or a district registry	£15	£20	£5	26/04/99	24.35%
<b>Inspection</b> 7 On inspection of any will or other document retained by the registry (in the presence of an officer of the registry)	£15	£20	£5	26/04/99	24.35%

<b>Number and description of fee</b>	<b>Current fee</b>	<b>Proposed fee</b>	<b>Increase in fee</b>	<b>Date of last increase</b>	<b>Rate of inflation used to calculate increase</b>
<b>Copy documents</b>					
<b>8</b> On a request for a copy of any document whether or not provided as a certified copy:					
(a) for the first copy	£5	£6	£1	26/04/99	24.35%
(b) for every subsequent copy of the same document if supplied at the same time	£1	£1	-	26/04/99	24.35%
(c) where copies of any document are made available on a computer disk or in other electronic form, for each such copy	£3	£4	£1	26/04/99**	24.35%
(d) where a search of the index is required, in addition to fee 8(a), (b) or (c) as appropriate, for each period of 4 years searched after the first 4 years	£3	£4	£1	26/04/99**	24.35%
<b>Oaths</b>					
<b>9</b> Except on a personal application for a grant, for administering an oath,					
<b>9.1</b> for each deponent to each affidavit	£5	£6	£1	26/04/99	24.35%
<b>9.2</b> for marking each exhibit	£2	£2	-	26/04/99	24.35%
<b>Determination of costs</b>	The same fees are payable for determination of costs as stated in the Civil Proceedings Fees Order 2004 (Sch 1, Fee 5)				
<b>10</b> For determining costs					
<b>Settling documents</b>					
<b>11</b> For perusing and settling citations, advertisements, oaths, affidavits, or other documents, for each document settled	£10	£12	£2	26/04/99	24.35%
* These fees were decreased at the date shown					
** These fees were new at date shown					