

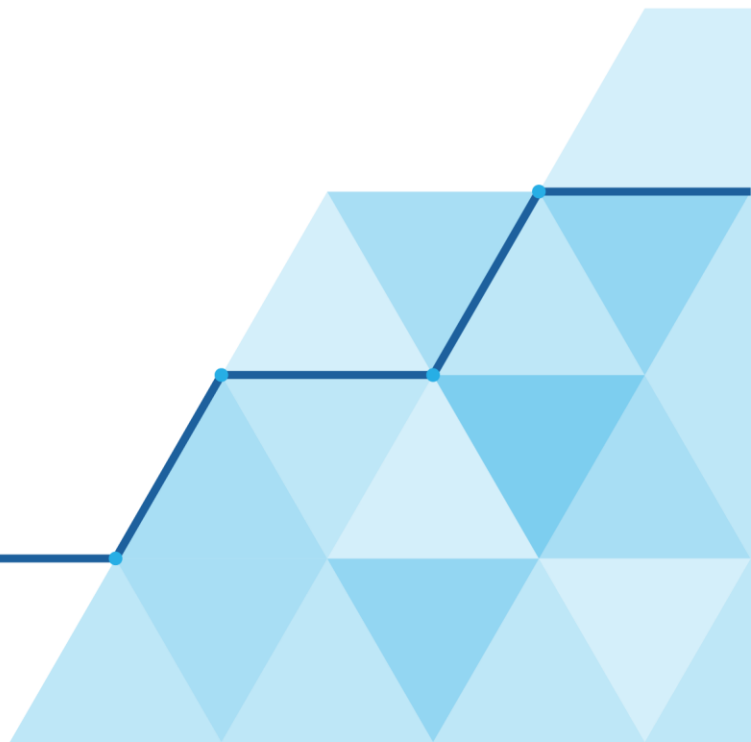


Ministry  
of Justice

# Court and Tribunal Fees

**The Government response to the consultation on ‘Increasing selected court fees and Help with Fees income thresholds by inflation’**

This response is published on 31 August 2021







Ministry  
of Justice

## **Court and Tribunal Fees**

The Government response to the consultation on  
'Increasing selected court fees and Help with Fees  
income thresholds by inflation'

**Response to consultation carried out by the Ministry of Justice.**

**This information is also available at <https://consult.justice.gov.uk/digital-communications/increasing-selected-court-fees-income-thresholds/>**



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The Government response to the consultation on  
'Increasing selected court fees and Help with Fees income thresholds by inflation'

# Introduction and contact details

This document is the post-consultation report for the consultation paper, 'Increasing selected court fees and Help with Fees income thresholds by inflation'.

It will cover:

- the background to the consultation
- a summary of the responses to the consultation
- a detailed response to the specific questions raised in the consultation
- the next steps following this consultation

Further copies of this report and the consultation paper can be obtained by contacting the **Fees Policy Team** at the address below:

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This report is also available at <https://consult.justice.gov.uk/digital-communications/increasing-selected-court-fees-income-thresholds/>

Alternative format versions of this publication can be requested from [mojfeespolicy@justice.gov.uk](mailto:mojfeespolicy@justice.gov.uk).

## Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

# Background

1. The case for regularly reviewing the way we charge court fees is based firmly on the need to ensure that Her Majesty's Courts and Tribunals Service (HMCTS) is funded properly whilst protecting the vital principle of access to justice. Access to justice is crucial to the maintenance of an effective and functioning democracy, helping to uphold social order and underpinning an effective economy.
2. In a wide range of circumstances, courts and tribunals provide the opportunity for individuals and businesses to enforce their rights by dealing with cases fairly, quickly and with certainty, leading to just outcomes. Despite the exceptional circumstances arising from the pandemic and the number of unprecedented challenges it has brought to the fore, this Government maintains its commitment to ensure the efficient and effective running of courts and tribunals, while protecting access to justice and minimising the burden on the taxpayer.
3. Our courts and tribunals service operate on the principle that those who use courts or tribunals (outside the criminal jurisdiction) should pay towards the cost of the service they use. Our Help with Fees (HwF) remissions scheme is in place for those in receipt of certain benefits or on a lower income and cannot afford fees. Additionally, there are some court and tribunal services for which we charge fees which are set below the cost of the service, or where we do not charge a fee at all. Examples include applications for non-molestation orders, and cases in the First-tier Tribunal concerning mental health.
4. The income received from fees covers less than half of the costs of running the courts and tribunals system. This additional cost is subsidised by the taxpayer. Whilst court and tribunal fees are reviewed to ensure they reflect the cost of the service, there have been minimal increases to fees in the courts and tribunals since 2016, despite growing costs due to inflation, amongst other things.
5. The consultation paper 'Increasing selected court fees and Help with Fees income thresholds by inflation' was published on 22 March 2021. The consultation invited comments on the proposal to increase some court fees in line with historical inflation dating back to August 2016, or the date the fee was last amended if later, to the start of the 2021/22 financial year. These proposed increases reflect historic inflation and are therefore not an increase in real terms. The consultation also invited comments on proposed inflationary uplifts to the income thresholds in our HwF remission scheme, by applying inflationary increases backdated to August 2016 through to the start of the 2021/22 financial year. This will ensure that users who may not be able to



afford fees can still access courts and tribunals service by increasing the number of those eligible for either full or partial fee remission.

6. In the consultation, views were sought from the public on:
  - the concept of inflationary increases
  - the proposed inflationary increases to selected court fees and income thresholds of the HwF remission scheme
  - the scope of court fees included in the proposal
  - factors impacting potential demand responses
  - whether the policy would disproportionately impact individuals with protected characteristics
  - any potential modifications to the policy that we should consider in order to mitigate any disproportionate impact on individuals with protected characteristics
7. The consultation period closed on 17 May 2021 and this report summarises the responses, including how the consultation process influenced the final shape of the proposal.
8. The three Impact Assessments and Equalities Impact Assessment accompanying the consultation have been updated to take account of evidence provided by stakeholders and further analysis carried out during the consultation period. The three updated Impact Assessments and Equalities Impact Assessment are available at <https://consult.justice.gov.uk/digital-communications/increasing-selected-court-fees-income-thresholds/>
9. A Welsh language response paper can also be found at <https://consult.justice.gov.uk/digital-communications/increasing-selected-court-fees-income-thresholds/>
10. A list of respondents to the consultation can be found at **Annex A**.
11. The revised fees and HwF income thresholds can be found at **Annex B** and **Annex C** respectively.

## Summary of responses

12. A total of 89 responses to the consultation paper were received. Most responses came from those working in the legal or public sector, or from members of the public. Approximately a quarter of respondents worked as solicitors and a sixth of respondents worked for local authorities. Further responses were received from those working in a range of industries. A significant number of respondents worked in the property sector, such as lessors, real estate agents etc. Several respondents were from associations representing stakeholder groups, including solicitors, those working in credit services or enforcement, court users, families, mental health services and social care services.
13. The MoJ has analysed the responses to the consultation and considered the impact of our policy proposals in light of recurring themes raised by some of the respondents. We also considered the potential impacts of changes suggested by some respondents.

### Summary of responses: inflationary increases to court fees

14. Respondents were split on whether they agreed with the proposal that fees should be increased periodically in line with inflation. 61% of respondents disagreed with the proposal to apply inflation (backdated to 2016 or the year the fee was last amended, if later) to selected court fees; whilst 39% of respondents agreed with this proposal. Many of the respondents who disagreed with the proposal argued that this was not the right time to increase court fees due to the impacts of Covid-19 and raised concerns that the proposed fee increases could reduce access to justice. A number of respondents who agreed with the concept of inflationary increases nevertheless noted that now, during the pandemic, may not be the right time to implement these changes.
15. Some respondents felt that the proposed increases were unjustifiable in relation to the quality of the service provided by HMCTS, citing concerns that the time taken to resolve a case was too slow. Some respondents referred to the HMCTS Reform programme, arguing that further digitisation of the service was needed before fee increases could be justified. Conversely, some respondents claimed that increased digitisation had resulted in lower running costs and, therefore, fees should not be increased.

16. Some respondents raised the topic of how HMCTS is funded, seeking increased transparency on how much of HMCTS is funded by fee payers and how much is funded by Her Majesty's Treasury and, therefore, general taxpayers.
17. The majority of respondents, about 63%, felt that some of the fees included in the proposal should be removed from scope. The fees most commonly suggested for removal were: the Traffic Enforcement Centre fee (Request for an order to recover a specified road traffic debt); fees for family proceedings (including fees for divorce, and for proceedings under the Children Act 1989); Land Recovery – County Court; Bailiff fees; fees for Charging Orders and Attachment of Earnings applications; various fees paid by Local Authorities; and fees paid by individuals or businesses with fewer than 10 employees.
18. A number of respondents raised issues beyond the scope of this consultation. More information about those issues and specific responses, where appropriate, can be found from page 10 below together with the Government's response to each question.

## **Summary of responses: inflationary increases to HwF income thresholds**

19. 65% of respondents agreed with the principle that HwF income thresholds, including couple and child premiums, should be increased in line with inflation. 60% of respondents agreed with the principle that inflation should be applied since 2016 for HwF income thresholds to bring them to 2021/22 levels; 40% of respondents disagreed with this principle.
20. A number of respondents commented that most people's wages or benefits have not increased by inflation and were concerned, mistakenly, that the proposed increase would make the scheme less generous. More information about specific responses to these concerns and each question can be found from page 10 below. Some respondents raised concerns that increasing the thresholds for HwF could result in litigants bringing more claims. There were also concerns that some litigants do not understand the claims they are bringing, with suggestions from some respondents that those claiming HwF should also receive advice through legal aid regarding their claim.

## Summary of the Government's response

21. The Government believes there is a strong justification to proceed with increasing certain court fees and the HwF income thresholds by inflation. The proposed increases reflect historic inflation and are therefore not an increase in real terms. The income generated from these proposals will go towards the running cost of HMCTS and will ensure that the courts and tribunals can continue to deliver access to justice for all.
22. The Government appreciates that Covid-19 has had an impact on individuals and businesses. HwF is available for those on a lower income or who may be unemployed/ in receipt of benefits, including those whose unemployment or are receiving benefits is as a result of Covid-19. In order to ensure we continue to protect access to justice for those on a low income, we will also proceed to inflate HwF income thresholds for single people as well as couple and child premiums to 2021/22 levels in line with inflation, backdated to 2016. This will make the fee remissions scheme more generous for those who are unable to afford a fee.
23. The Government appreciates that some users might sometimes be frustrated by the service they receive. Whilst, like the whole nation, the courts and tribunals have been affected by the pandemic, recovery is our priority. Far from HMCTS profiting from these fee increases; they simply represent the increase in the cost of providing the services. The increases will make an important contribution to funding the ongoing work, and recovery, of HMCTS. It's important to remember that fees do not cover the full cost of running HMCTS. In 2019/20, there was a net fee income of £724m against the £2bn running costs of HMCTS.
24. The Government has carefully reviewed each fee that respondents suggested should be excluded from the inflationary increases. After careful evaluation of the impact on court users of inflationary increases, the Government has made the decision to continue with the proposal in the form consulted on.
25. The Government does not agree that litigants may bring unmeritorious cases due to these changes to the HwF remissions scheme. Access to justice is a fundamental constitutional principle, and one that the Government is committed to protecting; the merit of a case is not a relevant factor for eligibility for HwF. Since being introduced in 2013, there is no evidence that the availability of the scheme has created a perverse incentive for litigants to bring unmeritorious claims and, therefore, any increases to the income thresholds is unlikely to either.
26. The Government does not agree that enhanced fees (fees with specific Parliamentary approval to be set at a level above the cost of providing the underlying service) are unfair. Section 180 of the Anti-social Behaviour, Crime and Policing Act

2014 allows the Lord Chancellor to set court fees at a level above the cost of the underlying service. The Ministry of Justice carried out a separate consultation on the use of this power in its 2013 consultation "Court fees: proposals for reform "Court and Tribunal Fees: The Government response to consultation on further fees proposals". Setting some court fees above cost allows the Government to subsidise other parts of the courts and tribunals system while ensuring that system is effective, efficient and minimises the cost to the taxpayer. For example, vulnerable users seeking non-molestation orders because of domestic abuse; or for those cases before First-Tier tribunals concerning mental health are not charged a court fee.

## Changes to rates of inflation

27. As the consumer price index (CPI) inflation rates for Q1 2021 were not available at the time of publishing the consultation document, indicative inflation rates based on the Office of Budget Responsibility forecasts for were instead applied. Inflation backdated to August 2016, which is used to uprate most of the fees, has risen from 7.7% to 7.8% and Consumer Prices Index including owner occupiers' housing costs (CPIH) backdated to August 2016, which is used to inflate the HwF thresholds, has risen from 7.5% to 8%. Due to using CPI inflation to uprate the unit costs (instead of an internal HMCTS rate), using CPI outturns for March 2021 and updating the calculation of the fees that were last changed after July 2016 has led to 37 fee levels being different to what was proposed in the consultation. Three of the fees are no longer being increased and therefore are no longer included in **Annex B** below, 22 fees are increasing by a higher amount (on average £1) and 12 fees are increasing by a lower amount (on average £3). In addition, a fee has been removed from the scope as it is no longer in use
28. We have revised the increases to the HwF income thresholds set out in the consultation document, based on the updated official CPIH figures. The proposed thresholds for HwF, including the couple premium, have increased by £5 compared to the thresholds set out in the consultation document. The revised thresholds can be found at **Annex C**. This therefore has resulted in changes to the level of income generated by these proposals towards the running costs of HMCTS.
29. Accounting for these revisions, the changes will raise an estimated gross income of £23–29m each year once implemented, falling to £20–£25m per annum after remissions are accounted for across the: Family Proceedings Fees Order; Civil Proceedings Fees Order; Court of Protection Fees Order; and Magistrates' Courts Fees Order 2008. The additional changes to the HwF scheme across the board are expected to cost £6–7m each year in reduced fee income, so the whole package of proposals will raise an estimated £13–£20m per annum towards the running costs of HMCTS.

## Responses to specific questions

**Question 1: Do you agree with the principle that fees should be increased periodically in line with inflation? Please give reasons for your answer.**

30. We received 73 responses to this question. 37 (52%) respondents disagreed with the principle that fees should be increased periodically in line with inflation. The responses can be broken down into four major themes. First, that now is not the right time to increase court fees due to the impacts of Covid-19. There was specific mention of Lessors being particularly affected by eviction bans during Covid-19. Second, that the proposed fee increases will reduce access to justice. Thirdly, that fees should not be increased due to the current level of service received – a number of respondents commented that the court service provided by HMCTS was either poor, or too slow and therefore fee increases were not justifiable. Fourthly, a number of participants expressed concerns with increasing fees when they felt that there was a lack of clarity around how HMCTS is funded and the cost of providing HMCTS' services. Some respondents asserted that the fee increases are a way for HMCTS to make a profit, with others asserting that the HMCTS reform programme is leading to a reduction in the cost of delivering services and querying the justification for fee increases.
31. Conversely, 35 (48%) respondents agreed with the principle that fees should be increased periodically in line with inflation. These respondents took the view that fees should reflect the cost of the service provided. Some asserted that fee increases help to deal with fraud by deterring those who wish to make fraudulent claims. Some respondents reflected that now might not be the right time to increase court fees due to the impacts of Covid-19 and that any increases should be appropriate and proportionate.
32. A number of respondents raised concerns about issues which went beyond the scope of the consultation.

## Government's response

33. Whilst, like the whole nation, the courts and tribunals have been affected by the pandemic, recovery is our priority. HwF is available for those on a lower income or who may be unemployed or in receipt of benefits, including those unemployed or in receipt of benefits as a result of Covid-19. These increases to fees do not represent a rise in real terms and will ensure that HMCTS can continue to deliver access to justice for all.
34. In relation to the impacts on Lessors specifically, in the case of income lost from rent arrears, lessors could start proceedings during the height of the pandemic if they had given their tenants six months' notice. Lessors could also start proceedings in exceptional cases. Where lessors could not progress evictions due to Covid-19, fees were waived. The Covid-19 eviction ban has now ceased.
35. The Government has carefully reviewed the impact of these fee increases on access to justice and is proposing increases to HwF income thresholds to mitigate any negative impact of fee increases on the most vulnerable users. The HwF remission scheme is available to those who cannot afford to pay fees, whether in full or in part. For those who do not qualify for HwF but still feel they are unable to afford the fee, in exceptional circumstances, a remission can also be granted outside the main HwF scheme.
36. Far from HMCTS profiting from these fee increases, less than half of funding for HMCTS comes from fees. In 2019/20, there was a net fee income of £724m against the £2bn running costs of HMCTS.
37. In relation to claims that digitisation is reducing costs, the Government reviews the costs of services to ensure that non-enhanced fees are not set above their unit cost. These reviews consider changes to the HMCTS cost base, including any efficiency savings and contractual cost increases.
38. The Government does not agree that enhanced fees (with specific Parliamentary approval to be set at a level above the cost of providing the service) are unfair. Section 180 of the Anti-social Behaviour, Crime and Policing Act 2014 allows the Lord Chancellor to set court fees at a level above the cost of the underlying service. Setting some court fees above cost allows the Government to subsidise other parts of the courts and tribunals system where there are particularly vulnerable user groups. This ensures that system is effective and efficient whilst also minimising the costs to the taxpayer.

39. In addition, the Government does not agree with suggestions that fundamental changes should be made to how HMCTS is funded. Our courts and tribunals system run on the principle that users (outside the criminal jurisdiction) should pay towards the cost of the service they receive, where they can afford to do so.

**Question 2: Do you agree with the principle that HwF income thresholds, including couple and child premiums, should be increased in line with inflation? Please give reasons for your answer.**

40. We received 60 responses to this question. 39 (65%) respondents agreed with the principle that HwF income thresholds, including couple and child premiums, should be increased in line with inflation. Respondents agreed it was positive that more HwF applicants would be eligible for a fee remission and so supported the proposal that thresholds should be increased by inflation in order to ensure that financial support did not diminish over time (due to wage and fee inflation). In addition, some respondents felt that the government should consider decreasing fees in line with increasing the thresholds, and that inflationary increases should be applied to capital thresholds (as well as income thresholds). Some respondents noted that reform of the entire scheme was required, and the additional funding associated with increasing the income thresholds would be better spent on a review of HwF or a reform of the system.
41. Conversely, 21 (35%) respondents disagreed with the principle that HwF income thresholds, including couple and child premiums, should be increased in line with inflation. A number of respondents commented that most people's wages or benefits have not increased by inflation and asserted that the scheme will be less generous or that these changes should not be implemented during Covid-19. It should be noted that the changes to the income thresholds of the HwF remission scheme will allow more people to receive remission and therefore it is more generous. Another respondent noted there should be a one-off increase rather than an inflationary increase.
42. A number of respondents raised concerns about the following issues, rather than on the specific subject of this question:
- fundamental changes should be made to HwF, for example HwF should be reformed to include legal advice; HwF should only be available to those on benefits; HwF should offer exemptions to fees paid in relation to divorce or dissolution application fee for victims of domestic abuse
  - affordability is misrepresented in HwF



## Government's response

43. The Government acknowledges most respondents have agreed that HwF income thresholds, including couple and child premiums, should be increased in line with inflation, backdated to August 2016. By increasing the income thresholds in line with inflation the Government is taking proportionate measures to preserve access to justice for those that need it most. Increases to capital thresholds are out of scope for this consultation.
44. In relation to comments there should be a one-off increase rather than an inflationary increase, this is an exercise to adjust fees to the appropriate levels which they should have been set at. One year's inflation would not appropriately reflect rising costs due to inflation. Most of the fees (117 in total) included in the proposal have not been increased since 2016.
45. Other comments made about HwF, such as increasing capital thresholds and a HwF review are beyond the scope of this consultation.

**Question 3: Do you agree with the principle that inflation should be applied since 2016 to April 2021 levels (with the exception of fees increased after 2016, which should be inflated from the year they were last updated)? Please give reasons for your answer.**

46. We received 67 responses to this question. 41 (61%) respondents disagreed with the principle that inflation should be applied since 2016 to April 2021 levels whilst 26 (39%) respondents agreed with this principle. The reasons put forward by respondents were similar to the views put forward in response to Question 1.
47. The respondents who agreed with the principle to backdate inflation from 2016 onwards commented that the methodology in this consultation is logical due to a demonstrable increase in costs. Others noted inflation-based fees ensure costs are applied fairly and that not inflating court fees each year would result in a reduction in the amount that the court system can recover. Some respondents suggested that the Government would be justified in these proposals due to increased public spending during the pandemic. Respondents also mentioned that the principle of inflation should be applied to enforcement fees and an index linked fee structure is favourable as addressed in the consultation 'Transforming bailiff action'.
48. Those respondents who disagreed with the principle set out in question three cited concerns that backdating would cause a large hike in fees, which could adversely impact businesses. Respondents also cited concerns that civil court fees have drastically increased over the years affecting the ability of small businesses to pursue

debt. Concerns were expressed that fees should be set at a level that allows access to justice and should be funded by tax contributions. Respondents felt that fees needed to be reasonable, reflect the cost of providing services to court users, and reflect the quality of the service provided.

49. Some respondents who disagreed with this question noted that applying inflation to court fees and thus backdating rates of inflation is not an accepted principle as court fees have not historically been tied to inflation.
50. Some respondents argued that it would be better to apply one year of inflation to fees as opposed to applying inflation across a number of years.
51. Respondents who disagreed with the principle of applying inflation from August 2016 raised concerns with the methodology of backdating inflation from 2016 using the unit cost of 2018/19. It was suggested that applying the unit cost of 2016/2017 instead would allow us to reach a correct fee. Others also noted that there is no transparency as to how the proposed fees were arrived at and that indicative increases make it difficult for users to properly plan for the increases. As the proposals seek to increase fees which are already enhanced, any further plans to increase these fees would be unreasonable.
52. A number of respondents raised concerns about wider issues that went beyond the scope of this consultation, including suggesting a fundamental review of fees is required rather than blanket increases.

## **Government's Response**

53. The Government notes the concerns that the fee increases proposed should be incremental. However, it is important to recognise that the increases to fees do not represent a rise in real terms and will ensure that HMCTS can continue to deliver access to justice for all. The increases proposed in this consultation are generally modest. 82% of the fee increases are less than £20. In addition, we have carefully reviewed the impact of these fee increases on access to justice and are proposing the increases to HwF thresholds to mitigate any such negative effect.
54. The Government does not agree that the increases should be set against a unit cost of 2016/17. It is important for standard fees to reflect the actual cost of service and thus applying inflation to the latest available unit costs (assessed using data for 2018/19) will allow for this. HMCTS unit costs have been inflated from 2018/19 to 2021/22.

55. As CPI inflation rates for Q1 2021 were not available at the time of publishing the consultation document, indicative inflation rates based on the Office of Budget Responsibility forecasts for were instead applied. The CPI rates are now available and the revised fees are set out in **Annex B** of this document. The methodology and key assumptions underpinning the proposals in this consultation are set out in the accompanying document 'Court fees Impact Assessment: Uplifting selected court fees by inflation'. The impact assessment was published alongside the consultation.

**Question 4: Do you agree with the principle that inflation should be applied since 2016 for HwF income thresholds to bring them to April 2021 levels? Please give reasons for your answer.**

56. We received 57 Responses to this question. 60% of respondents agreed with the principle that inflation should be applied since 2016 to HwF income thresholds to bring them to April 2021 levels. Respondents agreed inflationary increases to HwF thresholds would help those on low incomes. Although, one respondent noted more needs to be done and that thresholds should be reviewed or doubled to allow for more people to receive remission. Furthermore, some respondents stated that inflation leads to a lower disposable income and that the fees should reflect the costs.
57. Conversely, 40% of respondents disagreed with the principle. Some noted that HwF should go further than it currently does, although most of the arguments focused on fees rather than HwF. Some of these respondents questioned why inflationary increases had not been applied yearly to date and that they should be considered on a year by year basis. Other respondents commented that court fees are already too high and are therefore reduce access to justice.
58. A number of respondents raised concerns about the following wider issues, rather than on the specific subject of this question:
- most wages and benefits have not been increased by inflation
  - HwF eligibility should be more rigorously checked
  - saving (capital) thresholds should also be increased
  - the income thresholds should be regularly reviewed
  - other respondents commented that court fees are already too high and are therefore reducing access to justice

## Government's Response

59. The Government acknowledges most respondents have agreed in principle that inflation should be applied since 2016 for HwF income thresholds to bring them to 2021/22 levels. Increasing the HwF income thresholds will allow more people to receive a fee remission, as it reflects lower disposable income.
60. In relation to the issues raised outside the consultation scope, regarding concerns related to remission rates decreasing for individuals who have not had their wages or benefits inflated, increasing the HwF income thresholds will in fact allow more people to be eligible for a partial or full fee remission. Regarding the concerns that court fees are too high, the Government has outlined its position in paragraph 77.
61. On the subject of eligibility, the HwF remission scheme considers several factors, including the applicant's income, savings, the size of the fee and whether they are in receipt of certain benefits. The eligibility criteria ensure only those on a low income and with small amounts of savings (and who are therefore unable to afford court fees) can access the HwF scheme. In order to assess eligibility, applicants are required to provide financial data and agree a statement of truth as evidence before being considered for remission.
62. The comments that there should be wider changes to HwF, capital thresholds and a HwF review are beyond the scope of this consultation.

### **Question 5: Are there any fees outlined in Annex A that should not be increased by inflation, backdated to 2016, as part of this proposal?**

63. We received 66 responses to this question. 63% did not agree with the scope of fees included in the consultation. Suggestions were made to remove the following fees from the scope of the proposal: All court fees; Traffic Enforcement Centre fee (Request for an order to recover a specified road traffic debt); Divorce fee; Family Court fees (including those under the Children's Act and enforcement of a child arrangement order;); Recovery of Land – county court and Bailiff fees; fees for Charging Orders and Attachment of Earnings applications; fees paid by Local Authorities; and all Family and Civil fees paid by individuals or businesses with less than 10 employees.
64. Some respondents also noted a fee increase should be postponed due to the current environment of Covid-19 with another respondent noting fee increases should be postponed until further evidence can be provided of the cost of services.

65. Conversely, 38% of respondents noted no fees should be exempt from the inflationary increase.
66. A number of respondents raised concerns about the following wider issues, rather than on the specific question:
  - the rate of increase for those in the civil and family fee orders appears to be more than double the increase in the other orders, i.e. 7–8 % compared to 3+% in CoP, and 4–5% for Magistrates
  - court fees should reflect the cost of the service provided
  - inflationary increases should be applied at a higher level

## **Government's response**

67. The Government has carefully reviewed each fee put forward by respondents to be excluded. After careful evaluation of the impact on court users of inflationary increases, the Government has made the decision to proceed with the current scope of the proposal. The Government would like to highlight that these increases do not mean a real term increase in fees as they reflect costs incurred to HMCTS by inflation.
68. The Government does not agree that the Traffic Enforcement Centre fee will directly impact local authorities' budgets, the fee associated with an Order for Recovery although paid by the local authority, can be reclaimed from the debtor (the person who has failed to pay a PCN despite being issued with a Charge Certificate). The Government acknowledges that PCNs have not been increased since they were introduced and the Department for Transport are aware of this issue.
69. The Government does not agree that the Divorce fee should be removed from the proposal. The fee for divorce proceedings is enhanced. Enhanced fees are fees set above their unit cost. Under the power contained in section 180 of the Anti-social Behaviour, Crime and Policing Act 2014. The Lord Chancellor may set court fees at a level above the cost of the process. The Ministry of Justice carried out a separate consultation on the use of this power to set these particular fees in its 2015 consultation "Court and Tribunal Fees: The Government response to consultation on further fees proposals".
70. The Government does not agree that fees payable in family proceedings (including those under the Children's Act and enforcement of child arrangement orders) should be excluded from the scope of the proposal. A New Burdens Assessment is being undertaken for public law cases and, for private law cases, HwF is available for those on lower income or benefits, and with limited savings who require help by way of a fee remission.

71. The Government does not agree with comments that bailiff fees should be excluded due to an increase in demand which means an increase is unjustified. An eviction ban has been in place during Covid-19 and only expired in June 2021; therefore, there has not been an increase in evictions during the pandemic. Additionally, increased demand does not decrease the unit cost of a fee. It is also the case that the fee for Recovery of Land – County Court was not included in the original proposal.
72. A New Burdens Assessment, an assessment which looks at the impact of these increases on local authorities, has been undertaken as part of this work. This assessment will review if these fees are an additional cost to Local Authorities, and we continue to work closely with the Ministry for Housing, Communities and Local Government on this issue.
73. The Government does not agree that all Family and Civil fees paid by individuals or businesses with less than 10 employees should be excluded. HwF is available for those on low incomes and with low levels of savings. This scheme is also available to those working as sole traders. There is no clear justification to exclude businesses with less than 10 employees.
74. In relation to concerns raised outside the scope of the specific question. It should be noted that rates of inflation are applied from the year the fee was last amended to bring the fee from 2021/22 prices. Some fees have been updated since 2016 and have therefore, only seen a smaller increase.
75. Regarding concerns that fees do not represent the cost of providing HMCTS services, the majority of fees are non-enhanced fees (set at or below cost) and the Government regularly reviews the level of these fees to ensure they continue to reflect the estimated cost of delivering the service. For enhanced fees, the Lord Chancellor may set court fees at a level above the cost of the service with explicit parliamentary approval. By setting some court fees above cost, the Government can cross subsidise other parts of the courts and tribunals system while ensuring that system is effective and efficient, minimising the cost to the taxpayer.

76. The Government do not agree inflationary increases should be applied at a higher level. CPI is used to uplift the fees as this provides a good measure of the general increase to prices as well as inflation experienced by HMCTS. The main reasons for doing so are:
- The Lords Economic Affairs Select Committee published a report in 2019<sup>1</sup>, suggesting that government could be accused of 'index shopping' when not using CPI as the default measure of inflation. In particular, at paragraph 156, the report states "While the single general measure is being determined, the Government should switch to CPI for uprating purposes in all areas where it is not bound by contract to use RPI." CPI inflation data is published by the Office of National Statistics (ONS) and is widely accepted as a good indicator of the general increase in prices, ensuring transparent methodology of the rates used.
  - Backdated from August 2016 through to the start of the 2021/22 financial year, inflation is 7.8% (13 fees will be increased by a lower rate, as they were last changed either in July 2018, July 2019 or December 2016). Inflation is being applied at a rate that is more comparable with the increased costs of providing these services. A higher rate would not reflect the increases caused by inflation.

**Question 6: As part of our assessment of the potential demand response, we would be grateful for feedback from consultees on the relative importance of different factors in the decision to take a case to court. These factors might include the court fee, other associated costs, the probability of success, the likelihood of recovering any debt, any personal recognition received, the necessity of taking a case to court, and any non-financial motivations such as any prior experience of court processes.**

77. We received a total of 48 responses to this question. 15 (17%) of respondents suggested that the court fee was the main consideration when taking a case to court. One respondent highlighted this was only applicable for claims under £100,000 and another respondent provided evidence that employment tribunal claims dropped when employment tribunal fees were introduced. The second most frequently mentioned consideration, referenced 13 times (15% of answers), was the likelihood of success. The third most important factor was the total costs of going to court – mentioned 11 times (11% of answers). The following factors were raised as contributing factors: the total damages which can be recovered; necessity; the time for case to be heard; if other resolutions have failed; the likelihood of recovery and prior experience with the courts.

<sup>1</sup> Available at <https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/246/246.pdf>

78. A number of respondents raised concerns about the following wider issues, rather than on the specific subject of this question:
- some councils are deciding not to issue an Order of Recovery if a member of the public fails to pay a PCN (after a Charge Notice has been issued). This is because the likelihood of recovery at this stage is low and the fee therefore hits the councils' budget
  - litigants should speak to an advisor before being granted HwF
  - risk assessments should always be implemented before the start of proceedings to halt unnecessary proceedings
  - legal aid should exist for divorce
  - MoJ should consider giving full or partial refunds on fees if post-issue ADR is successful

## Government's response

79. The Government appreciates that the demand response to fee changes is particularly complex and notes that respondents consider a range of factors including the fee, likelihood of success and the total costs of going to court in their decision-making process.
80. Some respondents included qualitative evidence, but not quantitative evidence on this. It is difficult to determine exactly how much raising a particular fee will impact on demand for that specific court process. The existing research is largely qualitative rather than quantitative. The research that does exist demonstrates that several factors influence the decision to take a case to court, such as access to legal representation, the availability of alternatives like mediation, case-type and the perceived benefit of the outcome compared to the cost. For example, qualitative research carried out in 2014 explored the motivations to go to court amongst 54 civil and family court applicants.<sup>2</sup> The research found that emotional factors outweighed financial motivations in the decision to go to court amongst many applicants. In family matters this included concern over the welfare of the child and in civil cases emotional motivations included securing recognition from others of the perceived validity of the case.
81. Although the proposed fee increases range from £1 to £480, most of the fee changes are of low monetary value, with a weighted average of £7; 82% of the fee changes are less than £20 and 92% are less than £50. A large number of the fees being increased are also for actions for which there is a lack of alternative remedies and/or where there are strong non-financial motivations to pursue the case. For example,

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<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299804/role-of-court-fees-in-decisions-to-bring-cases-to-courts.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/299804/role-of-court-fees-in-decisions-to-bring-cases-to-courts.pdf)



there are no alternatives for divorce cases. The proposal includes fees that relate to several courses of action, such as general application fees, for which it is difficult to estimate a demand response. In addition, many of the fees to be changed are for applications within proceedings or enforcement and would be charged once a case is in process, rather than at issue, and so are less likely to impact on the decision to proceed (but might impact a decision to continue).

82. For the reasons highlighted in the paragraphs above, we do not expect the fee changes to lead to a fall in demand. However, we have applied an optimism bias of 20% to the volumes (by lowering the volumes) to reflect the uncertainty that could arise from any changes in user behaviour. It has also been assumed that there is no detrimental impact on outcomes in either civil or family court cases, or on access to justice.
83. Even allowing for initially lower volumes, we expect the proposed changes to increase fee income. Throughout this consultation, we have maintained that protecting access to justice by ensuring an effective and efficient courts service is of the utmost importance, and the key reason underpinning the proposals. As evidenced earlier, the current gap in the funding of HMCTS threatens this principle, and this Government remains committed to reinvesting any additional income as part of our £1bn investment plan to strengthen and improve our justice system. We believe that the modest fee increases suggested in our proposal is a reasonable means to achieve our objective.
84. The Government does not agree that in order to access HwF a litigant should be required to speak to a legal advisor or that a risk assessment should be carried out before a case is brought. An individual has the right to access justice and take a case to court.
85. The Government does not agree with comments that legal aid should be available for divorce, the principle of the legal aid scheme is that it should be targeted at those who need it most. Therefore, legal aid is available in private family matters, including divorce, only where an applicant is a victim of, or at risk of being a victim of domestic abuse, subject to means and merits criteria.
86. The Government does not agree with comments relating to remissions and refunds relating to out of court resolutions. A hearing fee does not need to be paid until 28 days before the trial or start of the trial period. If a claim is settled before the trial, work will still have been undertaken by HMCTS and the judiciary to prepare for it.

**Question 7: Do you consider that the proposal will have a disproportionate impact on individuals with protected characteristics? If so, are there any potential modifications to the policy that we should consider in order to mitigate any disproportionate impact? Please give reasons for your answer.**

87. We received 55 responses to this question. 49% (27) of respondents did not feel that this proposal would have a disproportionate impact on those with protected characteristics. One respondent noted that whether you have a protected characteristic or not, the changes will impact those using HMCTS. The remaining 51% (28) of respondents felt that this proposal would have a disproportionate impact on those with protected characteristics. The most commonly named characteristics which respondents felt would be impacted by this proposal are:
- those from ethnic minorities
  - those with disabilities
  - women, including women who are victims of domestic abuse or in abusive marriages
88. Respondents also highlighted a number of other impacted groups, rather than those with protected characteristics.
89. Respondents suggested a number of different ways that the disproportionate impact on those with protected characteristics could be mitigated, these ideas included:
- reintroduction of the green form for divorce cases
  - a new remission scheme introduced for those with disabilities
  - the option to spread court fees over multiple hearing dates
90. There were also comments on the HwF scheme itself. Two participants noted that more awareness is required about the HwF remission scheme and that the process should be less cumbersome to complete. Two participants suggested changes to HwF, with one commenting that HwF should help with the understanding of the law and the other stating that HwF should not have arbitrary criteria and that cases should be considered on a case by case basis.

## Government's response

91. The Government carefully considered the suggestion that the proposal will disproportionately affect individuals with protected characteristics and agree that those with protected characteristics are likely to be overly represented among court users who pay fees. Therefore, it is more likely that individuals with protected characteristics could be disproportionately affected by the fee changes. This includes those: from ethnic minorities, with disabilities, who are women or who are women in abusive relationships. Though overall, we consider that the fee increases for those over-represented will be unlikely to cause a particular disadvantage through an inability to pay as these changes do not reflect an increase in real terms. In relation to the remaining groups mentioned by respondents, these are not protected characteristics but we have noted that defendants are an impacted population in the Impact Assessment (Court Fees).
92. The Government does not agree with the criticisms made of the HwF scheme. Full details on HwF and how to apply is available at <https://www.gov.uk/get-help-with-court-fees> and local courts can advise about the existence of HwF. In relation to comments that arbitrary criteria should not be applied to applications; it should be noted that the Lord Chancellor can grant remission in exceptional cases outside of the HwF scheme. The standard criteria in HwF are in place to allow for fair remission policies which are applied in the same way to all applicants.

In addition to questions 1 to 7, some respondents emailed specific responses to the consultation which did not address the questions.

93. We received 24 responses which did not specifically address any of the questions directly but commented on the overall proposal or specific concerns relating to MoJ. These include:
- that fundamental changes should be made to the principles behind how HMCTS is funded
  - the government had not considered the impact on defendants who would pay court fees as part of a costs order or the impact on businesses
  - increases to private law proceedings disproportionately impact the poorest families
  - family proceedings fees are a barrier to families accessing the court and a lack of access to justice also impacts a child's wellbeing
  - there was a recommendation made in the Family Justice Review (2011) that Family fees should be removed and wider reform within the family justice sector or changes to the fee structure in the family courts should be considered
  - the ban of High Court Enforcement Officers (HCEOs) should be lifted, so court users have options when enforcing judgments

- the use of HCEOs should not be allowed to act when a claimant is appealing a decision or under judicial review. They also commented that HCEOs' powers should be more transparent and better regulated
- HwF should be replaced by a scheme where a litigant pays 20% of the money recovered to HMCTS if they received a fee exemption
- fees in the Court of Appeal should be reduced
- fee 9.2 of the Magistrates Order "Application for any other warrant (no other fee specified)", which is used to remove person to a place of safety under the Mental Health Act, should be re-classified to "warrants of entry" which would attract a £20 fee rather than the existing £75 per application
- court is not the best place to settle claims and more needs to be done to promote out-of-court dispute resolution – court fees are generally less costly than using out of court resolution

## Government's response

94. The Government does not agree with suggestions that fundamental changes should be made to how HMCTS is funded.
95. The Government agrees that these changes will have an impact on defendants. In relation to families themselves, in order to protect access to justice for the poorest families, we are also inflating HwF income thresholds for single people as well as the couple and child premiums<sup>3</sup> to 2021/22 levels in line with inflation, backdated to 2016. This means more people will be eligible for either a partial or full fee remission. There should be no broader impact on businesses.
96. Regarding concerns relating to access to justice, research previously undertaken by the Ministry of Justice on this issue has consistently indicated that fees are a secondary consideration in the decision to litigate, with the prospects of success and the likelihood of success being primary considerations<sup>4</sup>. Fees represent a small proportion of the overall costs of litigation.
97. In relation to concerns raised about enforcement, it should be noted that eviction bans have now expired. Regarding the role of HCEOs, the regulations associated with HCEOs can be found in: paragraph 2 (1) of Schedule 7 of the Courts Act 2003; Regulation 6 of the High Court Enforcement Officers Regulations 2004; the Tribunals Courts Enforcement Act 2007; Taking Control of Goods (Fees) Regulations 2014;

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<sup>3</sup> This includes the thresholds in the Supreme Court remission scheme

<sup>4</sup> The role of court fees in affecting users' decisions to bring cases to the civil and family courts: a qualitative study of claimants and applicants, 2014.  
([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299804/role-of-court-fees-in-decisions-to-bring-cases-tocourts.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/299804/role-of-court-fees-in-decisions-to-bring-cases-tocourts.pdf))

Courts Act 2003; The High Court Enforcement Officers Regulations 2004. In relation to the ability of the HCEO to act under the appeal process, details regarding appeals can be found in part 84 of the Tribunals, Courts and Enforcement Act 2007. The Government does not agree with the respondent that HCEOs should not act during an appeal process. A HCEO should act until a stay order is granted. Enforcement stops once a stay order is granted.

98. In relation to requests for Fee 9.2 of the Magistrates Order "Application for any other warrant (no other fee specified)" to be re-classified, it should be noted that this change is out of scope for this consultation; however the Government will consider this proposal as part of ongoing work.
99. The Government recognises that going to court or using an out of court resolution process can both be effective ways to resolve claims. The Government is actively looking at ways to increase the uptake of out-of-court resolution processes so that they are seen as the norm, rather than the exception. For example, in respect of family cases, anyone wishing to bring a claim must, except in certain circumstances, attend a Mediation Information and Assessment Meeting (MIAM) with the intention of engaging with the other party so that the issues surrounding family breakdown can be resolved more amicably than through the adversarial process which court entails.

# Impact Assessment, Equalities and Welsh Language

## Impact Assessment

100. Three Impact Assessments (IAs) were published alongside the consultation document. The first covers the impact of inflationary increases to selected court fees, the second covers the impact of increasing HwF income thresholds, and the third is an overarching IA which considers the increases both to court fees and to HwF. These set out the estimated impact that the proposal would have if it were to be implemented and have been updated based on the consultation response.

The IAs indicate that HMCTS, court users (individuals, businesses and local authorities), legal services providers, support organisations in the advice and voluntary sector, taxpayers and MoJ are likely to be particularly affected. The proposal is likely to lead to additional costs for HMCTS and the voluntary/ advice sector (due to changes required by implementation) as well as individuals, businesses and the public sector (due to increased fees).

101. Further information regarding particular impacts can be found in the updated Impact Assessments included alongside this document.

## Equalities

102. An Equalities Impact Assessment (EIA) was published alongside the consultation document. From our analysis, we believe that the proposed increase in court fees will not lead to direct discrimination. These fees will apply to every court user and will not discriminate against individuals because of their protected characteristics. However, evidence suggests that there is likely to be over-representation of people with certain protected characteristics amongst court users compared to the general population in each court jurisdiction. The EIA has been updated based on additional information supplied by respondents to the consultation.

## Welsh Language Impact Test

103. These changes will impact those who speak the Welsh Language. This proposal includes changes to fees which also impacts users of the courts who speak the Welsh Language, although should not impair their understanding of fees disproportionately.
104. A Welsh version of this document can be found at:  
<https://consult.justice.gov.uk/digital-communications/increasing-selected-court-fees-income-thresholds>. A Welsh language copy of the IAs and EIA can be provided on request.

## Conclusion and next steps

105. The Government has considered all the responses to the consultation carefully. The Lord Chancellor has a duty to protect access to justice and in order to protect access to justice, it is vital that HMCTS continues to be funded properly. Increasing fees by inflation to reflect the increasing costs of HMCTS helps to maintain the funding of the system whilst easing the cost to the general taxpayer.
106. The Government will be proceeding as planned to increase 129 fees outlined in the consultation in line with historical inflation dating from August 2016 to the start of the 2021/22 financial year, or the year the fee was last amended (capped at August 2016). These proposed increases reflect historic inflation and therefore do not amount to an increase in real terms. In addition, the Government will also continue with proposed inflationary uplifts to the income thresholds in our Help with Fees remission scheme, applying inflation backdated to August 2016 through to April 2021. This will ensure that any user who may not be able to afford courts or tribunals fees can still access these services with the help of a full or partial fee remission.
107. A full list of the revised fees can be found at **Annex B** and the revised HwF income thresholds can be found at **Annex C**.
108. The Government has set out the measures it intends to take forward following the consultation. Going forward, our intention is to more regularly update fees by inflation to ensure that fees continue to accurately reflect the costs of providing these services.
109. The proposal will be effected via negative statutory instrument in early Autumn 2021. The changes will include amendments to fees in the following Fee Orders:
- Family Proceedings Fees Order 2008
  - Civil Proceedings Fees Order 2008
  - Court of Protection Fees Order 2007
  - Magistrates Courts Fees Order 2008



110. In addition, there will be changes to HwF income thresholds in all the Fee Orders below:

- Family Proceedings Fees Order 2008
- Civil Proceedings Fees Order 2008
- Court of Protection Fees Order 2007
- Magistrates Courts Fees Order 2008
- Non-Contentious Probate Fees Order 2004
- Gender Recognition (Application Fees) Order 2006
- Supreme Court Fees Order 2009
- Upper Tribunal (Lands Chamber) Fees Order 2009
- First-tier Tribunal (Gambling) Fees Order 2010
- The First-tier Tribunal (Immigration and Asylum Chamber) Fees Order 2011
- Upper Tribunal (Immigration and Asylum) (Judicial Review) (England and Wales) Fees Order 2011
- First-tier Tribunal (Property Chamber) Fees Order 2013

## Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691383/Consultation\\_Principles\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf)

## Annex A – List of Respondents

Full Name of Respondent	Company/ Association
Carole Clive Doyle	ACUTECH Limited
David Hersh	Anthill Ltd
Steve Chamberlain	Approved Mental Health Professionals Leads Network
Claire Barcham	Association of Directors of Adult Social Services
Meyer Hazard	Association of Personal Injury Lawyers (APIL)
Stuart McMillan	Bar Council of England and Wales
Graham Sykes	Beesley and Fildes Limited
Claire Southway	Blanchards Bailey LLP
Nina Bhatti	Blaser Mills LLP
Dr Ruth Allen	British Association of Social Workers
Kelvin Reynolds	British Parking Association
Olivia Trapp	Cafcass
Rob Thompson	CCUA
Susan Jackson	Central London County Court
Glen Bullivant	Chartered Institute of Credit Management
Michael Olmer	Clapham & Collinge
Pascal Giraud	CM Workforce Solutions Ltd
Anthony Jones	Council
Craig Gee	Craig Gee & Co Solicitors
D R Dishman	Credit Limited International
Henry Aitchison	Credit Services Association
Martyn Berkin	Crown Office Chambers
Ann Dixon	Devonshires Solicitors LLP
Tony Welsh	East Herts Council
James Brien	Easy Online Divorce
Mark Hindes	Elmsco Property Partnership LLP

<b>Full Name of Respondent</b>	<b>Company/ Association</b>
Michael Lewkowicz	Families Need Fathers
Peter Felton	Feltons Law
Julian Chamberlayne	Forum of complex injury solicitors
Shona Houghton	FWJ Legal Limited
Michael Hartley	Global Corporate Limited
Heather Clarke	Gloucestershire County Council
Fola Ajala	Graceland Solicitors
David Hepworth	Herefordshire Council
Kathryn Thomas	Horwich Farrelly Solicitors
Chris Sutton	KJ Smith Solicitors
Kerry Underwood	Law Abroad Ltd
Chris Bowers	Law Firm
Scott Dickson	Local Authority
Thelma Stober	Local Government Association
Laurence Courtney	London Borough of Newham
Daniel Jones	London Borough of Waltham Forest
Andrew Luck	London Council
Eddie Harrison	Lowell Solicitors Limited
Rachael Campbell	Luton Borough Council
Helen Baxter	Merritt and Company
Sandra Bayne	Mortimer Clarke Solicitors Limited
Keenan	Online Legal Services Limited
Lesley Andrews	OpenArch Properties Group of Companies
Gemma Magill	Parrott and Coales LLP
Tony Caine	Powys County Council
Angelina	Premier Properties
Nagy Gabriel	Private Lessor
Caroline Asquith-Turnbull	Rd & E NHS FT
Rachel Rogers	Resolution – first for family law

<b>Full Name of Respondent</b>	<b>Company/ Association</b>
Richard Peeters	Ripeshare Ltd
Maria Taylor	Rogers & Norton Solicitors
Roya Hekmatpanah	Securebase Ltd
Alex Bryant-Roggero	Self-employed Enforcement Agent
Katherine Sweeney	Stephensons LLP
Sarah Masters	Stephensons Solicitors LLP
Pauline Smith	Stephensons Solicitors LLP
Ben Connor	Stewarts Law LLP
John Fawcett	Tees Law
Polly Fox	TfL
Rachel Cairnes	The Association of Consumer Support Organisations (ACSO)
Russell Hamblin-Boone	The Civil Enforcement Association
Mary Mugerwa	The Law Society
Susie Hayman	Torbay Council
Chika Ashby	Transport for London
Robert Anderson	Virgin Media/ Liberty Global
Richard Taylor	Woking Borough Council
Geoff Hislop	Wokingham Highways Alliance
Marie Heym	Wrexham County Borough Council
Denise King	Member of the Public
Judith Birchall	Member of the Public
Simon Lawson	Member of the Public
Kristopher James	Member of the Public
Andrew Weeden	Member of the Public
Ryan Tremble-Niccolls	Member of the Public
Min	Member of the Public
Beverley Nias	Member of the Public
Robert Whitehouse	Member of the Public
Deshveen Kaur Mangat	Member of the Public

## Annex B – Final list of proposed fee changes

The proposed changes to fees are broken down by the relevant fee orders in which they are referenced.

### Court of Protection Fees Order 2007 No 1745

*The fees in scope from the Court of Protection Fees Order include the fee to apply for action under, a hearing under or to appeal a decision made under the Mental Capacity Act 2005.*

<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>4</b>	Application fee (Article 4)	£365	£377	£371	-£6	£6
<b>5</b>	Appeal fee (Article 5)	£230	£237	£234	-£3	£4
<b>6</b>	Hearing fees (Article 6)	£485	£500	£494	-£6	£9

## Magistrates Courts Fees Order 2008 No 1052

*The fees in scope from the Magistrates Courts Fees Order include fees such as application fees, hearings fees, copy fees, issue fees for documents or fees for the issue of warrants.<sup>5</sup>*

SI Ref ID	Description	Current	Fee included in consultation	Final fee after remodelling	Difference between consultation and final fee	Final increase
2.1	Application to state a case for the opinion of the High Court	£135	£139	£137	-£2	£2
2.3	Appeal – proceedings under Schedule 5, Licensing Act 2003	£60	£63	£62	-£1	£2
2.4	Appeal (no other fee specified)	£60	£63	£62	-£1	£2
3.2	Request for a certificate of satisfaction	£15	£16	£16	£0	£1
5.1 a	Copy of a document (10 pages or less).	£10	£11	£11	£0	£1
5.2	Copy of a document in electronic form (for each copy)	£10	£11	£11	£0	£1
6.1	Request for licence/consent/authority (no other fee specified)	£25	£27	£27	£0	£2
6.2	Application for renewal/variation of an existing licence	£25	£27	£27	£0	£2

<sup>5</sup> Please note, Help with Fees is not available for copy fees

The Government response to the consultation on  
 'Increasing selected court fees and Help with Fees income thresholds by inflation'

<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>6.3</b>	Application for the revocation of licence (no other fee specified)	£25	£27	£27	£0	£2
<b>7.1</b>	On taking attestation of a constable or special constable	£10	£11	£11	£0	£1
<b>7.2</b>	For every oath (etc) where no other fee is specified.	£25	£27	£27	£0	£2
<b>8.2 a</b>	Application for leave/permission to commence proceedings (no other fee specified)	£116	£125	£125	£0	£9
<b>8.2 b</b>	Proceedings where leave/permission has been granted	£116	£125	£125	£0	£9
<b>9.1</b>	Application for a warrant of entry	£20	£22	£22	£0	£2
<b>9.2</b>	Application for any other warrant (no other fee specified).	£75	£81	£81	£0	£6
<b>10. 1</b>	Application for a warrant of commitment	£245	£264	£264	£0	£19
<b>10. 2</b>	Warrant of commitment (Child Support Act 1991)	£40	£41	£41	£0	£1



## Family Proceedings Fees Order 2008 No 1054

*The fees in scope in the Family Proceedings Fees Order include fees such as cases brought forward under the Children Act 1989, fees relating to divorce, copies of documents and issue fees for certificates or warrants.*

<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>1.2</b>	Filing an application for a divorce, nullity or civil partnership dissolution	£550	£592	£593	-£1	£43
<b>1.8</b>	Application for parental order	£215	£232	£232	£0	£17
<b>2.1a</b>	Parental responsibility (section 4(1)(c) or (3), 4A(1)(b) or(3))	£215	£232	£232	£0	£17
<b>2.1b</b>	Parental responsibility (section 4ZA(1)(c) or (6))	£215	£232	£232	£0	£17
<b>2.1c</b>	Guardians (section 5(1) or 6(7))	£215	£232	£232	£0	£17
<b>2.1d</b>	Section 8 orders (section 10(1) or (2))	£215	£232	£232	£0	£17
<b>2.1e</b>	Enforcement orders (section 11J(2))	£215	£232	£232	£0	£17
<b>2.1f</b>	Compensation for financial loss (section 11O(2))	£215	£232	£232	£0	£17

The Government response to the consultation on  
 'Increasing selected court fees and Help with Fees income thresholds by inflation'

<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>2.1g</b>	Change of child's surname or removal from jurisdiction while residence order in force (section 13(1))	£215	£232	£232	£0	£17
<b>2.1h</b>	Special guardianship orders (section 14A(3) or (6)(a), 14C(3) or 14D(1))	£215	£232	£232	£0	£17
<b>2.1i</b>	Secure accommodation order (section 25) – England	£215	£232	£232	£0	£17
<b>2.1ia</b>	Secure accommodation order (section 25) – Wales	£215	£232	£232	£0	£17
<b>2.1j</b>	Change of child's surname or removal from jurisdiction while care order in force (section 33(7))	£215	£232	£232	£0	£17
<b>2.1k</b>	Contact with child in care (section 34(2), (3), (4) or (9))	£215	£232	£232	£0	£17
<b>2.1l</b>	Education supervision order (section 36(1))	£215	£232	£232	£0	£17

The Government response to the consultation on  
 'Increasing selected court fees and Help with Fees income thresholds by inflation'

<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>2.1m</b>	Variation or discharge etc of care and supervision orders (section 39)	£215	£232	£232	£0	£17
<b>2.1n</b>	Child assessment order (section 43(1))	£215	£232	£232	£0	£17
<b>2.1o</b>	Emergency protection orders (sections 44, 45 and 46)	£215	£232	£232	£0	£17
<b>2.1p</b>	Warrant to assist person exercising powers under emergency protection order (section 48)	£215	£232	£232	£0	£17
<b>2.1q</b>	Recovery order (section 50)	£215	£232	£232	£0	£17
<b>2.1r</b>	Cancellation, variation or removal or imposition of condition of registration of child minder or day carer (section 79K)	£215	£232	£232	£0	£17
<b>2.1s</b>	Warrant to assist person exercising powers to search for children or inspect premises (section 102)	£215	£232	£232	£0	£17

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<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>2.1t</b>	Applications in respect of enforcement orders (paragraph 4(2), 6(2), 7(2) or 9(2) of Schedule A1)	£95	£102	£102	£0	£7
<b>2.1v</b>	Financial provision for children (paragraph 1(1) or (4), 2(1) or (5), 5(6), 6(5), (7) or (8), 8(2), 10(2), 11 or 14(1) of Schedule 1)	£215	£232	£232	£0	£17
<b>2.1w</b>	Approval of court for child in care of local authority to live abroad (paragraph 19(1) of Schedule 2) – England	£215	£232	£232	£0	£17
<b>2.1w a</b>	Approval of court for child in care of local authority to live abroad (paragraph 19(1) of Schedule 2) – Wales	£215	£232	£232	£0	£17
<b>2.1x</b>	Extension of supervision order (paragraph 6 of Schedule 3)	£215	£232	£232	£0	£17

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<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>2.1y</b>	Extension or discharge of education supervision order (paragraph 15(2) or 17(1) of Schedule 3)	£215	£232	£232	£0	£17
<b>2.1z</b>	Paragraph 8(1) of Schedule 8 (appeals concerning foster parents)	£215	£232	£232	£0	£17
<b>2.2</b>	Application for proceedings under Section 31 of Act	£2,055	£2,213	£2,215	+£2	£160
<b>3.1</b>	Application/permission to apply for adoption	£170	£183	£183	£0	£13
<b>3.2</b>	Application for a placement order (under Section 22)	£455	£490	£490	£0	£35
<b>3.3</b>	Application to the High Court	£170	£183	£183	£0	£13
<b>4.1</b>	Application for warning notice to be attached to a contact order	£50	£54	£54	£0	£4
<b>5.1</b>	Application (without notice)	£50	£53	£53	£0	£3

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<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>5.2</b>	Application for decree nisi, conditional order, separation order (no fee if undefended)	£50	£54	£54	£0	£4
<b>5.3</b>	Application (on notice) (unless otherwise listed)	£155	£167	£167	£0	£12
<b>5.4</b>	Application for a financial order	£255	£275	£275	£0	£20
<b>8.1a</b>	Copy of a document (10 pages or less)	£10	£11	£11	£0	£1
<b>8.2</b>	Copy of a document in electronic form (for each copy)	£10	£11	£11	£0	£1
<b>9.3</b>	Issue of default costs certificate – Family	£60	£65	£65	£0	£5
<b>12.1</b>	Application to question a judgement debtor or other person	£50	£54	£54	£0	£4
<b>13.3</b>	Issue for a warrant of possession or a warrant of delivery	£110	£118	£119	+£1	£9

## Civil Proceedings Fees Order 2008 No 1053

*The fees in scope in the Civil Proceedings Fees Orders include small claims hearing fees, copy fees for documents, fees relating to notice of summons, fees relating to other remedies, and fees relating to the issue of certificates or specific orders.*

SI Ref ID	Description	Current	Fee included in consultation	Final fee after remodelling	Difference between consultation and final fee	Final increase
1.5C	Any other remedy (County Court)	£308	£332	£332	£0	£24
1.5H	Any other remedy (High Court)	£528	£569	£569	£0	£41
1.6	Filing proceedings against an unnamed party	£55	£59	£59	£0	£4
1.8a	Permission to issue proceedings	£55	£59	£59	£0	£4
1.8b	Assessment of costs (under Part 3, Solicitors Act 1974)	£55	£59	£59	£0	£4
2.1a	Hearing fee: Multi track case	£1,090	£1,174	£1,175	+£1	£85
2.1ci	Hearing fee: Small claims case (does not exceed £300)	£25	£27	£27	£0	£2
2.1ci	Hearing fee: Small claims case (exceeds £300 but not £500)	£55	£59	£59	£0	£4
2.1cii	Hearing fee: Small claims case (exceeds £500 but not £1,000)	£80	£86	£85	£1	£5

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<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>2.1ci v</b>	Hearing fee: Small claims case (exceeds £1000 but not £1500)	£115	£124	£123	£1	£8
<b>2.1c v</b>	Hearing fee: Small claims case (exceeds £1,500 but not £3,000)	£170	£183	£181	£2	£11
<b>2.1c vi*</b>	Hearing fee: Small claims case (exceeds £3000)	£335	£352	£346	£6	£11
<b>2.2</b>	Appellant's/respondent's notice (High Court)	£240	£259	£259	£0	£19
<b>2.3a</b>	Appellant's/respondent's notice (County court small claims)	£120	£129	£129	£0	£9
<b>2.3b</b>	Appellant's/respondent's notice (County court other claims)	£140	£151	£151	£0	£11
<b>2.4 (a)</b>	General application (on notice) excl HA'97 & Court Fund Pay Out	£255	£275	£275	£0	£20
<b>2.4 (b)</b>	General application (on notice) Harassment Act 1997 & Court Fund Pay Out	£155	£167	£167	£0	£12



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 'Increasing selected court fees and Help with Fees income thresholds by inflation'

<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>2.5 (a)</b>	General application (by consent/without notice) excluding Harassment Act 1997 & Court Fund Pay Out	£100	£108	£108	£0	£8
<b>2.5 (b)</b>	General application (by consent/without notice) HA'97 & Court Fund Pay Out	£50	£54	£54	£0	£4
<b>3.1b</b>	Petition for bankruptcy (presented by creditor/other person)	£280	£302	£302	£0	£22
<b>3.2</b>	Petition for an administration order	£280	£302	£302	£0	£22
<b>3.3</b>	Any other petition	£280	£302	£302	£0	£22
<b>3.4a</b>	Request for a certificate of discharge from bankruptcy	£70	£75	£75	£0	£5
<b>3.4b</b>	Copy of a certificate of discharge from bankruptcy	£10	£11	£11	£0	£1
<b>3.11</b>	Application within proceedings (by consent/without notice)	£25	£26	£26	£0	£1

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<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
3.12	Application within proceedings (with notice)	£95	£100	£99	£1	£4
4.1a	Copy of a document (10 pages or less)	£10	£11	£11	£0	£1
4.2	Copy of a document in electronic form (for each copy)	£10	£11	£11	£0	£1
5.1	Where the party filing the request is legally aided	£220	£237	£237	£0	£17
5.2a	Costs up to £15000	£369	£397	£398	+£1	£29
5.2b	Costs £15000 – £50000	£743	£800	£801	+£1	£58
5.2c	Costs £50000 – £100000	£1,106	£1,191	£1,192	+£1	£86
5.2d	Costs £100000 – £150000	£1,480	£1,594	£1,595	+£1	£115
5.2e	Costs £150000 – £200000	£1,848	£1,991	£1,992	+£1	£144
5.2f	Costs £200000 – £300000	£2,772	£2,986	£2,988	+£2	£216
5.2g	Costs £300000 – £500000	£4,620	£4,976	£4,980	+£4	£360
5.2h	Costs Above £500000	£6,160	£6,635	£6,640	+£5	£480
5.3	Issue of default costs certificate – Civil	£66	£71	£71	£0	£5

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<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>5.4</b>	Appeal (detailed assessment proceedings) – Civil	£231	£249	£249	£0	£18
<b>5.5</b>	Request/application to set aside a default costs certificate	£121	£130	£130	£0	£9
<b>6.1</b>	On the filing of a request for detailed assessment for Court of Protection	£85	£88	£87	-£1	£2
<b>6.2</b>	Appeal against a Court of Protection costs assessment decision	£65	£70	£70	£0	£5
<b>7.1</b>	Sealing a writ of control/possession/delivery (High Court)	£66	£71	£71	£0	£5
<b>7.2</b>	Order requiring a judgement debtor or other person to attend court	£55	£59	£59	£0	£4
<b>7.3a</b>	Third party debt order or the appointment of a receiver by way of equitable execution	£110	£118	£119	+£1	£9
<b>7.3b</b>	Application for a charging order	£110	£118	£119	+£1	£9

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<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>7.4</b>	Application for a judgement summons	£110	£118	£119	+£1	£9
<b>7.5</b>	Register a judgement 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	£66	£71	£71	£0	£5
<b>8.3</b>	Application to require judgement debtor to attend court	£55	£59	£59	£0	£4
<b>8.4a</b>	Application for a third party debt order	£110	£118	£119	+£1	£9
<b>8.4b</b>	Application for a charging order	£110	£118	£119	+£1	£9
<b>8.5</b>	Application for a judgement summons	£110	£118	£119	+£1	£9
<b>8.6</b>	Issue of a warrant of possession/warrant of delivery	£121	£130	£130	£0	£9
<b>8.7</b>	Application for an attachment of earnings order – Civil	£110	£118	£119	+£1	£9

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 'Increasing selected court fees and Help with Fees income thresholds by inflation'

<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>8.9</b>	Application for enforcement of an award of a sum of money or any other decision made by any court, tribunal, body or person	£44	£47	£47	£0	£3
<b>8.10</b>	Request for an order to recover a specified road traffic debt	£8	£9	£9	£0	£1
<b>8A.1</b>	Service by a bailiff of an order to attend County Court for questioning	£110	£118	£119	+£1	£9
<b>10.1</b>	Bills of sale	£28	£30	£30	£0	£2
<b>10.2</b>	Official certificate of the result of a search (for each name)	£50	£54	£54	£0	£4
<b>10.3</b>	Search, in person, of court records (per 15 minutes)	£11	£12	£12	£0	£1
<b>12.1</b>	Affidavit	£12	£13	£13	£0	£1
<b>13.1 a</b>	Application – permission to appeal/extension of time	£528	£569	£569	£0	£41
<b>13.1 b</b>	Permission to appeal is not required or has been granted	£1,199	£1,291	£1,292	+£1	£93

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<b>SI Ref ID</b>	<b>Description</b>	<b>Current</b>	<b>Fee included in consultation</b>	<b>Final fee after remodelling</b>	<b>Difference between consultation and final fee</b>	<b>Final increase</b>
<b>13.1c</b>	Appellant/respondent filing an appeal questionnaire	£1,199	£1,291	£1,292	+£1	£93
<b>13.2</b>	On filing a respondent's notice	£528	£569	£569	£0	£41
<b>13.3</b>	On filing an application notice	£528	£569	£569	£0	£41

## Annex C – Final list of proposed HwF income thresholds

The tables below highlight the current and proposed income thresholds (which is the maximum amount to be eligible, income can fall below this amount) for HwF for those currently not claiming benefits.

<b>Income Test</b>	<b>Current Threshold</b>	<b>Threshold in consultation</b>	<b>Final Threshold</b>
A single person's monthly income before tax	£1,085	£1,165	£1,170
Couple's premium	£160	£170	£175
Child premium	£245	£265	£265

<b>Income Cap</b>	<b>Current Threshold</b>	<b>Final Threshold</b>
A single person's monthly income before tax	£5,085	£5,170
Couple's premium	£160	£175
Child premium	£245	£265







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