



Ministry  
of Justice

# **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**

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Ministry of Justice Analytical Series  
2014

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First published 2014

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ISBN 978-1-84099-644-9

## Acknowledgements

The authors would like to thank the Ministry of Justice team for their guidance and support throughout the course of the study, in particular Ramona Franklyn, Krista Jansson and Tracey Budd. We would also like to thank Mark Sefton for his contribution and guidance throughout the project; colleagues Hannah Shrimpton, Kirsty Burston, Chris Perry and Rory Donaldson for assistance with fieldwork and advice on behavioural research; and most importantly the 54 participants in the study who shared their experiences and views with the team. Thanks are also due to staff at Her Majesty's Courts and Tribunal Service (HMCTS) and Sumi Rabindrakumar at Gingerbread for help in recruiting participants to the research.

### Research partner

Mark Sefton acted as a research partner in connection with the research for this report. He is a freelance socio-legal researcher with considerable experience of researching civil and family court proceedings, alternative dispute resolution processes and information, advice and legal services.

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# 1. Summary

The overarching objective of this research was to provide evidence on the role that court fees play in decisions to seek redress through civil and family courts, in the context of other costs that may be incurred and other factors that might influence decisions to take a case to court.

The aim of the study was to explore:

- why users decide to use the courts to resolve disputes;
- what role costs and court fees play in this decision;
- views on potential increases to court fees; and
- in what circumstances decisions are price sensitive.

A qualitative study was undertaken to address the research aims. Fifty-four in-depth interviews were conducted with a range of civil claimants and family applicants whose cases had commenced between August 2012 and March 2013. The findings reflect the stated views, beliefs and experiences of those interviewed, and only pertain to those who had decided to use the courts for their case. The study included individuals and small and medium enterprises (SMEs), and covered those who were represented (either having paid themselves, were funded through conditional fee (otherwise known as ‘no win, no fee’ (NWNF)) arrangements or had been funded via legal aid) and those who represented themselves (litigants in person). **The study does not cover those who resolved disputes using alternative means, or who had been deterred from bringing their case to court for any reason.**<sup>1</sup>

Given the focus on understanding the rationale behind user behaviour and decision making, a behavioural-research approach was adopted based on the ‘COM-B model’ of behaviour change (Michie et al., 2011).<sup>2</sup> In this ‘behaviour system’ capability, opportunity and motivation interact to generate behaviour that in turn influences these components.

## Key findings

The main conclusion from this study was that **participants bringing civil and family cases to court typically felt that court fees were affordable, and they would not have been deterred from starting court proceedings if court fees had been set at the higher levels they were asked about in the study.**

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<sup>1</sup> They may also have views on costs and court fees that influenced how they sought to resolve their disputes, but these were outside the scope of this study.

<sup>2</sup> The original paper is accessible at <http://www.implementationscience.com/content/6/1/42>

## Why users decide to use the courts to resolve disputes and the role of fees in their decisions

The research found that participants were motivated by a number of factors to use courts, often emotionally based. Court fees were not a key factor most participants considered when deciding to take their case to court.

- The majority of civil and family case participants reported that bringing a case to court was a difficult decision, and one which had taken a long time to come to. They typically reported that they had tried a number of alternatives to bringing a case. Given this backdrop, **participants in the research tended to feel that they had no alternative but to bring their case to court in order to achieve their goals.**
- In both civil and family cases, emotional motivations were the primary reason for most participants taking their cases to court. **Emotional motivations tended to overcome other barriers** such as low levels of capability in managing a case, low awareness of the potential risk or outcomes of the case, or, in some cases, difficulties in finding or paying for representation or paying court fees. **A smaller number of participants in the research cited more analytical decision-making processes in deciding whether to bring a case, which typically related to weighing up the potential costs, benefits and risks.**
- In both civil and family cases, participants expressed strong belief in the validity of their cases and typically believed that they would win the case.
- Whether participants had legal representation, and how this was paid for, was important in their awareness of the costs of going to court, including court fees.
- Claimants and applicants represented by solicitors tended to have the lowest levels of awareness of the cost of court fees. **Represented participants typically saw court fees within the broader context of overall legal costs.** Those who paid for their own representation perceived court fees to be a low proportion of their overall costs, and court fees were less important in their decision making. Those who had accessed legal aid and those who were using solicitors under a NWNF arrangement had not considered court fees in their decision making as they did not have to pay them to start their case.

- In both civil and family cases, litigants in person<sup>3</sup> were typically more aware of the existence and level of court fees as these were generally the sole cost they paid in order to initiate court proceedings.
- Civil claimants and family applicants who represented themselves were therefore the only group who had consciously considered whether court fees were affordable. In general, they reported that the existing court fees were not a deterrent.
- SMEs<sup>4</sup> who represented themselves typically took an analytical approach to considering fees. They reported that they made the decision to go to court only after weighing up the risks carefully and typically assessed whether a fee was worth paying given the claim value and chance of success. Individual litigants in person were more often driven by emotional factors.

### Potential impacts of higher court fees

Participants were asked about views on hypothetical changes to court fees: family case participants were asked if they would be willing to pay £500 rather than £215 for applications for contact or residence orders and £255 for applications for contested financial orders; civil case participants with claims of less than £2,000 were asked how much more they would have been willing and able to pay for their fee; and civil case participants with claims of £2,000 and over were asked if they would be prepared to pay 5% of the value of the claim.<sup>5</sup>

- In response, most of the participants in the study reported that the fee increases asked about were affordable and that they would have proceeded with the case if the court fee cost was at this higher level.
- For those who had paid for representation, the increased court fees asked about were still a relatively small amount of the total costs incurred. For individual litigants in person, court fees were the main cost they incurred, although they reported that the level of increase asked about was considered to be unlikely to have deterred them from going to court.
- There was also some indication that individual participants with low levels of savings or earnings – for example, those who accessed legal aid, those who were funded through NWNF arrangements, and SMEs with small cash reserves – were concerned about court fee increases, although few reported that those

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<sup>3</sup> A litigant in person is someone who conducts court proceedings on their own behalf without having a solicitor to formally represent them.

<sup>4</sup> SMEs are typically small and medium-sized businesses which employ fewer than 250 employees.

<sup>5</sup> The court fees charged to issue money claims at the time of interviews ranged from £35 to £395, depending on the value of the claim.



increases asked about would have deterred them from starting court proceedings.

- The increase in court fees potentially lessened appetite to proceed with a case for some civil claimants making specified money claims who had reported that the decision to go to court was typically driven by the potential costs and benefits of doing so.

Overall, most participants reported that **court fees were affordable and did not influence their decision to start court proceedings**. Many participants felt they **would not have been deterred from starting court proceedings if court fees had been higher**.

## 2. Background and methodology

### 2.1 Research aims and objectives

The Ministry of Justice (MoJ) has committed to delivering a simpler, rationalised court fee structure by April 2015.<sup>6</sup> This study covers proceedings in the civil and the private law family court, both of which charge court fees. The Government consulted on changes to these fees in December 2013<sup>7</sup> with the aim of recovering the full costs of the courts through court fees. In this context, it is important for the MoJ to understand whether an increase in fees has the potential to change the behaviour of different types of court users.

The main objective of this research was to improve the MoJ's understanding of the role that court fees and other costs play in influencing civil and family court users' decisions to seek redress through the courts, in the context of the range of factors that may influence their decisions. The aims of this study were to:

- understand why users decide to use the courts to resolve disputes;
- understand what role costs and court fees play in this decision;
- understand in what circumstances decisions are price sensitive;
- explore views of increased court fees.

### 2.2 Policy background

Civil proceedings tend to involve claims for money<sup>8</sup> or property. Money claims can be either specified (i.e. for a specific sum of money) or unspecified (i.e. for an amount to be decided). Claims in respect of property, a separate category, often involve possession claims in which a lender or landlord seeks possession of residential property due to unpaid mortgage or rent arrears. In 2012, there were approximately 895,000 specified money claims, 173,000 unspecified money claims, and 211,000 possession claims.<sup>9</sup> **This study covers specified and unspecified money claims.**

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<sup>6</sup> See the Ministry of Justice Business Plan 2012–2015, available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/219978/moj-2012-business-plan.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/219978/moj-2012-business-plan.pdf)

<sup>7</sup> <https://www.gov.uk/government/consultations/court-fees-proposals-for-reform>

<sup>8</sup> In 2012, more than half of specified money claims were for no more than £1,000 and almost nine in ten were for no more than £5,000. Approximately half of unspecified claims were for more than £5,000. See <https://www.gov.uk/government/collections/court-statistics-quarterly>

<sup>9</sup> These figures refer to county court cases and are rounded to the nearest 1,000: see <https://www.gov.uk/government/collections/court-statistics-quarterly>

Private family proceedings include:

- divorce;
- the dissolution of civil partnerships;
- making arrangements for children;
- settling the financial arrangements for separating couples;
- domestic violence.

Private law children cases most commonly involve proceedings to resolve issues between parents about where children should live, and any contact they have with the other parent (and sometimes others, e.g. grandparents).<sup>10</sup> Financial proceedings involve the distribution of property, other assets and income on divorce or dissolution of civil partnerships and may also include financial provision for children. **This study covers private law matters involving children and financial cases.**<sup>11</sup>

Currently the vast majority of private law family proceedings are dealt with in the county courts, although private law children cases can also be dealt with in Family Proceedings Courts, and, in a small number of cases, the High Court (Family Division).<sup>12</sup> These cases are issued via local courts, and for cases involving children or contested financial orders usually involve at least one court hearing which both parties will be expected to attend. However, a majority of applications for financial orders are by consent from the outset and can be dealt with without a hearing.

Although civil cases are considered under the county court system, over the last two decades there has been a movement towards a more centralised electronic processing system. These developments, along with the fact that most claims are either not defended or are resolved in another way without a trial, mean that most parties in civil cases do not need to physically attend court.

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<sup>10</sup> These most commonly involve applications in respect of contact (i.e. whether a child should have contact with a parent or other person, and/or the nature of that contact) or residence (i.e. with whom a child should live).

<sup>11</sup> Divorce or civil partnership dissolution only cases were excluded as they do not involve the same decision-making processes as other cases (a divorce or civil partnership dissolution may only be obtained via court proceedings). Applications in respect of domestic violence were excluded due to their sensitive nature and the recruitment methods employed in the study (although participants sometimes indicated that domestic violence had featured in their family cases).

<sup>12</sup> Court statistics suggest that in 2012, around four in five private law children cases were dealt with in county courts and around one in five in Family Proceedings Courts (see <https://www.gov.uk/government/collections/court-statistics-quarterly>). The distinction is due to disappear with the introduction of the Single Family Court, planned for April 2014.

Since their creation, the county courts have charged court fees. Since the early 1990s, Government policy has been that the full costs of the civil and family courts, including judicial costs, should be met by fees charged to users, less an amount from the taxpayer to cover fee income lost due to remission. The remission system, available for both civil and family cases, means that an individual may have his or her fees waived in full or in part depending on their financial circumstances.<sup>13</sup> At present, full cost recovery is not being achieved: in 2012/13 a gross income of around £505m was generated against a cost of around £630m, creating a deficit of around £125m (2013/14 prices).<sup>14</sup>

In addition to the remission system, another way in which users may be exempt from court fees is if they are in receipt of legal aid which pays for their representation in proceedings; if so, their solicitor will arrange for court fees to be paid as a disbursement. If legal aid only covers advice and assistance, then individuals would have to apply for remission for any proceedings in the usual way.<sup>15</sup>

Until this study, the most recent research to examine the impact of court fees in the context of decisions to start court proceedings was based on a study conducted in 2006.<sup>16</sup> Since that study, there has been considerable change in the way that fees are charged. For example prior to 2007, court fees were mostly charged to issue proceedings. In 2007, in an effort to ensure that the fees charged better reflected the stages which incurred costs, a series of hearing-related fees were introduced for civil cases. At the same time, some issue fees were discounted (primarily those which involve the electronic issue of civil claims via the Claims Production Centre and Money Claims Online (MCOL)).

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<sup>13</sup> As of October 2013, capital resources are taken into account as well as income in determining eligibility for remission. Disposable capital limits vary between £3,000 and £16,000, depending on the individual's circumstances and the amount of the fee involved. If within the capital limits, then income falls to be assessed in one of three ways. Individuals in receipt of certain income-related benefits are entitled to full remission. Full remission is also available based on gross income; the limits for this vary, but range from £1,085 per month (£13,020 pa) for a single person with no dependent children, to £1,735 per month (£20,820 pa) for a couple with two dependent children (and slightly higher if there are more children). If gross income exceeds these limits, partial remission may be available depending on the amount of the fee involved. This is subject to caps on gross income of between £5,085 and £5,735 per month (£61,020–£68,820 pa) but the way in which partial remission is structured means that the higher limits are only likely to be relevant to high-value civil claims for which fees are more substantial and that they are unlikely to be relevant to fees in family cases.

<sup>14</sup> In addition, the cost of fee remission is approximately £25m (see <https://consult.justice.gov.uk/digital-communications/court-fees-proposals-for-reform>).

<sup>15</sup> This is the general position; there are some situations in which it varies, which are beyond the scope of this study.

<sup>16</sup> Ministry of Justice (2007) *What's cost got to do with it? The impact of changing court fees on users, Opinion Leader Research, Ministry of Justice Research Series 4/07*, accessible at [http://s3.amazonaws.com/zanran\\_storage/www.justice.gov.uk/ContentPages/29421242.pdf](http://s3.amazonaws.com/zanran_storage/www.justice.gov.uk/ContentPages/29421242.pdf)

In April 2013, the scope of legal aid in both civil and family cases was significantly changed by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). The main impact of these reforms was that legal aid was removed from a wide range of private family law cases.<sup>17</sup> Therefore, it is likely that the proportion of applicants who act as litigants in person in private law family cases will increase following the reforms. Some of these litigants in person will be eligible for fee remissions and will not therefore have to pay court fees.

This qualitative research is designed to explore the attitudes, knowledge and experiences of individuals and organisations who bring cases to the civil and family courts, and to examine the extent to which court fees are a factor in their decision making.

## 2.3 Methodology

A qualitative approach was adopted to allow interviewers to explore in depth the nature of participants' motivations in taking a case to court. Fifty-four qualitative in-depth interviews were conducted with a range of civil claimants and family applicants.

Qualitative sampling aims to reflect diversity rather than aspiring to a representative sample.<sup>18</sup> The research was interested in exploring the motivations and perceptions of those initiating court cases, and so covered claimants initiating civil proceedings and applicants initiating private law family proceedings. The sample was designed to include a range of participants in these broad categories, with the sample criteria influenced by factors that were thought likely to influence decision making and experiences.

**Across both civil and family cases, a mixture of levels of legal representation were included** to reflect the fact that legal representation status was likely to shape participants' experiences in bringing a case to court and their views of paying court fees. The sample criteria included those who had no legal representation (litigants in person); those who received legal representation they did not fund themselves (e.g. through legal aid or through a NWNF arrangement); and those who had funded their own legal representation.

**For civil claimants** a mix of specified claims and unspecified claims was included. The specified claims covered a range of values, and included those making a claim through

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<sup>17</sup> Legal aid may still be available for representation in such cases if there are domestic violence and/or child protection issues, and it may also still be available for mediation, in both instances subject to financial eligibility and merits criteria.

<sup>18</sup> Barbour, R (2001) *Checklists for improving rigour in qualitative research*, British Medical Journal 322: 2115, p58.

MCOL. The study covered individual claimants seeking financial redress/compensation for their own benefit and SMEs seeking financial redress/compensation in a business capacity. Large businesses<sup>19</sup> were excluded because of the different considerations likely to apply to their decision making, and because the MoJ had already explored the perspectives of those who issued large volumes of claims in a separate study.<sup>20</sup>

**For family applicants** the study covered those making applications in respect of contact and residence of children, and financial orders in divorce and separation cases. The study covered applications made by both male and female applicants; and households with a range of incomes, including some with a gross annual income of £20,000 or less. The latter ensured that participants on low incomes, who would be more likely to be impacted by any increase to court fees, would be included although some of them would be eligible for fee remissions.

The study only covered those who had brought a case to court. It did not include those who had considered making an application to court but decided against doing so, whether deterred by cost or because alternatives to court were successful, and therefore does not offer insight into the views of those who did not make it to court.

Participants were asked to report on a case which they had initiated in the 12 months prior to their recruitment for the research (recruitment took place between July and September 2013). This was to ensure that cases had occurred recently enough for participants to recall their experiences, but also to allow enough time for cases to progress through the system so they would be able to report on the full range of their experiences and the total costs that they had incurred.

All cases covered in the study began before the legal aid reforms were implemented in April 2013, and some participants who received legal aid may not now be eligible for legal aid. These cases have been included as, although the participants did not have to pay costs and fees in relation to their case, similar individuals may potentially have to pay for such cases starting after the reforms, and so the views of these participants on costs and fees and how these may have affected their decision to start a case are valuable.<sup>21</sup>

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<sup>19</sup> Defined as having more than 250 employees.

<sup>20</sup> Potential impact of changes to court fees on volumes of cases brought to the civil and family courts, available at <https://consult.justice.gov.uk/digital-communications/court-fees-proposals-for-reform>

In total 31 interviews were conducted with civil claimants and 23 interviews with family applicants. Table 2.1 gives a breakdown of participants' characteristics.

**Table 2.1: Breakdown of qualitative interviews**

Total claimants (54)	Civil court claimants (31)	Family court applicants (23)
Representation paid for by claimant	8	4
Representation paid for by other means	5	12
Litigant in person	18	7
<b>TOTAL</b>	<b>31</b>	<b>23</b>
Ongoing cases	13	11
Concluded cases	18	12
<b>TOTAL</b>	<b>31</b>	<b>23</b>
<b>Other quotas</b>	<ul style="list-style-type: none"> <li>• 22 x private individuals</li> <li>• 9 x SMEs</li> <li>• 4 x MCOL users</li> <li>• 8 x unspecified claims</li> <li>• 23 x specified claims</li> <li>• 10 claims under £1,000</li> <li>• 9 claims £1,000–£10,000</li> <li>• 12 claims over £10,000</li> </ul>	<ul style="list-style-type: none"> <li>• 12 x households with less than £20,000 gross annual income</li> <li>• 13 x female</li> <li>• 10 x male</li> </ul>

In total, 47 of the 54 participants in the study had attended a hearing, or were expecting to shortly, including all family case participants. The four MCOL users and three other civil claimants did not attend a hearing or were not waiting to do so.<sup>22</sup>

Across the study, 13 participants reported that they had been given access to legal aid, which they used as the sole means for paying for representation (one civil and 12 family cases). Three participants reported receiving a fee remission (one civil and two family cases). They also received legal aid support. It is difficult to determine how many of the participants in receipt of legal aid would be eligible for legal aid under the LASPO reforms. Eligibility for legal aid is complex and participants were not asked for the details which would determine eligibility. For example, LASPO removed private family law cases from scope for legal aid unless there is evidence of domestic violence. Five of the 12 family applicants who

<sup>21</sup> In some cases such individuals may be eligible for fee remissions, depending on their financial circumstances (see earlier footnote).

<sup>22</sup> The majority of civil claims do not result in a court hearing, as they are either settled or withdrawn. Therefore, the views of civil claimants participating in this study may be very different from the views of the majority of civil claimants.

had received legal aid said they had experienced domestic violence, and therefore may still be eligible for legal aid under the current rules.

The sample of interview participants was located across London, the North West, the South East, the South West, the Midlands and Wales.

## Recruitment of interviewees

Participants were recruited via a mixed-method opt-in approach consisting of:

- Recruitment from Ipsos MORI's online panel, which consists of c. 300,000 households across the UK. A question<sup>23</sup> was included asking people if they had been applicants in family cases or claimants in civil cases. This generated a sample of 248 individuals, from which 31 participants were recruited.
- Face-to-face in-court recruitment<sup>24</sup> in civil and family courts. Twenty participants were recruited through this approach.
- Liaising with third sector organisations which provide support to separated parents led to the recruitment of three participants.

Once identified as eligible to take part in the study, participants were contacted via telephone. Participants were offered an incentive conditional on taking part in the study. This was to try and ensure a sufficient number and range of participants took part to provide robust qualitative data, within the study time frame.

## Research materials

Given the focus on understanding the rationale behind user behaviour and decision making, a behavioural-research approach was adopted which drew on the 'COM-B model' of behaviour change (Michie et al., 2011).<sup>25</sup> In this 'behaviour system', motivation, capability and opportunity interact to generate behaviour that in turn influences these components.

- **Motivation** is defined as all those brain processes that energise and direct behaviour, not just goals and conscious decision making. It includes habitual processes, emotional responding, as well as analytical decision making.
- **Capability** is defined as the individual's psychological and physical capacity to engage in the activity concerned. It includes having the necessary knowledge and skills.

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<sup>23</sup> See Appendix for online recruitment questionnaire.

<sup>24</sup> See Appendix for in-court recruitment screener.

<sup>25</sup> The original paper is accessible at <http://www.implementationscience.com/content/6/1/42>



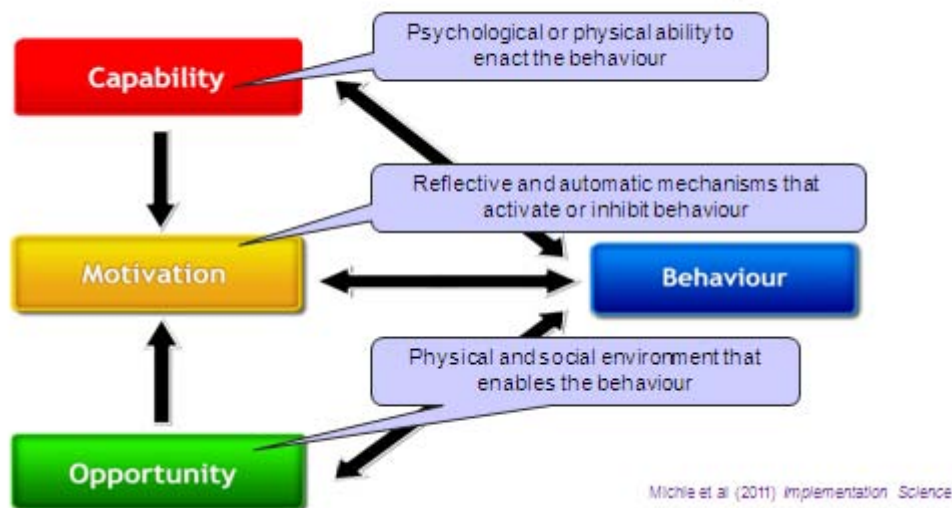
- **Opportunity** is defined as all the factors that lie outside the individual that make the behaviour possible or prompt it.

Figure 2.1 shows how the factors interact to influence behaviour. The arrows represent potential influence between components in the system: for example, opportunity can influence motivation, as can capability; enacting a behaviour can alter capability, motivation and opportunity.

Table 2.2 illustrates how the three aspects of the COM-B system are relevant to the research. This framework, supported by Michie et al.'s Theoretical Domains Framework (TDF)<sup>26</sup> underpinned our approach to the development of research materials and the analysis of the data from the study.<sup>27</sup>

**Figure 2.1: The COM-B system**

Behaviour occurs as an interaction between three necessary conditions



<sup>26</sup> Cane, J, O'Connor, D and Michie S (2012) Validation of the theoretical domains framework for use in behaviour change and implementation research, *Implementation Science*, accessible at: <http://www.implementationscience.com/content/7/1/37>

<sup>27</sup> Ipsos MORI's research partner, Mark Sefton, reviewed and commented on all research materials. All were designed in partnership with the team at MoJ Analytical Services.

**Table 2.2: Links between the COM-B system and the study’s key research questions**

Behavioural component	Relevant area of research study
<b>Motivation</b>	<ul style="list-style-type: none"> <li>• Emotional and rational motivations for going to court</li> <li>• Goals in taking a case to court</li> <li>• Impact of experiences of trying alternatives to going to court</li> <li>• Belief in the outcome/consequences of the case</li> </ul>
<b>Capability</b>	<ul style="list-style-type: none"> <li>• Awareness of the processes, fees and systems</li> <li>• Knowledge and skills to negotiate and manage the process</li> <li>• Ability to access and use relevant systems</li> <li>• Belief in ability to understand and negotiate the process</li> </ul>
<b>Opportunity</b>	<ul style="list-style-type: none"> <li>• Access to good quality representation</li> <li>• Ability to pay for representation</li> <li>• Ability to pay court fees or to have court fees paid (e.g. by legal aid) or to obtain remission</li> </ul>

## Fieldwork and analysis of data

The fieldwork took place between August and October 2013, with each interview lasting around an hour. Interview participants were offered a choice of a telephone or face-to-face interview to suit their requirements (25 of the interviews were conducted over the telephone, 29 were face-to-face). All interviews were recorded with users’ permission, and detailed field notes were written. Analysis was conducted throughout fieldwork through team discussions, and once the interviews were concluded using field notes and audio recordings.<sup>28</sup> Analysis of the data looked *within* cases and *across* cases, to explore the issues and experiences of subgroups within the sample.

## 2.4 Presentation of findings

Qualitative research is designed to be exploratory and provides insight into the perceptions, feelings and behaviours of people. Findings are not statistically representative of the views of all claimants and applicants of the civil and family courts. Although this report includes some indications of how typical views or experiences were across the sample or within subgroups, indicated through the use of words such as ‘most’, ‘many’ and ‘few’, this should be considered indicative among those interviewed. It does not give a measure of the prevalence of different views among the population of civil claimants and family applicants. The perceptions of participants make up a considerable proportion of the evidence in this study,

<sup>28</sup> Field notes were generated in two formats: ‘open’ notes, detailed reports of the interview encounters, which included verbatim quotations drawn from audio recordings; and summarised notes collected in a spreadsheet, drawing on the principle of ‘recursive abstraction’ (Guba, EG and Lincoln, YS (1983) *Effective Evaluation*. San Francisco, CA: Jossey-Bass). The spreadsheet was constructed around the Theoretical Domains Framework (TDF), and drew on early findings from initial interviews, with participant responses and experiences categorised and charted according to the relevant ‘domains’.

and although such perceptions may not always be factually accurate, they represent the truth to those who relate them.

Anonymised verbatim comments have been used to help illustrate key findings. For each quote, details are provided about case type, whether the individual was represented, and if so whether this was with the support of legal aid or through using NWNF solicitors. In addition, for specified money claims the value of the claim and whether it was processed via Money Claims Online (MCOL) are included.

The main body of the report comprises four core chapters:

- **Chapter 3.** Motivation: how emotional and rational factors influence decisions
- **Chapter 4.** Capability: how awareness of and ability to manage the court process influences decisions
- **Chapter 5.** Opportunity: how environmental and external factors influence decisions
- **Chapter 6.** Views of increases to court fees

### **3. Motivation: How emotional and financial factors influence decisions**

This chapter explores how emotional and financially-based motivations impacted on participants' decisions to go to court, and the extent to which they felt they would achieve their goals. It also covers the implications of exploring alternatives to court on decision making and the emotional impact of trying these alternatives. Understanding the broader motivational base for deciding to start court proceedings helps in understanding the role of fees and costs in these decisions, and the potential price sensitivity of different groups.

#### **3.1 Why did participants want to go to court and what did they hope to achieve?**

Participants reported that reflective motivations<sup>29</sup> were the main driving force behind their decision to bring a case to court. These motivations were manifest in two key ways: emotional and financially-based motivations. Financially-based motivations were more subject to rational reasoning than emotional motivations. Many cases were driven by both types of motivations. Typically, as routes to court progressed, emotional motivations compounded financial ones, and vice versa. For example, in family cases, applicants seeking financial orders who originally had a financial motivation also felt an emotional motivation to ensure closure on a difficult period as the case progressed. Conversely, civil claimants described an emotional desire for redress when recovering a specified amount of money if their attempts to do so without recourse to the courts had been frustrated. Although both emotional and financial motivations came into play for many participants, emotional motivations were the most widely cited reason for going to court.

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<sup>29</sup> Mental processes involving evaluations and plans. See Michie S, van Stralen, MM and West R (2011) The behaviour change wheel: A new method for characterising and designing behaviour change interventions, *Implementation Science*, accessible at <http://www.implementationscience.com/content/pdf/1748-5908-6-42.pdf>

## Emotional motivations

**Family cases, and civil cases brought by individuals for unspecified money claims, were typically strongly characterised by emotional motivations** such as:

- concern over the welfare of a child or children in their family;
- desire for recognition from the wider world of the validity of the case;
- desire for redress;
- desire to be heard; and
- desire for emotional closure on a difficult issue.

For participants who cited these issues, they were the strongest driver for taking a case to court and were of greater importance than any practical challenges participants understood themselves to face in bringing a case, including the cost of the case.

**In family cases that involved contact and residence orders, concerns over child welfare or contact with children were the most important motivation.** These issues overrode any concerns or barriers in taking a case to court – typically once participants felt that all possible alternatives to court had been exhausted. Participants were very concerned about being able to have access to children or to ensure they lived with them, and achieving that goal was their primary concern.

“[I wanted] to get custody of my son and keep him in a safe environment.”

*Female, Family, Residence order, Represented (legal aid)*

**In civil cases, securing recognition from others of the perceived validity of their case was an important motivating factor for many individuals.** Participants often felt they were motivated by feelings of having been treated unjustly. They wanted a public demonstration of the perceived validity of their case and punishment for the defendant.

**In civil cases,** participants motivated by the desire for such recognition often reported that they *also* wanted financial compensation as their case progressed. **Almost all the participants in the research reported that they had exhausted all other alternatives to going to court** (see Section 3.2) and felt financial compensation was only obtainable through the courts.

“At the beginning it was probably for them to admit they were at fault and for them to compensate us but I wasn’t really thinking financially at first. Financially is the only way you can really get compensated though.”

*Male, Civil case, Specified claim (£30k), Represented*

In some of these cases the desire for financial compensation was as important as ensuring that a defendant was held responsible. This was not always driven by financial need, rather by a keenness to receive compensation which would also recognise that their case was valid.

“I wouldn’t have let it drop because ... my son was quite badly bruised and when you’ve got children you don’t like to see them hurt and you want to see whoever’s fault it was get a comeuppance.”

*Male, Civil case, Unspecified claim, Represented (NWNF)*

**In both civil and family cases, emotional motivations for taking a case to court included the desire to be heard and have personal experiences taken seriously.** This was common in civil cases where participants felt they had taken considerable measures to resolve the case out of court, for example in the following personal injury case, where the claimant had attempted to discuss the area of contention with the other party (a private company) using arbitration, but her attempts had failed.

“I wanted to get hold of them and make them listen to me and try and get them to take me seriously.”

*Female, Civil case, Unspecified claim, Litigant in person*

Family applicants held similar views.

“Taking it to court made me feel I was heard ... I wanted to show it was wrong ... I wanted people to know he was endangering his son.”

*Female, Family case, Residence order, Represented (legal aid)*

**In both civil and family cases, a further emotional reason for taking a case to court was the desire to obtain emotional closure on a difficult period or episode.** This was often reported to be a strong motivation in family cases, with many participants reporting a sense of relief on commencing court proceedings, and describing the court case as the beginning of a process which would draw a challenging period to a close. The desire for

closure was also an issue in civil cases, especially where disputes had been protracted and participants felt alternatives to going to court had been exhausted.

### Financially-based motivations

**Personal financial need was an important issue cited in many civil damages cases, and in family cases where a financial order was being sought.** Once alternatives to going to court had been exhausted, **in civil cases**, obtaining damages or compensation was highly important, particularly to those on low incomes, if they had dependents or no alternative source of income. Similarly, **in a family case**, one divorced participant stated that she needed a financial order as she had no other source of income following her divorce and needed a degree of security in order to re-establish her life following the break-up of her marriage.

“I wanted to get something back out of a very, very long marriage where I had worked full time for a lot of it and bringing up the children and looking after the house. Just wanted to get something out of it at least until I could get back on my feet properly.”

*Female, Family case, Financial order, Represented (legal aid)*

**In civil cases, a desire for financial compensation when bringing a damages or breach of contract claim was a further motivation for bringing a case to court.** This was often bound up with emotional reasons for taking a case to court. Nonetheless in specified money claims – the desire for financial compensation was typically the most important driver in the decision to go to court.

“The possession order was the goal from the very start of the case ... If I didn't get the outcome I wanted I would be worse off financially as [the tenant's] rent arrears would have built up and would have had to have started again.”

*Male, Civil case, Specified money claim (£2000), Litigant in person*

**However, it was not always possible for participants to make a calculation of how much it would cost them to bring a case to court, and hence make a 'rational' or analytical decision.** This was to some extent because participants did not always fully understand the risks and burden involved in taking a case to court (see Chapter 4) and because emotional motivations were typically the primary reason behind the decision to go to court.

**Among civil claimants, SMEs were more likely than any other group to make a decision to go to court taking into account only the potential costs and benefits of starting court proceedings.** This is explored in more detail in Chapter 5. Although participants representing small businesses typically described their motivations as purely rational and financial at the outset, emotions could take over as the process developed.

“We have an internal process ... there’s a tipping point ... we won’t go to court when we think the company can’t pay.”

*Male, Civil case, SME, Specified claim (£2500), Litigant in person (MCOL)*

“We like to assess the risks, but sometimes emotion gets involved ... sometimes if someone is rude to you or you think they're lying to you, emotion can over-ride common sense. I do try and take it into account, how I feel, but it can fog your judgement.”

*Male, Civil case, SME, Specified claim (£2500), Litigant in person (MCOL)*

### **3.2 Impact of trying alternatives to court**

In general, prospective civil claimants and family applicants are expected to attempt to resolve matters without the need to start court proceedings, such as by considering alternative dispute resolution processes. **In both civil and family cases, participants had not typically wanted to bring a case to court and almost all reported that they had tried to use – and exhausted – alternatives to court before they initiated proceedings.** In many cases the process of attempting these alternatives had taken many months, and consisted of a number of stages, including telephone calls, sending letters, and, in family cases, mediation processes.

**Civil claimants** typically reported that they had made several attempts to achieve their goal, and had been driven to using the courts as a last recourse, typically because the other party had ignored letters, telephone calls and attempts at meetings and negotiation, as illustrated in the following case study.



**Case study 1: Attempting alternatives to court**

*Female, Civil case, SME, Specified claim (£500), Litigant in person (MCOL)*

Claimant ran a holiday letting business and had a standard procedure for dealing with damages to her properties.

She took a private individual to court for damages to her rental property – a group of friends who had destroyed three of the beds and the shower. She had first complained to the agents who had let the property, but understood from them that the other party would not acknowledge the damage. She then wrote them a letter, providing an account of the damage and asking them to pay the costs within 28 days. When this letter went unanswered, she sent a second letter by recorded delivery, explaining that she would take the other party to court if they did not pay. When this letter too was unanswered, she took the claim to court using MCOL, attracted to this approach because of its simplicity and her belief in its efficacy.

In **family cases** too, participants typically felt that they had made considerable efforts to resolve issues, but the emotional nature of these family disputes meant that not only was resolution difficult in many cases, it was also described as a painful and protracted process. Breakdowns in communication were common, and participants reported a range of frustrations in attempting to speak to the other party.

“I just wanted an out-of-court settlement, a clean break ... and he refused to respond to any of my letters from my solicitors or the courts.”

*Female, Family case, Financial order, Represented (legal aid)*

In family cases which had been referred to mediation, participants tended to report that this had broken down or been refused by the other party. Participants tended to be aware of the possibility of face-to-face negotiations or mediation, but some reported a reluctance to meet with ex-partners where relations had broken down and had become strained. This was common where disputes had been protracted.

“I considered negotiation ... and talked to my solicitor about it ... but it's not easy trying to speak to someone you haven't spoken to for years.”

*Male, Family case, Financial order, Represented*

In some family cases – where there was evidence of domestic violence and/or where restraining orders were in place – alternatives such as mediation were not considered to be appropriate, and were not attempted on the advice of solicitors or social workers.

Overall, the emotional impact of failed attempts to trying alternatives to court was that **participants in this study typically stated that they felt they had no option but to go to court** – even though for many the decision to go to court was one they had found difficult to make.

### 3.3 Did participants feel they were likely to achieve their goals?

**In both civil and family cases, participants held a strong belief in the validity of their case and confidence that they would win. This was a powerful motivation in bringing their cases to court.** Emotional reasons for going to court, such as the desire for recognition for the perceived validity of their case, tended to be accompanied by a strong belief that they had been treated unfairly by those they were bringing a case against, a strong conviction that they deserved to win their case, and a belief that they would win.

For those who were represented, regardless of how this was funded, **the endorsement of a solicitor agreeing to represent them tended to increase belief in the validity of a case,** increasing the motivation to take a case to court.

“Before it started, I was confident because I knew they were at fault, so I was pretty confident that we were right and they were wrong ... when I spoke to the solicitor he agreed.”

*Male, Civil case, Unspecified claim, Represented*

**In civil and family cases,** where financial motivations were behind decision making, there was also a strong conviction that the case would be won. This was typical of civil cases brought by SMEs where participants had decided to go to court only after weighing up the validity of the case, the likely costs of bringing it, and, in some cases, also the likelihood of recovering the money sought.

“We would only go to court if we were guaranteed to win ... and if we know we’ll get the money back.”

*Male, Civil case, SME, Specified claim (£2,500), Litigant in person (MCOL)*

This will be discussed in greater detail in Chapter 5.

### 3.4 Implications for key research questions

Overall, **in both civil and family cases, emotional motivations were the primary reason for most participants taking their cases to court.** For both case types these included participants' desire for wider recognition for the perceived validity of their case, to be heard and for emotional closure on a difficult issue. In civil cases, emotional motives were typically characterised by the desire to seek redress for a perceived injustice; in family cases by concern for a child's welfare or the desire to maintain contact with or obtain residence for children. **A smaller number of participants in the research cited more analytical decision-making processes, which typically related to financial need or having made a rational analysis of the costs and benefits of bringing a case.** This was typical in some civil cases brought by individuals, where financial orders were sought in family cases, and for all cases brought by SMEs in the study. In some of these cases emotional motivations also came into play.

Emotional and financial motivations were compounded by participants' experiences of attempting alternatives to court: in both civil and family cases most participants felt frustrated by breakdowns in communication between the two parties whilst attempting to resolve issues between them, and by refusals of the other party to comply with requests or compromise. **The majority of participants in the research in both civil and family cases believed that they had been faced with no alternative to bringing a case to court,** and that they had exhausted all the possible options in avoiding bringing a case.

**In both civil and family cases, most participants believed that they would win the case, expressing strong belief in the validity of their cases.** These beliefs were a strong motivational factor for many participants in the decision-making process when choosing to bring a case to court.

## 4. Capability: How awareness of and ability to manage the court process influence decisions

This chapter explores how prior knowledge and awareness of the court system and the participant’s beliefs about their ability to manage the court process impacted upon their decision making. This includes their awareness of the costs and fees involved. This section also covers participants’ experiences of the justice system; and how these experiences may have differed from their expectations. The majority of participants in the research had attended a hearing.<sup>30</sup>

**Findings tended to be consistent across both civil and family cases**, hence are often presented together. However, the study found that whether participants had legal representation was related to their awareness of costs and fees, and their wider awareness of the court process and perceived capability to manage it (see Table 4.1). Therefore the findings are presented according to legal representation status.

**Table 4.1: How representation status was linked to knowledge and awareness of the court process for participants in the study**

Type of case	Representation status	Awareness of legal cost levels	Awareness of court fees levels	Awareness of court processes
Family	Litigant in person	High awareness	High awareness	Low levels and many misconceptions
	Paid for representation	High awareness	Low awareness	Low levels, but supported by solicitor
	Legal aid/fee remissions	Low awareness	Low awareness	Low levels, but supported by solicitor
Civil	Litigant in person	High awareness	High awareness	Low levels and many misconceptions
	Paid for representation	High awareness	Low awareness	Low levels, but supported by solicitor
	NWNF	Low awareness	Low awareness	Low levels, but supported by solicitor
	MCOL	High awareness	High awareness	High levels – use online information

<sup>30</sup> Most civil claims are settled or withdrawn before reaching a hearing. The sample of civil claims in this research study differs as a large proportion proceeded to a hearing. Therefore the views of civil claimants in this study may differ from the views of those whose cases did not reach a hearing.

## 4.1 Represented parties

Most of the family applicants and around half of the civil claimants in the study were represented by a solicitor. Many participants had a preference for legal representation and had explored the possibility of appointing a solicitor. The preference for representation was largely due to the desire for specialist advice on their situation and belief that a third party was needed to act as an intermediary between themselves and the other party. Solicitors conferred confidence on those taking cases to court, and were considered particularly important in family cases or highly emotive civil cases.

### Knowledge and awareness

**For both civil and family cases, many participants did not have prior knowledge or experience of the court system.** The legal representation status of participants had an important influence over the information they gathered or sought prior to and during the court process. **Participants who had legal representation were less likely to separately seek information on the process of court proceedings** because they believed their solicitor would provide them with the advice, guidance and information that was necessary. This assumption continued throughout the whole court process and participants heavily relied on their solicitor to explain what had happened during the hearing and what the next steps were.

“We attended the first case management conference without representation. They had a barrister, and just listening to the legal jargon, it would be very difficult for a layman to understand how they discuss things. So we got a barrister [too].”

*Male, Civil case, Specified claim (£50k), Represented*

Claimants and applicants who used representation typically reported low levels of awareness of court processes, but felt able to rely on their solicitors to support them. They also reported that they were shielded from the legal and administrative aspects of the case, meaning they felt confident in having the right information around aspects of going to court in bringing their cases.

**In both civil and family cases, many participants thought that their journey through the court system would be quicker.** The belief that the process would be swift was particularly prevalent among certain types of family cases such as those involving residence and contact orders. Participants in unspecified civil claims, such as personal injury claims, also reported concerns about the length of time cases took.

“I wouldn’t like to go through the whole period again where everything takes so long. It’s not the courts system’s fault, it’s more to do with how solicitors act but it’s too drawn out. It’s too long a process.”

*Female, Civil case, Unspecified claim, Represented*

There was also a widespread assumption, also evident among litigants in person, that winning a case guaranteed that the payment would be made. Many had not realised or been informed that they may need to spend more time and money to ensure the debts or compensation were paid after the case had been concluded.

### **Awareness of costs and fees**

Participants who had paid for representation typically had high awareness of likely legal costs, having tended to have explored the costs of bringing a case to court before doing so, although they typically reported that they had not anticipated the total costs of solicitors’ fees. This was often because they had assumed that the length of the whole process would be shorter. In family cases additional communications between the applicant and the respondent were a common cause of unexpected legal costs.

Represented parties who had legal aid or used a NWNF solicitor tended to have a lower awareness of the potential cost of legal fees as they did not need to pay them.

All participants who were represented by solicitors – including those who paid for representation, those who had legal aid, and those who used NWNF solicitors – tended to have a low awareness of court fee levels as they typically did not distinguish court fees from their overall legal costs. For those who paid for representation, court fees were perceived to be minimal in comparison to their legal representation costs, and tended to be included in the total paid to their solicitor.

Participants who had accessed legal aid or remissions did not investigate levels of costs as these had no impact on them individually. Most could not put a figure on the court fees they would otherwise have had to pay.

“Once I knew I didn’t have to pay I didn’t bother looking in to the costs.”

*Female, Family Case, Residence order, Represented (legal aid)*

## Managing the court process and beliefs about capability

**In both civil and family cases, prior to entering court proceedings, many participants believed that managing the process would be straightforward.** Represented individuals believed their solicitor would guide and support them throughout, which they felt would make navigating the system simple. They reported that their confidence had been increased by being represented as they knew their solicitor would be there to assist them.

Those bringing highly emotional cases, particularly family cases, reported that they initially sought representation as they felt uncomfortable in representing themselves and typically felt they would not have had the courage or capability to take the case forward on their own. In many of these cases representation was then funded by legal aid.

Claimants and applicants with solicitors stated that they were provided with a lot of information and support which they could use during the court process. This helped them handle the court process effectively.

“Every time you come out of court your solicitor or barrister or whatever then explains what was said, but while you are sitting in court the legal jargon is basically a foreign language.”

*Male, Family case, Residence order, Represented (legal aid)*

Those who were represented tended to have felt better informed and this led to them having a less stressful experience of the court process. This was often because the solicitor would provide them with all the relevant information in advance and deal with any questions they had so they would not have to directly seek information from the court.

## 4.2 Litigants in person

Over half of the civil claimants and almost a third of the family applicants in the study did not have legal representation. There were two broad types of litigants in person: those who would have preferred legal representation but could not afford it and could not access legal aid or NWNF solicitors; and those who chose not to engage legal representation, typically individuals and SME claimants in civil cases making (straightforward) small money claims, as they felt that the potential legal costs would not be worthwhile given the amount of money being claimed. Some of these used MCOL to process their claims. Many of the findings below relate to the first group of litigants in person, those who would have preferred to engage legal representation.

Participants who litigated in person for financial or personal reasons were far more likely to research the nature of court proceedings than those with legal representation. They turned to free advice services such as the Citizens Advice Bureau or charities. They also used internet sources such as Government websites. These sources were used to gain basic information on how to start proceedings and the cost of the court fees.

“I was okay; I have an interest in the law, as I’m [also] a mental health nurse, so in that respect I could get my head around it. But anything I didn’t understand I went online and looked up things to do with the Companies Act.”

*Female, Civil case, SME, Specified claim (£300), Litigant in person*

Nonetheless, many litigants in person felt that there was not enough information available to assist them in the process. A small number of the family cases in which applicants were litigants in person were supported by social workers. These participants reported that they were suitably supported by social workers at the initial stages as they believed they had considerable knowledge and experience in this area.<sup>31</sup> In civil cases, participants litigating in person were commonly advised by friends or family members. They sought support from these groups but they did not feel that they gained a lot of knowledge from them – rather they were sometimes a source of inaccurate information.

“I didn’t [for]see any problems, I was relying on what my brother was telling me was totally accurate.”

*Male, Civil case, SME, Specified claim (£500), Litigant in person*

Participants frequently sought advice over how to begin proceedings but they did not typically attempt to obtain guidance on how the case would proceed or what their day in court would involve. As with represented parties they tended to underestimate the length of proceedings, and civil litigants in person also incorrectly assumed that winning their case guaranteed payment of the debts or compensation.

However, participants who used MCOL reported that they felt well informed about the court process and able to negotiate it, typically because they used the online guidance to support them.

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<sup>31</sup> Sometimes in private law children cases, local authority social services will support an application for residence by a parent or other family member where there are concerns for a child’s welfare, if it will help to avoid or reduce the need for care proceedings or another form of intervention. However, such support is quite likely to be limited to advising of the options open to an potential applicant, and endorsing their application.



## Awareness of costs and fees

Similar to those who paid for representation, litigants in person also tended to have high awareness of legal costs. This is because these groups tended to have explored the costs of bringing a case to court before doing so, deciding to litigate in person once they had gained this information. Participants who litigated in person, including those using MCOL, also had the highest levels of awareness of court fees as the fees represented their main expenditure in going to court. The decision to avoid the costs of legal representation meant that these participants were far more likely to be concerned about the overall cost of going to court, and had typically researched the cost of court fees as they needed to pay these themselves.

## Managing the court process

**In both civil and family cases, some litigants in person believed that managing the process would be straightforward.** Some assumed that the court process would not allow members of the public to represent themselves if the proceedings were difficult to negotiate, or had simply not anticipated the difficulties they were later to face.

Many, though not all, participants who litigated in person were initially confident in their abilities to negotiate the court system and thought that it would be an easy process – even if they were unsure of what the process would require and struggled to manage some aspects at a later point. For them, their expectations of court proceedings were quite different to their experiences.

Those who had prior experience of the court process felt more confident in their ability to navigate the system as they were aware of how the process worked and what it would require of them.

“They tell you the procedure, but you need to know more than just the procedure ... you need experience.”

*Male, Civil case, Specified claim (£800), Litigant in person*

Levels of self-confidence were also highly influenced by participant’s beliefs in the validity of their case, as discussed in Section 3.3. Participants in civil and family cases had a high level of belief in the validity of their case and therefore the majority of participants were very confident that they would win. This impacted on their decision making as they firmly believed that they had a very low or non-existent chance of losing, and that they were in a strong position to recover financial compensation, regardless of the other party’s ability to pay.

“When you first start filling the form in, your mind is saying: you’re definitely going to get your money ... you almost look at it as a guarantee and an assurance that you’re going to get it.”

*Female, Civil case, Specified claim (£250), Litigant in person*

The following case study illustrates how participants’ lack of knowledge about potential outcomes and strong beliefs in the validity of the case created a misperception of what the outcomes of the court process might be.

**Case study 2: Unexpected outcomes**

*Male, Civil case, Specified (£12k), Litigant in person*

The claimant rents out properties. A new tenant moved into one of his properties and signed a 12 month contract. The tenant paid the first 2 months’ rent, but then stopped paying. The claimant met with the tenant to discuss the issue several times, but the tenant refused to pay rent following each meeting, and in order to recover what was owed to him, he felt he had no choice but to take the tenant to court. The claimant was very confident that the case would not take long and he would win the case easily.

*“I thought it was just a straightforward case.....I was 100% confident I would win.”*

However, the process and outcome were not as simple and secure as he had originally thought. The case lasted considerably longer than he had anticipated and mid-way through the case he decided to employ a solicitor because self-representing was more complicated than he had expected.

The case has now been concluded. The claimant won the case but is still trying to recover the money from the defendant.

**In both civil and family cases, litigants in person were more likely to have experienced difficulties attempting to navigate the justice system** than represented parties. Many participating in the study felt that they did not have the necessary abilities to understand and complete the forms accurately and there was not sufficient information available to them to help them through the process. Most felt that even when they found information it was difficult to understand, and was not accessible, with legal terminology cited as a barrier to understanding the guidance.

“I have files of evidence, but I wasn’t allowed to use it because I didn’t know the legal way of how you do everything, so I couldn’t challenge everything.”

*Female, Family case, Financial order, Litigant in person*

“When you get the paperwork through, it isn’t the clearest paperwork in the world. They use a lot of legal terms. And it’s not clear how you have to submit things and when by.”

*SME, Civil case, Specified claim (£2000), Litigant in person*

Others reported that they had not received any information at all, and did not feel they had enough support in the process.

“They sent me papers to serve my ex-partner, but there was no information. [There was nothing that said] ‘This is what you do; this is how you do it’. It would be better if they put a booklet together saying what you’ve got to do, like a dummies guide to help with the paperwork.”

*Female, Family case, Residence order, Litigant in person*

**In civil and family cases, the emotionally demanding nature of self-representation was a challenge for some participants.** In family cases this was anticipated given the often emotive nature of the case, while in civil cases, litigants in person who did not use MCOL found that when they entered into court proceedings they struggled to deal with the emotional pressures of bringing a case to court and appearing at a hearing. They had not anticipated how stressful going to court and managing the process might become for them. This was notably the case in civil cases where participants had typically not accurately anticipated the true length of time the proceedings would take.<sup>32</sup>

Those who were not represented often felt uninformed about the court process and did not feel confident about what to do when attending court. The kind of information sought was typically very basic, such as where they should go when they enter court, who they should be speaking to and where they should stand in the court room.

Given their lack of experience and information, these participants tended to seek out assistance from the courts, either by calling the court in advance or talking to an usher at the court. The quality of information they reported receiving varied, as did the willingness or ability of ushers and court staff to assist.

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<sup>32</sup> Most civil claims are settled or withdrawn before reaching a hearing. However the sample of civil claims in this research study differs from the population as a large proportion proceeded to a hearing. Therefore the views of civil claimants in this study may differ from the views of those whose cases did not reach a hearing.

The information received was on the whole considered to meet the needs of the request, however there was a sense that some information could be offered more proactively, for example via regular updates on the case status.

“The amount of chasing up we had to do with the courts...we had to phone them up all the time and it drove me nuts.”

*Female, Civil, Unspecified claim, Litigant in person*

The SMEs who used MCOL considered it to be a useful platform for processing small civil claims and typically mentioned that they found the system simple to use and an efficient mechanism for claimants (in terms of cost and time). However some felt that the service was slow to update the progress of the case, and that it was incumbent on claimants to phone the court on several occasions to understand the court process.

For some of those without legal representation, their assumptions and misunderstandings meant that they were unaware of what litigating in person would mean in practice. However, **their low levels of knowledge and skills were not a barrier to taking cases to court if participants felt sufficiently motivated to do so.** They made their decision to bring their case to court without being fully informed about what they were undertaking.

### **4.3 Implications for key research questions**

**The representation status of participants was strongly linked to their levels of awareness of the overall cost of going to court – including court fees.** Claimants and applicants represented by solicitors tended to have the lowest levels of awareness of the cost of court fees. Those who paid for representation typically saw court fees within the broader context of overall legal costs, and because court fees were felt to be a low proportion of the overall costs, they were felt to be less important and less critical in decision making. Those who received legal aid had either not been informed about fees or expected to receive remissions, and so fees did not feature in their decision making, while those who used NWNF solicitors expected defendants to pay costs so were typically unconcerned about court fees.

In both civil and family cases, **litigants in person were typically more aware than represented participants of the existence and level of court fees** as these were generally the sole cost they were required to pay in order to initiate court proceedings. However, most litigants in person also tended to have lower levels of knowledge of the potential risks and outcomes of bringing a case to court – although some reported knowledge that they could

win costs, they were not, for example, aware of the outcomes if the losing defendant was unable to pay those costs, including court fees.

There was evidence of low levels of awareness of other aspects of the court process too. However, **low levels of knowledge, awareness and skills were not a barrier to taking cases to court if participants felt sufficiently motivated to do so.**<sup>33</sup>

As the previous chapter demonstrated, claimants and applicants had strong emotional and sometimes financial motivations to bring cases to court which tended to outweigh their low levels of awareness about the court process and what skills would be required to navigate it. It is possible that with greater levels of knowledge about the court process, what would be required and the potential risks and outcomes of their cases, participants may have made different decisions around bringing cases to court – although it is not possible to draw conclusions on this issue from this research, which did not address this question directly. Exceptions to this general pattern were SMEs, who reported they decided to go to court only after weighing up the potential risks and benefits of proceeding.

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<sup>33</sup> As this study only covered those who had started court proceedings, we did not interview individuals who were deterred from bringing a case by a lack of skills or the requirement to litigate in person.

## 5. Opportunity: How environmental and external factors influenced decisions

This chapter presents findings on the environmental and external factors which affected decisions to enter the court process: **accessing representation** and the **ability to pay for relevant legal costs, including court fees**. The role of court fees in participants' decision making was affected by whether or not participants had access to and were paying for legal representation. Findings differed to some extent across civil and family cases.

### 5.1 Obtaining legal representation

**In both civil and family cases, many claimants and applicants expressed a strong preference for having legal representation to support them in their cases**, as it was seen as a way to access specialist knowledge of both the law and navigating the court process. The main **exceptions to the general preference for representation were individual and SME claimants in civil cases making small money claims**, some of whom used the MCOL platform. These participants typically chose not to engage legal representatives as they felt that the cost of paying for a solicitor would be high relative to the amount being claimed, the case was not considered overly complex and MCOL provided an accessible route to submit a claim.

Participants who paid for representation tended to identify solicitors through personal recommendations or used local solicitors. SMEs tended to have a solicitor they usually used for other business matters. Participants who sought legal aid or wished to use NWNF solicitors tended to face more difficulties in accessing representation.

In civil cases, claimants of larger unspecified claims and higher value specified claims were often keen to secure a NWNF solicitor as they believed the case would incur high legal costs. Some claimants approached several solicitors in order to find one who would take on their case on a NWNF basis, and some were unable to successfully find a NWNF solicitor and so decided to litigate in person or pay for representation. Where they were unsuccessful in finding a NWNF solicitor, participants reported that the solicitor did not think the claim had a sufficient probability of winning or was not of a high enough value for their firm to justify relatively high legal costs.

Many family applicants in the study who were in receipt of legal aid reported that securing legal aid was straightforward. In a small number of cases, participants reported that some solicitors were unwilling to take their cases, or, for example, were unconvinced of

participants' reports of their experiences of domestic violence, or they found that they were not eligible for legal aid.

## 5.2 Financial considerations in bringing a case to court

When considering how they were going to take their case to court, claimants and applicants had to consider how they were going to pay for the court case including legal costs, court fees and other expenses.

### Legal costs and court fees

**In both civil and family cases, affordability of legal representation was a key issue for claimants and applicants.** Many perceived representation to be expensive, and in many cases an expense that was difficult to meet. Access to NWNF solicitors or legal aid, as described above, enabled access to representation for some groups who were unable or unwilling to pay for it, while others litigated in person. Many of those who litigated in person reported they did so because they were unable to afford legal fees.

**On the whole in both civil and family cases, many claimants and applicants reported that court fees were not considered a barrier to taking a case to court.** However, participants' perceptions of court fees and their impacts on decision making were inextricably bound up in whether or not they had representation, and if so whether they had paid for representation. In the following sections we discuss in turn participants who paid for legal fees themselves, engaged NWNF solicitors, accessed legal aid and litigated in person.

### Represented parties – self-funded

**In both civil and family cases, participants who paid for legal representation themselves typically perceived it to be expensive.** They often held this view at the outset, based on a general perception of how much legal fees would cost or indirect or direct experiences of using solicitors, and this belief was reinforced where quotes and advice were initially sought.

Claimants and applicants who paid for representation consistently reported that it was by far the most expensive element of taking their case to court. Individuals funding the cost of representation themselves typically met the cost from savings, with few from income, and therefore the ability to pay for representation was related to their levels of income and savings. SME participants who had legal representation reported that employing a lawyer had impacted on the company's finances.

**In both civil and family cases, claimants and applicants who paid for legal representation themselves tended to find that the final costs were higher than expected.** This was because they had typically believed that the case would be completed sooner and would involve fewer court appearances, and less involvement from a solicitor<sup>34</sup> (see Chapter 4). This was common in **family financial order cases**, where there tended to be greater levels of contention and exchange than in civil cases, and considerable solicitor involvement prior to entering the court process.

Low awareness of court fees was common among claimants and applicants with legal representation, and they were not considered crucial in decision making. Court fees were often presented within the overall legal costs in solicitors' bills and were perceived to be a relatively small element of the total costs of going to court.

“I had no idea how much the court fees were, but thought that they would be a very small part of the £20,000 spent overall.”

*Male, Civil, Specified (over £25k), Represented*

Moreover, the incremental nature of court fees that were incurred for some civil cases was not typically considered to be a substantial barrier to proceeding with the case for the majority of claimants affected. Many reported that they became financially entrenched in the court process and they had made significant emotional and financial investment, and were not prepared to withdraw from the process.

“There comes a point where you can't afford not to take it to court because the prospect of having to spend £25,000 for a claim worth £36,000... do I back out or do I let it run?”

*Male, Civil, SME, Specified claim (£36k), Represented*

### **Represented parties – using NWNF solicitors**

**Civil claimants** in unspecified money claims would often seek a NWNF solicitor, as they believed that legal costs could be substantial in what they thought would be a complex case. Other civil claimants would proceed with NWNF solicitors simply because they were less expensive.

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<sup>34</sup> Although typically many civil cases are resolved before a hearing, most cases in this study involved a hearing. Therefore the views of the majority of civil claimants may differ from those in this study.



“Thought I may have to pay a couple of hundred just for a solicitor to look at the case, but I knew they did No Win, No Fee.”

*Male, Civil case, Unspecified claim, Represented (NWNF)*

Most claimants had strong beliefs in the validity of their case (Chapter 3), and that the outcome of the case would be that they would win (Chapter 4). Nonetheless, given perceptions of the high legal costs, they preferred a NWNF option, and although they would have to pay their legal costs if they were to win, they did not regard this in the same way as upfront payment of legal fees. They had a low awareness of court fees as they did not have to pay these to initiate court proceedings. In almost all the NWNF cases in this study, claimants reported that they felt they would not have been able to afford legal representation if they had not been able to find a solicitor prepared to take on the case on a NWNF basis.

### Represented parties – using legal aid

**Legal aid cases in this study were predominantly family cases.** For those who received support through legal aid, the overall costs of going to court, including court fees and representation costs, were not a concern as these costs were covered by legal aid. **For those who were eligible, accessing legal aid<sup>35</sup> was typically considered to be critical in being able to get legal representation.** In this study, legal aid was accessed largely by applicants with low incomes, who were largely dependent on state benefits (Jobseeker’s Allowance and Income Support among family applicants and Employment Support Allowance for one civil claimant)<sup>36</sup> and had a lack of personal funds to pay for representation.

“I would have found it hard to pay [for representation] without the legal aid and I would have to have thought more about whether to take it down this route.”

*Male, Civil, Specified claim (£4,500), Represented (legal aid)*

In other cases, participants reported that without the support of legal aid, they would have needed to have asked friends and family for support in paying legal costs – or that they would have had to reduce expenditure in other areas for the household.

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<sup>35</sup> Participants receiving legal aid had commenced their case prior to changes made to legal aid in April 2013 (<http://www.justice.gov.uk/legal-aid/news/latest-updates/legal-aid-reform>). Those who would now not be eligible for legal aid may be eligible for a court fee remission.

<sup>36</sup> The instance of a claimant getting legal aid was for an individual lending money to someone and not getting it back.

“We knew we’d get legal aid, however there was a risk that we’d have to end up paying the legal aid bill and then we’d have missed out on a holiday, but it was something we were prepared to do.”

*Female, Family, Residence order, Represented (legal aid)*

Participants in receipt of legal aid also tended to report that they would have struggled to pay court fees, though they lacked awareness of levels of court fees as these were perceived to be covered within their legal aid entitlement.

“I don't know about [court fees]. I don't know how much is being paid to the solicitor or how much it costs to hire out the court, or to pay the judge.”

*Male, Family, Residence order, Represented (legal aid)*

It is possible that many legally aided participants were eligible for a fee remission, and would continue to be following the legal aid reforms. Given this, it may be useful to ensure that potential court users are aware of the court fee remission system.

### **Litigants in person**

There were two main types of litigants in person in this study: those who did not want legal representation as they felt it was unnecessary or too expensive in relation to their case; and those who wanted legal representation but were not able to fund it.

**Claimants in civil cases** in this study seeking relatively small amounts of money (typically under £1,000) were less likely to seek representation compared with claimants who were seeking to make a large financial claim and family applicants seeking financial orders. This was because **claimants in small, straightforward civil cases felt representation was too expensive relative to the amount they were hoping to claim and the simplicity of the case**. For example, SMEs used Money Claims Online (MCOL) when they felt the claim was uncomplicated and employing a solicitor, and paying their legal fees, would not be warranted. Similarly, some individuals took small claims to court without representation as they felt the cost of representation was not merited relative to the small claim amount.

“I’d look at everything ... including the court fee ... and I’d think if I didn’t win worst case scenario it would cost me £50 ... which isn’t too bad.”

*Male, Civil, Specified claim (£250), Litigant in person (MCOL)*

However, some litigants in person said they had initially wanted representation but felt unable to pay for it and were unable to access representation through alternative means. This group had decided to self-represent, rather than drop their case.<sup>37</sup>

**For both civil and family cases, court fees were a more important consideration in decision making among those who litigated in person,** as the court fees were the only element they paid directly. Claimants and applicants who self-represented were therefore more familiar with the level of court fees, although familiarity with initial court fees did not mean they were necessarily aware at the outset of additional court fees that could be incurred in civil cases if they progressed through the system. Therefore some under-estimated the court fees at the outset.

For those who chose to litigate in person having assessed costs and benefits, typically SMEs making small claims, court fees were typically considered to be affordable and not excessive relative to the size of the claim.

“The money didn’t matter as all we had to pay was £35; such a small amount of money.”

*Male, Civil, Specified claim (under £500), Litigant in person (MCOL)*

**For those who litigated in person because they were unable to afford representation, court fees were a more important issue in their decision making, but were nonetheless not a deterrent to bringing a case.** For example, one participant who did not have access to legal aid reported that although she could not afford a solicitor, she was comfortable paying the court fees.

“It was £100 for each application ... I didn’t think about it.”

*Female, Family case, Residence order, Litigant in person*

However, as discussed in Section 2.3, we did not speak to any participants in this study who were deterred by the cost of court fees and decided not to bring a case.

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<sup>37</sup> Although it is important to note that in this study we did not speak to those who dropped a case due to being unable to access representation.

Although not all litigants in person were fully aware of all court fees at the outset, the additional court fees were not typically considered to be a barrier to proceeding with the case once it was under way.

### Other costs

Participants incurred a number of other costs in addition to legal costs and court fees. For some participants, the cost of travelling to court became a significant expense, notably where the other party in the case was based in another area to the claimant or applicant<sup>38</sup> and there were multiple hearings. This cost was not always apparent to claimants and applicants before proceedings began, as there was rarely recognition at the outset that the case would not be held locally.

A further perceived indirect financial cost was the time it was felt to take to go through the court process, and in some cases attend court, and the potential loss of earnings or productivity from this. This was particularly relevant to many SME businesses representing themselves, who made a calculation as to whether it was financially beneficial to put time into proceeding with a case.

## 5.3 Implications for key research questions

**Access to representation was considered to be important for many participants in bringing a case to court. Participants' representation status, and how this was funded, was linked to their awareness of court fees, and how these impacted on their decision making.**

For both civil and family cases, participants were typically keen to be legally represented, although there were some exceptions. However legal costs were considered to be high, and in some cases prohibitive without alternative means such as NWNF solicitors or legal aid. Securing representation typically reinforced participants' belief in the validity of their cases, assured them they were correct in their decision to move towards bringing a case to court, and supported them in managing the court process.

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<sup>38</sup> In certain civil cases, if a claim is defended and the defendant is an individual then the case will automatically be transferred to the court which covers the defendant's local area. Therefore a claimant who wishes to continue with such a claim may find that they have to travel in order to attend a court hearing. A small number of claimants in the study brought cases against people who lived several hundred miles away.

Participants in this study who litigated in person fell into two broad groups – those who did not want legal representation as they felt it was unnecessary or too expensive in relation to their claim; and those wanting legal representation but not being able to fund it. SMEs typically only considered representation to be worthwhile for larger claims and preferred to use MCOL for smaller claims as this was a cheaper option.

Reforms to the justice system may result in more family applicants and those currently using NWNF solicitors deciding to either litigate in person or not bring their cases to court. Although this study found that emotional motivations were typically foremost in participants' decision making in bringing a case to court, other factors such as capability (in this case, the ability to litigate in person and awareness of potential outcomes) and opportunity (such as access to representation and ability to pay costs) interact to influence decision making.

**Participants' ability to pay for legal services was an important influence on their price sensitivity with regard to court fees.** Regarding the role of court fees in decision-making processes, in both civil and family cases, **participants who had paid for representation tended to report that the current level of court fees was not a deterrent in bringing a case to court**, and played a very small part in the decision to bring a case. Family applicants who accessed legal aid or remissions had not paid court fees, so these were not considered a deterrent to them in bringing a case to court. With the reforms to legal aid, it may be of value to ensure family applicants are aware of the court fee remission process, and that they may not have to pay court fees, even if they have to pay for representation should they choose to be represented. Civil claimants who used NWNF solicitors were aware of fees, but reported they were not concerned by them as they had expected these costs to be recovered by solicitors.

**Civil claimants and family applicants who litigated in person tended to have more consciously considered whether court fees were affordable and worth paying.** In general, **court fees were not a deterrent to litigants in person as most felt that the existing fee levels were not prohibitively high**, but consideration had been given to whether it was affordable to proceed given the fee level.

Overall, **access to legal representation and the affordability of legal costs were more important factors to participants in deciding to bring a case to court than the cost of court fees.** This was particularly true for family applicants in the study accessing legal aid, and civil claimants using NWNF solicitors. These groups reported that they would have found it difficult to pay for full legal costs. This could suggest that some may potentially have been

deterred from starting court proceedings if they had had to pay for their legal representation costs (although this was not tested in the research). In the context of recent legal reforms it may be relevant to consider the potential for these groups to increasingly consider litigating in person and the support available to assist them in this. Similarly, given that those in this group may be eligible for fee remissions, ensuring that potential claimants and applicants are aware of the remissions system is important.

## 6. Views on potential increases to court fees

This chapter outlines findings on how claimants and applicants felt they would behave if the court fees in civil and family cases were to increase. It presents general perceptions of fairness, affordability and what participants believe they would have done if the fee were increased in their case.

### 6.1 Perceptions of fairness of increased court fees

There was a widespread acknowledgement that courts incur significant costs in hearing and ruling on civil and family cases, and that claimants and applicants should contribute towards these costs. There was also some acknowledgement that the current fees did not cover all the costs involved in administering court cases.

Although the respondents did not demonstrate clear support for an increase in fees, there was little strong opposition either. However, a common unprompted view was that the court service could be modernised to be more efficient, and a recognition that the process of change would require additional funding. A small number of participants reported that if there were to be an increase in court fees they would like to see the money invested in improving court services.

“If they’re going to put fees up then they need to make the service better. They need to give courts the resources and speed the process up, and put in resources to wheedle out all the time wasting.”

*Male, Civil, Specified claim (under £5k), Litigant in person (MCOL)*

This particularly related to improving the efficiency of cases, but also the quality of information and service that they were provided.

“There’s too many letters being sent out, too much wasting time. I think it could be dealt with a lot quicker and easier. They make it too hard for us to understand what’s going on. I’m sat around in the hallways of a court, I don’t know what’s going on.”

*Male, Family case, Residence order, Represented*

## 6.2 Attitudes to potential increased court fees

During the interviews claimants and applicants were asked hypothetically how an increase in court fees would affect their decisions to take their case to court:

- **Family applicants** were asked about their views of a rise in the court fees to £500 (from £215 for contact or residence orders and £255 for contested financial orders).
- **Civil claimants with claims of less than £2,000** whose existing court fees were between £25 and £95 were asked how much more they would have been willing and able to pay for their fee.
- **Civil claimants with claims of £2,000 and over** were asked about their thoughts on an increase in their fee to 5% of their claim value. The increase from existing fees would be greater the higher the value of claim, as outlined in Table 6.1.

**Table 6.1: Fee increase scenario tested with civil claimants in the research**

Upper claim value (£)	Current fee (£)	Scenario to test 5% of claim value (£)
2,500	95	125
3,000	95	150
3,500	120	175
4,000	120	200
4,500	120	225
5,000	120	250
6,000	245	300
7,000	245	350
8,000	245	400
9,000	245	450
10,000	245	500
15,000	395	750
20,000	395	1,000
25,000	395	1,250
30,000	395	1,500
40,000	395	2,000
50,000	395	2,500
60,000	395	3,000
70,000	395	3,500
80,000	395	4,000
90,000	395	4,500
100,000	395	5,000



**Overall, most claimants and applicants in the study felt that they could afford the increased court fee that was put to them, and that the proposed fee amounts would not have deterred them from bringing their cases to court.**

Some participants reported that increased court fees would have caused them to more consciously consider whether to start court proceedings, although they were unlikely to have been deterred. This view was linked to their ability to pay legal and court fees, their representation status and their primary motivations for starting court proceedings (which partly depended on the type of case they were bringing to court).

### **Representation status**

On the whole, in both civil and family cases participants who paid for legal representation felt that they could (and would) pay the increased court fee as it was seen as a marginal increase in the overall cost of their case, which they felt they could afford.

“I would have paid because it’s peanut money compared to the other costs.”

*Female, Family case, Financial order, Represented*

However, individuals and SMEs with fewer financial resources – many of whom had either not paid for their representation or litigated in person – were more likely to report that the proposed increased fees would have made them consider the affordability of the fees when deciding whether to bring the case to a court; although they also felt that the hypothetical increased fees would still have been unlikely to deter them from seeking redress through courts.

#### **Case study 3: Individual civil case consideration over increased fees**

*Male, Civil, Unspecified, Represented*

The claimant went to court to get compensation for damage that his previous tenants had caused to his property. Before going to court he consulted his solicitor and considered whether the chance of winning the case (around 80%) was worth proceeding given the fees involved from the court and solicitor and the amount he would be likely to gain from winning. On the 5% fee scenario he still felt that he would have proceeded with the case, however if it had been much more then he felt he may not proceed.

*“I would be willing to pay this amount [£750 under the 5% court fee structure compared with £395 previously]. I can’t say exactly how much more [would stop me proceeding], but any more would certainly make me more reluctant.”*

## Motivations for seeking redress through courts

The affordability and in particular willingness to pay increased court fees were also linked to the different motivations claimants and applicants had in seeking redress through courts.

**Participants who cited strong emotional motivations for going to court (particularly family applicants) would typically have still decided to go to court if they had had to pay the hypothetical increased court fee.** Participants felt that their determination to pursue their case meant that an increased fee was not a barrier to them, with some reporting that they would have had to pay it as they had tried alternative methods to resolve their dispute and felt they had no other choice. Some family applicants on legal aid reported that they may have found paying increased court fees difficult, but they would have done so, potentially with help from friends or family.

Participants who cited more analytical motivations for deciding to go to court (typically civil claimants, particularly SMEs) reported that **they would consider the cost and benefit of starting court proceedings – taking into account the increased fees.** Civil claimants in specified money cases said they would consider the higher court fees against the claim amount and their chances of winning. While civil money claimants acknowledged that they may not get the court fee repaid if they won, they took into account the risk of not winning the case and for some this and a higher fee raised doubts as to whether they would have felt it was worth taking a case to court. **Even so many of the civil claimants reported that they would have still proceeded to take their case to court with the increase in fees** although some reported that they would be unwilling to pay much more than 5% of the claim value.

“I’d prefer it to stay at the level it is now as it gives people a better chance to resolve issues...but I still would have paid if it went up to 5%...I would have had to borrow it...[but] £500 [10% of claim value] would be too much.”

*Male, Civil case, Specified claim (£5,000), Litigant in person*

## 6.3 Implications for key research questions

Participants were asked about their views on specific changes to court fees: family applicants were asked if they would be willing to pay £500 rather than £215 for contact or residence orders and £255 for contested financial orders; civil claimants with claims of less than £2,000 (whose existing court fees were between £25 and £95) were asked how much more they would have been willing and able to pay; and civil claimants with claims of more than £2,000 were asked if they would be prepared to pay 5% of the claim.

In response, **participants in the study typically reported that fee increases tested were affordable for them and that they would have proceeded with the case if the court fee cost was at this higher level.** Participants did demonstrate different likely levels of price sensitivity to court fee increases. For civil and family participants who paid for representation the increases were considered small relative to legal costs, and therefore not a significant issue. Other participants said that they would find paying higher court fees a challenge, but even so many in this group said **the levels of fee increases tested would not be a deterrent to going to court.** Their emotional motivations for going to court and the desire to achieve their goals were foremost and they felt they would have found a way to fund the higher court fee, perhaps through family or friends.

**The increase in court fees potentially lessened appetite to proceed with a case for some civil claimants making specified money claims,** who reported that the decision to go to court was influenced more by financial concerns and an analytical assessment of costs, risks and benefits. These claimants reported that they would need to consider whether the increased court fees they were presented with would be too high to justify bringing proceedings. A few of these participants felt that, on weighing the costs and benefits of bringing a case to court under the proposed scenario, they would no longer consider it worthwhile bringing their case to court. Most civil claimants reported they would not be prepared to pay much more in excess of 5% of the claim value.

## 7. Conclusions

The specific objectives of the research were to understand:

- why users decide to use the courts to resolve disputes;
- what role costs and court fees play in this decision;
- views on increases to court fees; and
- in what circumstances decisions are price sensitive.

In this chapter, we bring together the findings from each chapter to address these questions.

### Why users decide to use the courts to resolve disputes

In this study we spoke only to civil claimants and family applicants who had brought cases to the courts; we did not speak to those who had successfully resolved disputes using alternative means, or been deterred from bringing their case to court for any reason. **Civil and family case participants typically reported that bringing a case to court was a difficult decision, and one which had taken a long time to come to.** In both civil and family cases most participants felt frustrated by breakdowns in communication between the two parties whilst attempting to resolve issues between them, and by refusals of the other party to comply with requests or compromise. They typically reported that they had tried a number of alternatives to bringing a case, which most commonly included writing letters and making clear written or verbal demands which were not met. Given this, **participants in the research tended to feel that they had no alternative but to bring their case to court in order to achieve their goals.**

The nature of their goals was also important – in both civil and family cases, **emotional motivations were the primary reason for most participants taking their cases to court.** These included participants' concern over the welfare of a child or children in their family (in family cases) and, in both civil and family cases, their desire for external validation, redress, to be heard and for emotional closure on a difficult issue. In civil cases, emotional motives were typically characterised by the desire to seek redress for a perceived injustice; in family cases by the desire to maintain contact with or obtain residence for children by parents or grandparents – an emotive issue. **Emotional motivations were so powerful they overcame other barriers** such as low levels of capability in managing a case, low awareness of the potential risk or outcomes of the case, or difficulties in finding or paying for representation or court fees.

**A smaller number of participants in the research cited more analytical decision-making processes in deciding whether to bring a case, which typically related to the potential costs and benefits of bringing a case to court.** This was typically the case in some civil cases brought by individuals and in financial order cases. This was also the case for all cases brought by SMEs, who were better informed about the potential outcomes of cases than individuals bringing cases, such as the possibility that the defendant may be unable to pay out. In some of these cases emotional motivations also came into play, meaning that some cases had both emotional and financially-based analytical motivations.

**In both civil and family cases, most participants firmly believed that they would win the case they were bringing, expressing strong belief in the validity of their cases,** and optimism about the outcome. These beliefs were a strong motivational factor for many participants in the decision-making process when choosing to bring a case to court.

### **What role costs and court fees play in the decision to use the courts**

**The representation status of participants was critical in their levels of awareness of the overall cost of going to court – including court fees.** Claimants and applicants represented by solicitors tended to have the lowest levels of awareness of the cost of court fees. **Represented participants typically saw court fees within the broader context of overall legal costs, and because court fees were felt to be a low proportion of the overall costs, they were felt to be less important and less critical in decision making.** This was the case for those who paid for their own representation, as well as those who had accessed legal aid and were using NWNF solicitors. Those who received legal aid had either not been informed about fees or expected to receive fee remissions. Those who used NWNF solicitors expected defendants to pay costs so were typically unconcerned about court fees.

In both civil and family cases, **litigants in person were typically more aware than represented participants of the existence and level of court fees as these were generally the sole cost they were required to pay in order to initiate court proceedings.** However litigants in person, on the whole, also tended to have lower levels of knowledge of the potential risks and outcomes of bringing a case to court – although some reported knowledge that they could win costs, they were not, for example, aware of the outcomes if the losing defendant was unable to pay those costs, including court fees. Exceptions to this general trend were SMEs, who reported they made the decision to go to court only after weighing such risks carefully.

**Access to representation was an important factor for many participants in bringing a case to court.** Participants who had secured legal representation, either by funding it themselves or via legal aid or NWNF arrangements, reported that this had provided an additional motivation in bringing a case to court. **Securing representation typically reinforced participants' belief in the validity of their cases,** and assured them they were correct in their decision to move towards bringing a case to court.

In both civil and family cases, **participants varied in their ability to pay legal costs.** The principal enabling factor in this was **whether individual applicants or claimants were in work or had substantial savings.** Where SMEs were concerned there was also a range of ability to pay: a few reported that they were able to pay for representation, but this was only typically considered worthwhile for larger claims. For smaller claims businesses preferred to use MCOL as this was a cheaper option; this was an important consideration for SMEs with low levels of cash reserves.

Participants accessing legal aid in this study, who were almost entirely family cases, typically reported that **they would have struggled to pay for legal costs without support from the Government.** They suggested that without legal aid they would have borrowed from family members, or considered representing themselves. This may have implications in light of the reforms to legal aid, suggesting that more family applicants may choose to litigate in person, or could be deterred from bringing their cases to court, although it is not possible to determine from this research which of these outcomes would be more likely as this issue was not explored in depth by the research. Participants using NWNF solicitors reported that they would have struggled to pay legal costs and selected a NWNF solicitor because they were assured by them that costs would be minimal. These findings suggest that **legal costs could be a potential deterrent to bringing cases to court for those who do not have sufficient earnings or savings to pay such costs independently.** Although emotional motivations were typically foremost in participants' decision making in bringing a case to court, behavioural factors such as capability (in this case, the ability to litigate in person and awareness of potential outcomes) and opportunity (such as access to representation and ability to pay costs) interact to influence decision making. Given this, it is not possible to state conclusively from this study alone to what extent reforms to the availability of legal support would influence claimants' and applicants' decisions to go to court under different external conditions to those experienced by participants when the research was conducted.

**Participants who were price sensitive around paying for legal services were also concerned about their ability to pay court fees.** Regarding the role of court fees in decision-making processes, in both civil and family cases, **participants who had paid for representation tended to report that the current level of court fees was not a deterrent in bringing a case to court**, and played a very small part in the decision to bring a case in comparison to legal costs. Family case **participants who accessed legal aid and remissions had not been required to pay fees, and therefore reported current levels of court fees were not a deterrent to them in bringing a case to court.** Civil claimants who used NWNF solicitors were aware of fees, but reported they were not concerned by them as they had not expected to pay these costs at all.

**Civil claimants and family applicants who litigated in person were the only group who had considered consciously whether court fees were affordable.** In general, **court fees were not a deterrent to litigants in person as most felt that the existing fee levels were not prohibitively high.** However consideration had been given to whether it was affordable to proceed given the fee level, and some civil claimants making small claims reported that although they had been concerned about the fee levels, they had decided to proceed. SMEs who used MCOL in the study also reported that they felt the current court fee levels were acceptable and had not deterred them in choosing to bring a case to court.

### **Views on increases to court fees**

Participants were asked about views on specific hypothetical changes to court fees: family applicants were asked if they would be willing to pay £500 rather than £215 for contact or residence orders and £255 for contested financial orders; and civil claimants were asked if they would be prepared to pay 5% of the value of the claim. In response, **participants in the study tended to report that the fee increases tested were affordable and that they would have proceeded with the case if the court fee cost was at this higher level.**

Although participants did demonstrate different likely levels of price sensitivity to court fee increases, e.g. with some reporting that they would struggle to pay court fees without Government support, they did not report that the levels of fee increases tested would be a deterrent to going to court. In both civil and family cases where meeting the cost was considered to be more challenging, participants tended to report that they would have found a way to pay the court fee as their emotional motivations for doing so and the desire to achieve their goals in going to court were foremost.

**The increase in court fees only potentially lessened appetite to proceed with a case for some civil claimants making specified money claims**, who reported that the decision to go to court was less driven by emotional motivations than by financial concerns. These claimants reported that they would need to weigh up whether the cost of court fees would be too high to justify bringing proceedings given the new levels. A few of these participants felt it would not be ultimately worthwhile doing so as the costs of bringing a case to court would be likely to outweigh the potential monies which could be recovered. Most civil claimants reported they would not be prepared to pay for much more in excess of 5% of the fee.

### **In what circumstances decisions are price sensitive**

Overall, **access to legal representation and the affordability of legal costs were more important to participants in deciding to bring a case to court than the cost of court fees**. However, those individual participants with low levels of savings or earnings – who had typically accessed legal aid to pay legal costs, had used NWNF solicitors to avoid paying legal costs or SMEs with small cash reserves, were most concerned about potential court fee increases. **To some extent, this meant that the ability to pay for legal costs was associated with the ability and willingness to pay for increased court fees**. This was particularly true for those participants in the study who were family applicants accessing legal aid, and those who were civil claimants using NWNF solicitors. These groups reported that they would have found it difficult to pay for full legal costs, and that they may have struggled to pay court fees (although some legal aid recipients may have been eligible for remissions).

In the context of recent legal reforms it may be relevant to consider the potential impact of the likely withdrawal of subsidised legal access from individual family applicants and civil claimants, and the impact of increasing fees on SMEs with low cash reserves or turnover. The evidence of this study suggests these groups may find it difficult to afford increases to court fees and could potentially be deterred from bringing cases to court if also unable to afford legal costs. However, the research findings are not conclusive about what actions the most price-sensitive groups would be likely to take regarding bringing cases given the LASPO reforms as this was not tested in the research.



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## Glossary

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<b>Alternatives to court and alternative dispute resolution processes</b>	In general, prospective parties to civil and family cases are expected to attempt to resolve matters without the need for court proceedings. Rules of procedure governing both types of proceedings set out the steps which ought to be taken in particular types of cases. However, in all civil cases a prospective claimant is expected to at least write to the prospective defendant setting out the basis for the intended claim, and to consider whether the matter might be resolved via an alternative dispute resolution process, such as mediation. In family cases, there is a pre-application protocol which provides that a prospective applicant should normally attend a Mediation Information and Assessment Meeting (MIAM) with a mediator to explore the potential for resolving matters via mediation. This applies to the types of applications covered in this study, e.g. for a contact order, residence order, or financial orders, unless certain exceptions apply.
<b>Applicant</b>	A party who initiates court proceedings in a family case.
<b>Civil courts</b>	Courts with jurisdiction in civil cases include county courts, the High Court, and appellate courts. There are many different types of civil cases, but they most commonly involve claims for money or in respect of property, arising from breach of contract or from other civil wrongs. The vast majority of civil cases are dealt with at county court level.
<b>Claimant</b>	A party who initiates court proceedings in a civil case.
<b>Contact order</b>	An order requiring the person a child lives with to allow that child to visit, stay with or otherwise have contact with another named person.
<b>Costs</b>	In the context of court proceedings normally refers to the costs of legal advice and/or representation, and other expenses incurred in conducting the proceedings. The usual rule in civil cases is that 'costs follow the event', i.e. the losing party is liable to pay the winning party's costs, in addition to their own. An exception to this, as of April 2013, is that a defendant who successfully defends a personal injury claim cannot usually recover their costs from the claimant. More generally, there are also certain restrictions on the costs which can be recovered from a losing party, particularly in low-value cases. In family cases involving children and financial orders, it is much less common for one party to be ordered to pay the other's costs; the usual position is that each party bears their own costs, regardless of outcome.
<b>Court fees</b>	The fees charged by HM Courts and Tribunals Service to court users. Fees are payable to start a civil or family case, and may also be payable at other stages depending on the type of case and the stage reached.
<b>Defendant</b>	A party against whom a claim is made in a civil case.
<b>Family courts</b>	Courts with jurisdiction in family cases include Family Proceedings Courts, county courts, the High Court, and appellate courts. The distinction between the first three of these is due to disappear with the introduction of the Single Family Court in 2014. Family cases may be either public law cases (involving child protection) or private law cases (involving divorce or civil partnership dissolution, private family disputes regarding children, financial proceedings, or domestic violence).

<b>Fee remissions</b>	The fee remissions system exists to support access to justice for court users who would otherwise have difficulty paying a court fee. These users can be awarded a full or partial waiver of their court fee, depending on their financial circumstances.
<b>Financial order</b>	An order made in proceedings for divorce, dissolution of a civil partnership, or judicial separation, dealing with division of assets and/or income. Previously known as ‘ancillary relief’, a financial order may provide for one or more of: a lump sum payment; periodical payments (‘maintenance’); adjustment of rights to property (including sale or transfer of the former matrimonial home); an order in respect of pension rights. Financial orders may also make provision for children.
<b>Legal aid</b>	<p>Public funding which may pay for some or all of the costs of legal advice and/or representation. In family cases legal aid may also be available to pay for mediation. Eligibility for legal aid in any individual case depends on whether the subject matter falls within the scope of the legal aid scheme and also on a merits test and a means test.<sup>39</sup> The merits test covers what is at stake. It will also take into account the prospects of success, and in certain instances, whether an alternative source of funding is available. The means test covers both income and capital assets. The value of any equity in the home, as well as the value of any money or property which is the subject of the dispute, will be taken into account when assessing capital. Therefore, if a party owns a property and/or the value of the subject matter of the dispute is above a certain level, they may not pass the means test for legal aid.</p> <p>If legal aid is granted for representation in court proceedings (rather than just advice) then it will also cover any court fees payable by the party receiving it (the lawyer will pay the fees and claim them back from the Legal Aid Agency).</p> <p>Legal aid is not necessarily free; in certain circumstances its availability for representation may be subject to making a contribution towards the cost from income and/or capital. Also, if money or property is kept or recovered with the help of legal aid, part of it may have to be used to repay the costs.</p> <p>In April 2013, the scope of legal aid in civil and family cases was substantially reduced by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. Therefore, many family cases involving applications for contact, residence or financial orders are no longer within the scope of legal aid (but legal aid may still be available for representation in such cases if there are domestic violence and/or child protection issues, and it may also still be available for mediation).</p>
<b>LASPO</b>	Legal Aid, Sentencing and Punishment of Offenders Act 2012, available at <a href="http://www.legislation.gov.uk/ukpga/2012/10/contents/enacted">http://www.legislation.gov.uk/ukpga/2012/10/contents/enacted</a>

<sup>39</sup> In certain limited types of cases which are beyond the scope of this study, legal aid is available without the application of a merits or means test.

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**Litigant in person** A party who conducts court proceedings on their own behalf without having a solicitor to formally represent them. Litigants in person may or may not have received legal advice. Also, they may have been represented at some point in their case. 'Litigant in person' may therefore refer to a party's status at a point in time, rather than throughout the duration of their case.

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**Money Claims Online (MCOL)** A facility provided by HMCTS via which certain civil claims can be issued and progressed online. The main criteria for using MCOL are that: the only remedy claimed is a specified sum of money; the amount claimed is less than £100,000; the claim is made against no more than two defendants. A claimant cannot apply for fee remission if they make the claim via MCOL. Defendants to claims issued via MCOL may also respond online.

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**No win, no fee (NWNF)** An arrangement for funding civil proceedings under which a lawyer agrees that they will only charge a client for their services if they win the case. Until April 2013, such agreements in respect of civil court cases had to be in the form of Conditional Fee Agreements (CFAs). These involve the lawyer charging a 'success fee' in addition to their usual costs. Typically, the success fee would be calculated as a percentage of usual costs. Prior to April 2013, success fees were recoverable from the losing party (in addition to the winner's usual costs). Now, any success fee is payable by the winning party, most likely from the compensation or damages won. Also from April 2013, NWNF arrangements in civil court cases may now take the form of Damages Based Agreements (DBAs). These work in a similar way to CFAs, but if the case is won involve the lawyer taking a percentage of the compensation or damages won, rather than a success fee based on a percentage of their usual costs. Although they may be used in a variety of situations, CFAs and DBAs are most commonly associated with personal injury claims.

Lawyers conducting civil proceedings under a NWNF agreement may require their client to provide them with funds to pay expenses such as court fees. However, some may be willing to pay the court fee on their client's behalf and claim it back at a later date if the claim is successful.

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**Mediation** In mediation, an independent third party (the mediator) helps parties with a dispute to try to reach an agreement. The people with the dispute, not the mediator, decide whether they can resolve things, and what the outcome should be. This is what might be referred to as 'formal' mediation as opposed to 'informal' mediation, in which, for example, a family member or similar who isn't necessarily independent of both parties, and who isn't acting as a professional mediator, might try to help people resolve their differences.<sup>40</sup> Once people start court proceedings, there is also a small claims mediation service provided by HMCTS where a claim is defended and the value is up to £10,000. This service is not available before a claim is issued, so is not to be confused with pre-court mediation.

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**Residence order** An order deciding who a child will live with.

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<sup>40</sup> Advice Services Alliance (2012) Why use ADR? Pros & cons, available from <http://asauk.org.uk/wp-content/uploads/2013/08/Why-use-ADR.pdf>

<b>Respondent</b>	A party against whom proceedings are brought in a family case.
<b>SME</b>	Small and medium enterprises (SMEs) or small and medium-sized businesses (SMBs) are companies whose personnel numbers fall below certain limits. Typically, these are enterprises which employ fewer than 250 people.
<b>Specified (Money) Claim</b>	A civil claim for a specific sum of money; these claims commonly involve debts or claims in respect of problems with goods or services.
<b>Unspecified (Money) Claim</b>	A civil claim for an amount yet to be decided; these claims commonly involve compensation for personal injury, or damages for other civil wrongs.
<b>Warrant of execution</b>	A method of enforcing payment of a money judgment; the warrant gives the county court bailiff (or High Court Enforcement Officer in certain circumstances) authority to take possession of certain goods belonging to the debtor, to sell at auction if the judgment debt is not paid.

## Appendix A

### Fees currently charged in the civil and family courts

#### Family courts

Cases are started via individual courts (either a county court or a Family Proceedings Court – unlike for money claims, there is no online system). The applicant has to pay a **court fee** (at the time of interview these were £215 for private law cases, and £255 for financial orders). If the applicant cannot afford the fee they can apply for **remission** (see below). If they have **legal aid** for representation in court then legal aid will pay for the court fee.

#### Civil courts

Subject to some exceptions **specified** claims can currently be started in one of two main ways: online, via **Money Claims Online** (MCOL) or by post via the County Court Money Claims Centre (CCMCC). Prior to mid-March 2012 specified claims could be started via individual county courts.

Again subject to some exceptions, **unspecified** claims started since mid-March 2012 will have been started via the CCMCC – but cannot be started via MCOL.

When starting a case, the claimant has to pay a court fee (unless they can get remission – see below). Fees are linked to the value of the claim. The table below shows the **fees as at August 2013**. As shown in the last column, there is a small discount if starting a specified claim online.

Claim value	Usual fee	MCOL
up to £300	£35	£25
£300.01–500	£50	£35
£500.01–1,000	£70	£60
£1,000.01–1,500	£80	£70
£1,500.01–3,000	£95	£80
£3,000.01–5,000	£120	£100
£5,000.01–15,000	£245	£210
£15,000.01–50,000	£395	£340

## Remission

Individuals, but **not companies or organisations**, can apply to have court fees waived or partially waived in certain circumstances. This is called **remission**. Currently, full remission is available if people receive certain income-related benefits (the main ones being Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance) **or** if their gross annual income is not above a certain amount (£13,000 for a single person or £18,000 if a couple, the limits are higher if they have children, e.g. £24,720 single person and £29,720 couple if four children).

People can also apply for full remission if their monthly disposable income (after certain fixed allowances) is not more than £50, or partial remission if it is above £50.

# Appendix B

## Research and recruitment materials

### 1. Screening questions for Ipsos MORI Access Panel

#### Eligible respondents:

Based in England or Wales, age 18 or over

#### Screening questions:

ASK ALL ELIGIBLE RESPONDENTS  
MULTICODE OTHER THAN OPTION G WHICH IS SINGLE CODE

**Q1** Since the beginning of 2012 have you *been involved in a court case of any of the following types, in either a personal capacity (that is for yourself) or on behalf of a business or organisation?* Please [check/tick] all that apply.

**Note: please include any cases in which you were a joint claimant or applicant with somebody else. Also please include any cases in which the business or organisation was a joint claimant with somebody else.**

- A. You were claiming a specific amount of money in a personal capacity, that is, for yourself.
- B. You were claiming a specific amount of money on behalf of a business or organisation (including as a sole trader or on behalf of a partnership).
- C. You were claiming compensation or damages in a personal capacity, that is, for yourself.
- D. You were claiming compensation or damages on behalf of a business or organisation (including as a sole trader or on behalf of a partnership).
- E. You were applying for an order regarding a child or children (for example, regarding contact with them, to decide who they should live with, or to decide another issue about their upbringing, including financial support for them).<sup>41</sup>
- F. You were applying for an order dealing with finances on divorce or dissolution of civil partnership (for example, to decide what should happen to the family home or any other assets, or for maintenance for yourself or any children).
- G. None of these options apply to me.

[If Yes to any of the above, route to Q2]

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<sup>41</sup> At present E is framed in terms of 'a child' as these applications may be made by non-parents, e.g. grandparents, step-parents, siblings or other relatives. But most commonly, if the applicant isn't a parent, they are grandparent(s).



ASK ALL WHO SELECT ANY OF CODES A–F AT Q1

**Q2 Did you have help from a solicitor or other lawyer with your case/cases?**

**NOTE: by help from a solicitor or other lawyer we mean having advice from a solicitor/lawyer or having a solicitor/lawyer represent you in a case at any stage.**

- A. YES
- B. NO

ASK ALL WHO SELECT ANY OF CODES A–F AT Q1

**Q3 Has/have your case/cases covered at Question 1 concluded or is it/are any of them ongoing?**

- A. It is/all are concluded.
- B. It is/all are ongoing.
- C. **(IF MORE THAN ONE CASE) One or some have concluded but at least one is ongoing.**

ASK ALL WHO SELECT ANY OF CODES A–F AT Q1  
FURTHER INFORMATION AND CAPTURING CONTACT DETAILS

Ipsos MORI are engaged in a programme of research for the Ministry of Justice into the process involved in bringing cases to court – so we may wish to contact you for a more in-depth interview to discuss your experiences. You are under no obligation to take part in this further research, although if you do take part in an interview as a ‘thank you’ from Ipsos MORI for your participation we are able to offer a voucher of £20 for your time.

This follow-up interview would take the form of either a face-to-face interview with one of our research team in your home or at a place of your choosing, or if you prefer we could conduct the interview over the telephone. The interview would last around 45–60 minutes. All information would be treated in the strictest confidence and analysed anonymously. Nobody at the Ministry of Justice or any other organisation would know that you have participated in this research. Ipsos MORI abide by strict professional codes of conduct in this regard and are bound in particular by the Data Protection Act and the Market Research Society code of conduct.

**Q4 Are you willing to be contacted by an Ipsos MORI researcher with a view to taking part in an interview about your experiences?**

- A. Yes
- B. No
- C. I would like to know more about this

If YES/I would like to know more – please provide your contact details below to pass on to the research team who may be in touch in due course. We aim to conduct interviews in August and September.

NAME.....

TELEPHONE NUMBER....

EMAIL ADDRESS.....

**2. In-court recruitment questionnaire**

INTERVIEWER NAME:	COURT NAME:
INTERVIEWER NO:	COURT TYPE (CIVIL/FAMILY):

**Good morning / afternoon / evening, my name is \_\_\_\_\_ from Ipsos MORI, the independent research organisation. We are carrying out a study on behalf of the Ministry of Justice who are interested in seeking the views of people who bring cases to court of either a family or civil nature.**

**We are looking for people to be interviewed about their views in the near future. The research would be quite informal and would involve participating in a telephone or face-to-face interview with one of our researchers which we would expect to last between 45 and 60 minutes.**

**At this stage, we are putting together a list of people who would be willing to take part. If you are willing, selected and take part, Ipsos MORI will give you a £20 high street voucher as a thank you for taking part. We appreciate that you would be giving up your time to help in this important study.**

**SECTION A – CORE ELIGIBILITY**

**Q1. Would you be interested in potentially taking part? SINGLE CODE ONLY**

Yes	1	CONTINUE
No	2	THANK AND CLOSE

**Q2. SHOWCARD A (NR) Can I ask whether you are here today either in a personal capacity (that is for yourself) or on behalf of a business or organisation for any of the following listed? Please just read off the letter that applies on this list.**

**INTERVIEWER NOTE: Include any cases in which respondent is a joint claimant or applicant with somebody else. Also please include any cases in which the business or organisation was a joint claimant with somebody else.**

A	Claiming a specific amount of money in a personal capacity, that is, for yourself	1	CONTINUE
B	Claiming a specific amount of money on behalf of a business or organisation (including as a sole trader or on behalf of a partnership)	2	

C	Claiming compensation or damages in a personal capacity, that is, for yourself	3	
D	Claiming compensation or damages on behalf of a business or organisation (including as a sole trader or on behalf of a partnership)	4	
E	Applying for an order regarding a child or children (for example, regarding contact with them, to decide who they should live with, or to decide another issue about their upbringing, including financial support for them)	5	
F	Applying for an order dealing with finances on divorce or dissolution of civil partnership (for example, to decide what should happen to the family home or any other assets, or for maintenance for yourself or any children)	6	
G	None of these	7	THANK AND CLOSE

**Q3.** Can I check whether you started the court proceedings (by yourself, jointly with somebody else, or via a legal representative)?

**IF CODED A–D: So, are you a claimant (or acting on behalf of a claimant business/organisation)?**

**IF CODED E–F:** Are you an applicant?

**INTERVIEWER NOTE:** Please exclude any cases where the respondent has brought a counter-claim in a civil case. Or made a cross-application in a family case (see interviewer briefing notes)

Yes	1	CONTINUE
No	2	THANK AND CLOSE

**Q4. Approximately when did you first submit your [claim/application] to the court?**

INTERVIEWER PROMPT IF EXACT DATE UNKNOWN: **Do you know which year, was it before or after Christmas, was it longer than 6 months ago, a year ago?**

INTERVIEWER WRITE IN:

**Q5. Did the case we are discussing involve a new claim or application, or was it only about enforcing, varying or appealing against an existing court order?**

INTERVIEWER: SEE BRIEFING NOTES

Original claim or application	1	CONTINUE
Enforcing, varying or appealing against an existing court order	2	THANK AND CLOSE

**Q6. Did the case(s) involve anybody else as a joint claimant or applicant?**

Yes	1	CONTINUE
No	2	

**SECTION B – OTHER IMPORTANT INFORMATION**

**INTERVIEWER:** Please try to collect as much of the following section as possible and then ensure that Section C is completed. If the respondent is unwilling or unable to provide this additional information (if pushed for time for example) go straight to Section C.

**ASK CIVIL CASES BROUGHT ON BEHALF OF A BUSINESS OR ORGANISATION ONLY (CODES B OR D AT Q2)**

**Q7. SHOWCARD B. Which of the following applies to you?**

A	Paid a salary by my employer	1
B	Paid a salary by an agency	2
C	Running a business or professional practice	3
D	Working for yourself	4
E	Doing freelance work	5
F	A sole director of your own limited company	6
G	A partner in a business or professional practice	7
H	A subcontractor	8
I	Other (specify):	9

CONTINUE

ASK CIVIL CASES BROUGHT ON BEHALF OF A BUSINESS OR ORGANISATION ONLY (CODES B OR D AT Q2)

**Q8. Roughly how many employees work for your business/organisation?**

4 or less (MICRO)	1
5–24 (SMALL)	2
25–249 (MEDIUM)	3
250+ (LARGE)	4
Don't know	5

CONTINUE

THANK AND CLOSE

CONTINUE

ASK ALL

**Q9. Have you had help from a solicitor or other lawyer with your case(s)?**  
INTERVIEWER NOTE: By help from a solicitor or other lawyer we mean having advice from a solicitor/lawyer or having a solicitor/lawyer represent them in a case at any stage

Yes – solicitor	1
Yes – other lawyer (specify)	2
.....	
No	3

ASK IF CODE 1 OR 2 AT Q9

**Q10. SHOWCARD C Did the help consist of any of the following?**  
MULTICODE

A	Legal advice before taking the case to court	1
B	Legal representation at the start of the case (lawyer conducted the case for you)	2
C	Legal advice subsequent to starting the case	3
D	Legal representation subsequent to starting the case	4
E	None of the above	5

CONTINUE

ASK IF CODE 1 OR 2 AT Q9

**Q11. SHOWCARD D How was the legal advice or representation paid for?**

A	Paid privately (including by borrowing)	1	
B	Through legal aid	2	
C	On a 'no win, no fee' basis	3	
D	Free of charge (e.g. CAB, friend, family, colleague or charity)	4	CONTINUE
E	Other (specify) .....	5	

ASK IF CODE A–D AT Q2 (CIVIL CASES)

**Q12. How did you start the claim?**

<b>CODES A–B AT Q2</b> <b>ONLY:</b> Via Money Claims Online (MCOL)	1	
Via a county court or the County Court Money Claims Centre (CCMCC)	2	CONTINUE
Don't know	3	

ASK IF CODE A–D AT Q2 (CIVIL CASES)

**Q13. SHOWCARD E At what stage did the case conclude/has the case reached?**

A	The claim was not defended (i.e. no response from defendant or defendant admitted claim)	1	CONTINUE
B	The claim was defended but was not allocated to a track	2	
C	The case was allocated to a track but had not progressed to a small claims hearing/trial	3	
D	A small claims hearing or trial took place	4	
E	Other	5	

ASK IF CODE A–D AT Q2 (CIVIL CASES)

**Q14. Which of the following describes the defendant(s)?**

An individual	1	CONTINUE TO SECTION C
A business or organisation	2	
Other (specify) .....	3	
Don't know	4	



ASK IF CODE E-F AT Q2 (FAMILY CASES)

**Q15. SHOWCARD F Which of the following best describes how far the case has progressed?**

A	There has been a first hearing	1
B	There has been more than one hearing	2
C	A date was set for the final hearing	3
D	There has been a final hearing	4
E	Other	5

CONTINUE

ASK IF CODE E AT Q2 (FAMILY CASES – CHILDREN)

**Q16. May I ask what your relationship to the child(ren) is?**

Parent	1
Grandparent	2
Other (specify) .....	3

CONTINUE

**SECTION C**

***13-044619 – Civil and family courts research  
In-court recruitment questionnaire***

Recruitment questionnaire

RESPONDENT RECRUITED AT COURT SESSION:
COURT NAME:
COURTROOM NUMBER:

PERSONAL IDENTIFIERS

<i>Details</i> Date:  Time:
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Gender (M/F):

Name/Initial/Title: Mr/Mrs/Ms/Miss

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Full postcode

**Tel. number (WRITE IN  
INCL. STD code)**

\_\_\_\_\_

Home/mobile	1
Work	2
Refused/ex-directory <b>email address (WRITE IN)</b>	3
Preferred method of contact	
Preferred time of contact (morning/afternoon/evening)	

Respondent signature: .....

Date:.....

Interviewer signature: .....

Date:.....

### 3. Family justice cases discussion guide

#### **MoJ: Factors influencing customers' decisions to bring cases to the civil and family courts**

Discussion guide 1 – family justice cases

#### **1. Background**

The Ministry of Justice is conducting ongoing work on court fees, which it is anticipated will lead to a restructuring of fees. This research aims to understand why customers decide to use the courts, what role costs and court fees play in this decision, and in what circumstances decisions are price sensitive.

#### **2. Aims and research questions**

The aim of the research is to gain a detailed understanding of the factors which influence users' decisions to start (and continue with) civil and family court proceedings and users' experiences. The key research questions for the study are:

- What are court users' knowledge and expectations of how to resolve their justice problems?
- What routes did users take to court and how much knowledge did they have of the costs involved?
- How did users make the decision to undertake court proceeding to resolve their issue and what part did costs play in this?
- What experiences and perceptions do users have of the court process?

### 3. Structure of the discussion

Notes	Guide sections	Guide timings
<b>1 &amp; 2. Introductions and background</b>	<b>Sets the scene, reassures participants about the interview, confidentiality. Discuss the general work and life circumstances of the participant which provide useful background and also establish rapport.</b>	5 mins
<b>3. Discussion of their experiences of using courts</b>	In this section the participant will provide an overview of their experiences in the court process. We focus on establishing the chronology of the events and what stage they are currently at.	20 mins
<b>4. The decision-making process</b>	<p>This section draws on behaviour models in the question design to look in detail at how much the interviewee knew about court proceedings before they decided to undertake them and how they came to the decision that their problem was a justice issue.</p> <p>The subheadings introducing the question areas in this section derive from the Theoretical Domains Framework (TDF). This has several advantages. Using the TDF to structure this section provides a “comprehensive coverage of possible influences on behaviour”, and in this case we consider the decision to start court proceedings as a proxy for the related behaviour, i.e. actually doing so. In this way we can be more confident that we are capturing all relevant influences on the decision-making process. Furthermore, using this approach may also prompt respondents to identify influences that they would otherwise not report.</p>	20 mins
<b>5. Key factors influencing decision making and reflection on their experience</b>	This section establishes the key factors that influenced the participant’s decision to take the issue to court and provides an opportunity for the interviewee to reflect on their experience and consider what, if anything, they would do differently.	10 mins
<b>6. Conclusions</b>	Identifies key messages and sums up.	5 mins
<b>Total time</b>		1 hour

#### 4. Note to interviewers

It is likely that participants will be sharing experiences of difficult and upsetting times in their lives and it is vital that we do not distress participants in the research process. Please take extra care to listen to and observe cues from participants on what they are comfortable discussing, and consider mirroring the language and approach of the participant to topics under discussion.

We use several conventions to explain to you how this guide will be used, described below.

Questions	Notes/comments	Time
<p><u>Underlined</u> = <u>Title</u>: This provides a heading for a sub-section</p> <p><b>Bold</b> = <b>Question or read out statement</b>: Questions that will be asked to the participant if relevant. Not all questions are asked during fieldwork based on the moderator's view of progress.</p> <p>Bullet = prompt: Prompts are not questions – they are there to provide guidance to the moderator if required.</p>	<p>This area is used to summarise what we are discussing, provides informative notes, and some key prompts for the moderator.</p>	<p>How long should be spent on each section.</p>

1. Welcome and introduction	Notes/ comments	Time
<ul style="list-style-type: none"> <li>○ Thank participant for taking part.</li> <li>○ Introduce self, Ipsos MORI.</li> <li>○ Confidentiality: reassure that all responses are anonymous and that information about individuals will not be passed on to anyone, including anyone else involved in the case or the court and i 26-3-14ncluding back to the Ministry of Justice or any other Government department.</li> <li>○ Explain outline of the research – the MoJ has asked Ipsos MORI to talk to customers about their experiences of seeking to resolve issues through family courts, as they would like to understand the factors that influence customer’s decisions to use the courts.</li> <li>○ Please also explain that the interview is about processes and decision making, so whilst it helps to have some background on the issue, there is no expectation that they should go into the finer details of their family history, and they do not have to discuss anything they are not comfortable with.</li> <li>○ Role of Ipsos MORI – independent research organisation (i.e. independent of Government), gather all opinions: all opinions valid. Remind that there are no right or wrong answers. Commissioned by the MoJ to conduct the research.</li> <li>○ Get permission to digitally record – transcribe for quotes, no detailed attribution.</li> </ul>	<p>Welcome: orientates participant, gets them prepared to take part in the interview.</p> <p>Outlines the ‘rules’ of the interview (including those we are required to tell them about under MRS and Data Protection Act guidelines).</p>	5 mins

2. Personal background	Notes/ comments	Time
<p><b>I’d like to start by learning a little about you.</b></p> <p><b>Can you just tell me a bit about you and your current household?</b></p> <ul style="list-style-type: none"> <li>○ Who do you live with?</li> <li>○ How long have you lived there?</li> <li>○ Number of adults in household?</li> <li>○ Do you have children?</li> <li>○ How old are they?</li> </ul>	<p>We ask these questions to confirm the recruitment details and to create rapport/ease the participant into the interview.</p>	

2. Personal background	Notes/ comments	Time
<p><b>Are you working at the moment?</b></p> <ul style="list-style-type: none"> <li>○ What kind of work do you do?</li> <li>○ Do you work full time/part time?</li> <li>○ If not working, how do you spend your time?</li> </ul> <p><b>IF APPLICABLE: What about your partner?</b></p> <ul style="list-style-type: none"> <li>○ Do they work full time/part time?</li> </ul>		

3. Discussion of their problem/issue and experience	Notes/ comments	Time
<p><b>First of all I want to get an overview of what has happened to date regarding [insert subject matter of proceedings], starting from the point at which you decided it was a problem/issue which needed resolving to where you are today...</b></p> <p><b>Can you tell me about the background to [insert subject matter of proceedings] which you took to court?</b></p> <ul style="list-style-type: none"> <li>○ When did it arise?</li> <li>○ How did it arise?</li> </ul> <p><b>Did your case start in a county court or a Family Proceedings Court?</b></p> <p><b>How did you address/deal with [insert subject matter of proceedings] before deciding to take it to court?</b></p> <ul style="list-style-type: none"> <li>○ Did you have any existing knowledge about how to deal with it?</li> <li>○ Did you receive any advice on how to deal with it? From whom?</li> </ul> <p><b>IF APPLICABLE: What role did your advisor/solicitor play in the process?</b></p> <ul style="list-style-type: none"> <li>○ When did they first get involved?</li> <li>○ What input did they have prior to the case beginning?</li> <li>○ How helpful did you find their input?</li> <li>○ Why did you choose to use an advisor/solicitor?</li> <li>○ What has their involvement been since the case started?</li> </ul>	<p>Use timeline with the participant to construct chronology of the events.</p> <p>Establish key moments, decisions, actions, actors.</p> <p>MODERATOR NOTE: Please allow the participant to explain in their own words (as much as possible) about how they came to start court proceedings.</p>	<p>20 mins</p>

3. Discussion of their problem/issue and experience	Notes/ comments	Time
<p><b>IF APPLICABLE: Why did you decide not to use legal representation throughout the court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ IF APPLICABLE: Why did you represent yourself?</li> <li>○ Did you seek any advice on how to represent yourself? IF YES: Where?</li> </ul> <p><b>IF APPLICABLE: Why did you decide to move from using an advisor/solicitor to not using legal representation? (reverse order of options if relevant)</b></p> <ul style="list-style-type: none"> <li>○ What stage in the process did this occur?</li> <li>○ Did cost have an impact on this decision?</li> </ul> <p><b>Did you seek any general advice – for example, not from a legal advisor – on the process of court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ Where did you seek advice?</li> <li>○ Who did you speak to? <ul style="list-style-type: none"> <li>○ Friends or family?</li> <li>○ Another source of advice?</li> </ul> </li> <li>○ How helpful was this, and why?</li> </ul> <p><b>Before deciding to start court proceedings did you consider any alternatives to resolving your problem/issue?</b></p> <ul style="list-style-type: none"> <li>○ What were they? <ul style="list-style-type: none"> <li>○ Negotiation? Was this done directly? Or through a solicitor?</li> <li>○ Mediation?</li> <li>○ Exchange of letters?</li> <li>○ Letting the issue drop?</li> <li>○ Other?</li> </ul> </li> <li>○ What did you/do you think of these options?</li> </ul> <p><b>Did you pursue any of these options before going to court?</b></p> <ul style="list-style-type: none"> <li>○ What happened?</li> <li>○ What did you think of it/them? Were you happy with what happened?</li> </ul> <p><b>Why did you decide to pursue this/these options?</b></p> <ul style="list-style-type: none"> <li>○ Did you see them as likely to lead to avoiding going to court? <ul style="list-style-type: none"> <li>○ If so, was that important to you? Why?</li> </ul> </li> <li>○ Or did you expect these alternatives to end in going to court anyway? <ul style="list-style-type: none"> <li>○ If so, was that important to you? Why?</li> </ul> </li> </ul>	<p>MODERATOR NOTE: there is a specific requirement to attend MIAM (Mediation Information and Assessment Meeting) in family cases. Please probe on this.</p>	



3. Discussion of their problem/issue and experience	Notes/ comments	Time
<p><b>Why did you eventually decide to start court proceedings?</b></p> <p><b>What would you say were the most important moments or turning points in terms of your decision to start court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ What were the greatest influences on your decision to start court proceedings?</li> <li>○ Who were the key people involved in this process other than you?</li> </ul> <p><b>When did you decide to start court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ Around what date, and at what stage of the situation?</li> </ul> <p><b>Could you talk me through the main milestones in the proceedings to date?</b></p> <p><b>Where are you now in terms of the court process?</b></p> <ul style="list-style-type: none"> <li>○ How close are you to resolving your problem/issue?</li> <li>○ How would you describe your experience of the process?</li> </ul> <p><b>How did you find the court process overall?</b></p> <ul style="list-style-type: none"> <li>○ Can you think of any positive aspects?</li> <li>○ Can you think of any negative aspects?</li> </ul> <p><b>Did your experiences differ from what you expected?</b></p> <ul style="list-style-type: none"> <li>○ In what way did it differ?</li> </ul>		

4. The decision-making process	Notes/ comments	Time
<p><b>Now we'll talk a bit more in depth about how you actually came to the decision to start court proceedings...</b></p> <p><b><u>KNOWLEDGE</u></b></p> <p>How much did you know about the court process and the possible outcomes of going to court, at the time you decided to start court proceedings? How familiar were you with the process of starting court proceedings?</p> <ul style="list-style-type: none"> <li>○ How familiar were you with what the court process actually entailed?</li> <li>○ IF FAMILIAR: Was this due to previous personal experience? OR perceptions from elsewhere?</li> </ul> <p><b>At the time did you feel sufficiently well informed to make the decision?</b></p> <p><b>Was your decision to enter into the court process based on any information or advice?</b></p> <ul style="list-style-type: none"> <li>○ What was the information and advice?</li> <li>○ Who provided the information/advice?</li> <li>○ How did you come across the information/advice?</li> </ul> <p><b><u>SKILLS</u></b></p> <p><b>When you made your decision were you aware of what the court process would require of you personally?</b></p> <p><b>Did you feel that you had the necessary abilities/understanding to enter into the court process at the time?</b></p> <p><b>And did you feel that you had the necessary abilities/understanding to deal with the court process itself and the possible outcomes of the process?</b></p>	<p><i>The subheadings introducing the question areas in this section derive from the Theoretical Domains Framework (TDF).</i></p> <p>MODERATOR NOTE: Try to isolate the most important factors and what role costs played within this.</p>	<p>20 mins</p>

4. The decision-making process	Notes/ comments	Time
<p><b><u>BELIEFS ABOUT CAPABILITIES</u></b></p> <p><b>Were you confident in being able to negotiate the court process when you made the decision?</b></p> <p><b>Did you foresee any problems/difficulties at the time you made the decision?</b></p> <ul style="list-style-type: none"> <li>○ If so, what were they?</li> <li>○ How confident were you of dealing with these problems/difficulties?</li> </ul> <p><b><u>SOCIAL INFLUENCES</u></b></p> <p><b>How far did other people influence your decision to enter the court process?</b></p> <p><b>Was there any expectation / pressure / encouragement from anyone else to enter into the court process?</b></p> <p>Probe on:</p> <ul style="list-style-type: none"> <li>○ Friends</li> <li>○ Family</li> <li>○ Information</li> <li>○ Advice</li> <li>○ Professionals</li> <li>○ Other?</li> </ul> <p><b><u>SOCIAL/PROFESSIONAL ROLE AND IDENTITY</u></b></p> <p><b>Do you know anyone else in a similar situation who also made the decision to enter into court proceedings?</b></p> <p><b>Do you feel that your decision was fairly usual/typical for someone in your position?</b></p>		

4. The decision-making process	Notes/ comments	Time
<p><b><u>GOALS</u></b></p> <p><b>Did you have a goal or goals for the end of the court process?</b></p> <ul style="list-style-type: none"> <li>○ Did this change at any point during the process?</li> </ul> <p><b>When you made your decision did you actually want to enter into the court process?</b></p> <p><b>Did you feel you had no other choice?</b></p> <p><b>Would you have preferred to have followed a different course of action?</b></p> <p><b><u>OPTIMISM</u></b></p> <p><b>Did you feel that you'd be able to achieve your desired goal or resolve your problem/issue when you made the decision?</b></p> <ul style="list-style-type: none"> <li>○ How confident were you that you would achieve your goal?</li> </ul> <p><b>How confident were you in your decision to enter into the court process when you made it?</b></p> <p><b>And how confident were you in the legal rightness of your case?</b></p> <p><b><u>BELIEFS ABOUT CONSEQUENCES</u></b></p> <p><b>What were your expectations of the court process and the possible outcome at the time you made your decision?</b></p> <ul style="list-style-type: none"> <li>○ What did you hope to achieve?</li> <li>○ How much did you expect it to cost?</li> <li>○ What did you expect to happen if your case wasn't successful? Would you have been worse off than before?</li> </ul>	<p>MODERATOR NOTE: It is likely that it would not have been possible for the participant to predict the cost of certain elements.</p>	

4. The decision-making process	Notes/ comments	Time
<p><b><u>ENVIRONMENTAL CONTEXT/RESOURCES</u></b></p> <p><b>How far did money and the cost of the court process affect your decision to enter into court proceedings?</b></p> <p><b>How and when were you made aware of the costs of entering into court proceedings?</b></p> <p><b>Were you aware of the likely/potential costs of:</b></p> <ul style="list-style-type: none"> <li><input type="radio"/> Legal representation</li> <li><input type="radio"/> Court fees</li> <li><input type="radio"/> Travel</li> <li><input type="radio"/> Time off work</li> </ul> <p><b>Do you know how much each element cost?</b></p> <p><b>Do you know how much the court proceedings cost in total?</b></p> <p><b>When were you made aware of the need to pay these costs?</b></p> <p><b>What other costs did you incur as a result of entering into the process?</b></p> <p><b>How much did you expect the process to cost when you made the decision?</b></p> <ul style="list-style-type: none"> <li><input type="radio"/> What did you base this on?</li> </ul> <p><b>What financial resources were available to you when you made the decision? Have you received assistance with costs?</b></p> <ul style="list-style-type: none"> <li><input type="radio"/> From who?</li> <li><input type="radio"/> How did you find out about this resource?</li> <li><input type="radio"/> How much?</li> <li><input type="radio"/> For what?</li> </ul>		

4. The decision-making process	Notes/ comments	Time
<p><b>Do you currently have any savings?</b></p> <ul style="list-style-type: none"> <li>○ IF YES: Did you use any of your savings to cover the cost of the court proceeding?</li> </ul> <p><b>Did you access legal aid to assist you in covering the cost of court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ How much of the cost did the legal aid cover?</li> <li>○ Did it cover a specific element?</li> <li>○ Did you need to make a contribution towards the payment? How much was it?</li> </ul> <p><b>Overall, did you find it difficult to pay the costs for your court hearing?</b></p> <ul style="list-style-type: none"> <li>○ IF YES: Can you explain why?</li> <li>○ Which parts of the costs were hardest to pay, and why?</li> </ul> <p><b><u>MEMORY, ATTENTION, DECISION MAKING</u></b></p> <p><b>Was the decision to enter into court proceedings an easy or difficult one?</b></p> <p><b>How much did you have to think about it?</b></p> <p><b><u>EMOTION</u></b></p> <p><b>How did you feel at the point at which you made your decision?</b></p> <p>(ask question openly first then use prompts)</p> <ul style="list-style-type: none"> <li>○ Positive</li> <li>○ Happy</li> <li>○ Hopeful</li> <li>○ Angry</li> <li>○ Afraid</li> <li>○ Anxious</li> </ul> <p><b>Did your emotions/mood at the time affect your decision? How so?</b></p>	<p>MODERATOR NOTE: Try to map out the participant's emotions at each point on the timeline</p>	

5. Key factors that influenced decision making and reflection on their experience	Notes/ comments	Time
<p><b>Considering the discussion that we have had about how you came to the decision to start court proceedings, what do you think are the key factors that influenced your decision?</b></p> <p><b>Considering the experience that you have been through in taking this case to court, what would you do differently, if anything, if you had to do it again?</b></p> <ul style="list-style-type: none"> <li>○ Not take the case to court? Go to mediation?</li> <li>○ Access legal representation?</li> <li>○ Seek further advice before starting court proceedings?</li> <li>○ Consider the cost of taking legal action in more detail?</li> </ul> <p><b>What advice would you give to someone, who was in a similar situation to yours, about starting court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ Advise against it? Why?</li> <li>○ Advise them to start court proceedings? Why?</li> <li>○ Advise them to access professional advice?</li> <li>○ Research costs?</li> </ul>	<p>MODERATOR NOTE: consider discussion at Section 4 and probe appropriately if the participant struggles to identify the key factors.</p> <p>Try to establish the hierarchy of these factors.</p>	<p>10 mins</p>

6. Conclusions	Notes/ comments	Time
<p><b>Thinking about everything we've discussed today, what was the most important factor in your decision to take your case to court?</b></p> <p><b>You may have noticed that we have mentioned the cost of court proceedings several times; the reason behind this is that the Ministry of Justice is currently reviewing the fees it charges.</b></p> <p><b>In light of this, what part would you say court fees in particular played in your decision to take your case to court?</b></p> <ul style="list-style-type: none"> <li>○ And would that change if court fees changed?</li> </ul>	<p>Key messages and sums up.</p> <p>Draws interview to a close.</p>	<p>5 mins</p>

6. Conclusions	Notes/ comments	Time
<p><b>If the court fee had been £500 instead of £215 (children orders)/£255 (financial orders), would you have been able and willing to pay?</b></p> <ul style="list-style-type: none"> <li>○ [If not willing to pay £500], what about if the fee had been £300?</li> <li>○ How would you have funded the additional cost?</li> <li>○ At what point would the court fees become unaffordable?</li> </ul> <p><b>Is there anything else about your experience in court proceedings, which we haven't already discussed, that you would like to raise?</b></p> <p><b>Thank participants; explain the next steps (e.g. what the MoJ will do with the findings). THANK AND CLOSE. Reassure about confidentiality.</b></p>		



## **4. Civil justice cases discussion guide**

### **MoJ: Factors influencing customers' decisions to bring cases to the civil and family courts**

Discussion guide 2 – civil justice cases

#### **1. Background**

The Ministry of Justice is conducting ongoing work on court fees, which it is anticipated will lead to a restructuring of fees. This research aims to understand why customers decide to use the courts, what role costs and court fees play in this decision, and in what circumstances decisions are price sensitive.

#### **2. Aims and research questions**

The aim of the research is to gain a detailed understanding of the factors which influence users' decisions to start (and continue with) civil and family court proceedings and users' experiences. The key research questions for the study are:

- What are court users' knowledge and expectations of how to resolve their justice problems?
- What routes did users take to court and how much knowledge did they have of the costs involved?
- How did users make the decision to undertake court proceeding to resolve their issue and what part did costs play in this?
- What experiences and perceptions do users have of the court process?

### 3. Structure of the discussion

Notes	Guide sections	Guide timings
<b>1 and 2. Introductions and background</b>	<b>Sets the scene, reassures participants about the interview, confidentiality. Discuss the general work and life circumstances of the participant which provide useful background and also establish rapport.</b>	5 mins
<b>3. Discussion of their experiences of using courts</b>	In this section the participant will provide an overview of their experiences in the court process. We focus on establishing the chronology of the events and what stage they are currently at.	20 mins
<b>4. The decision-making process</b>	<p>This section draws on behaviour models in the question design to look in detail at how much the interviewee knew about court proceedings before they decided to undertake them and how they came to the decision that their problem was a justice issue.</p> <p>The subheadings introducing the question areas in this section derive from the Theoretical Domains Framework (TDF). This has several advantages. Using the TDF to structure this section provides a “comprehensive coverage of possible influences on behaviour”, and in this case we consider the decision to start court proceedings as a proxy for the related behaviour, i.e. actually doing so. In this way we can be more confident that we are capturing all relevant influences on the decision-making process. Furthermore, using this approach may also prompt respondents to identify influences that they would otherwise not report.</p>	20 mins
<b>5. Key factors influencing decision making and reflection on their experience</b>	This section establishes the key factors that influenced the participant’s decision to take the issue to court and provides an opportunity for the interviewee to reflect on their experience and consider what, if anything, they would do differently.	10 mins
<b>6. Conclusions</b>	Identifies key messages and sums up.	5 mins
<b>Total time</b>		1 hour

### 4. Note to interviewers

Participants may be sharing experiences of difficult and stressful times in their lives and it is vital that we do not distress participants in the research process. Please take extra care to listen to and observe cues from participants on what they are comfortable discussing, and consider mirroring the language and approach of the participant to topics under discussion.

We use several conventions to explain to you how this guide will be used, described below.

Questions	Notes/comments	Time
<p><u>Underlined</u> = <u>Title</u>: This provides a heading for a sub-section</p> <p><b>Bold = Question or read out statement</b>: Questions that will be asked to the participant if relevant. Not all questions are asked during fieldwork based on the moderator's view of progress.</p> <p>Bullet = prompt: Prompts are not questions – they are there to provide guidance to the moderator if required.</p>	<p>This area is used to summarise what we are discussing, provides informative notes, and some key prompts for the moderator.</p>	<p>How long should be spent on each section.</p>

1. Welcome and introduction	Notes/ comments	Time
<ul style="list-style-type: none"> <li>o Thank participant for taking part.</li> <li>o Introduce self, Ipsos MORI.</li> <li>o Confidentiality: reassure that all responses are anonymous and that information about individuals will not be passed on to anyone, including anyone else involved in the case or the court and including back to the Ministry of Justice or any other Government department.</li> <li>o Explain outline of the research – the MoJ has asked Ipsos MORI to talk to customers about their experiences of seeking to resolve issues through civil courts, that is 'county' or 'small claims' courts, as they would like to understand the factors that influence customer's decisions to use the courts.</li> <li>o Please also explain that the interview is about processes and decision making, so whilst it helps to have some background on the issue, they do not have to discuss anything they are not comfortable with.</li> <li>o Role of Ipsos MORI – independent research organisation (i.e. independent of Government), gather all opinions: all opinions valid. Remind that there are no right or wrong answers. Commissioned by the MoJ to conduct the research.</li> <li>o Get permission to digitally record – transcribe for quotes, no detailed attribution.</li> </ul>	<p>Welcome: orientates participant, gets them prepared to take part in the interview.</p> <p>Outlines the 'rules' of the interview (including those we are required to tell them about under MRS and Data Protection Act guidelines).</p>	<p>5 mins</p>

2. Personal/company background	Notes/ comments	Time
<p><b>IF INDIVIDUAL:</b> I'd like to start by learning a little about you.</p> <p><b>IF INDIVIDUAL: Can you just tell me a bit about you and your current household?</b></p> <ul style="list-style-type: none"> <li>○ Who do you live with?</li> <li>○ How long have you lived there?</li> <li>○ Number of adults in household?</li> <li>○ Do you have children?</li> <li>○ How old are they?</li> </ul> <p><b>IF INDIVIDUAL: Are you working at the moment?</b></p> <ul style="list-style-type: none"> <li>○ What kind of work do you do?</li> <li>○ Do you work full time/part time?</li> <li>○ Are you employed/self-employed?</li> <li>○ If not working, how do you spend your time?</li> </ul> <p><b>IF ORGANISATION or individual acting in a business capacity: Could you start by telling me what your company/business does?</b></p> <ul style="list-style-type: none"> <li>○ What does your business sell/offer?</li> <li>○ Who are your customers?</li> <li>○ Who are your suppliers?</li> </ul> <p><b>IF ORGANISATION or individual acting in business capacity: Could you briefly talk me through your role in the business?</b></p> <ul style="list-style-type: none"> <li>○ How long have you been doing this?</li> </ul> <p><b>IF ORGANISATION or individual acting in business capacity: What is the size of your business, both in terms of people and turnover?</b></p> <p><b>IF ORGANISATION or individual acting in business capacity: How does your company usually deal with legal issues?</b></p>	<p>We ask these questions to confirm the recruitment details and to create rapport/ease the participant into the interview.</p> <p>MODERATOR: this question should provide some context on the possible impact of the monetary claim.</p>	

3. Discussion of their problem/issue and experience	Notes/ comments	Time
<p><b>First of all I want to get an overview of what has happened to date regarding [insert subject matter of proceedings], starting from the point at which you/the business decided it was a problem/issue which needed resolving to where you are today...</b></p> <p><b>IF INDIVIDUAL: Is this the first time that you have taken a case to court?</b></p> <p><b>IF ORGANISATION or <i>individual acting in business capacity</i>: Is this the first time that the business has taken a case to court?</b></p> <p><b>Can you tell me about the background to [insert subject matter of proceedings] which you took to court?</b></p> <ul style="list-style-type: none"> <li>○ When did it arise?</li> <li>○ How did it arise?</li> <li>○ What did it involve/what were the key issues?</li> </ul> <p><b>IF APPLICABLE: What was the amount in dispute/how much was the claim for?</b></p> <p><b>How did you address/deal with [insert subject matter of proceedings] before deciding to take it to court?</b></p> <ul style="list-style-type: none"> <li>○ Did you have any existing knowledge about how to deal with it?</li> <li>○ <b>ORGANISATION or individual in business capacity:</b> Did you or someone else in the company have existing knowledge or experience of [insert subject matter of proceedings]?</li> </ul> <p><b>Did you receive any advice on how to deal with it? From whom?</b></p> <p><b>IF APPLICABLE: What role did your/the business' advisor/solicitor play in the process?</b></p> <ul style="list-style-type: none"> <li>○ When did they first get involved?</li> <li>○ What input did they have prior to the case beginning?</li> <li>○ How helpful did you find their input?</li> <li>○ How important was their advice in your decision to take your case to court?</li> <li>○ Why did you choose to use an advisor/solicitor?</li> <li>○ What has their involvement been since the case started?</li> </ul>	<p>Use timeline with the participant to construct chronology of the events.</p> <p>Establish key moments, decisions, actions, actors.</p> <p>MODERATOR NOTE: Please allow the participant to explain in their own words (as much as possible) about how they or the business they work for came to start court proceedings.</p>	<p>20mins</p>

3. Discussion of their problem/issue and experience	Notes/ comments	Time
<p>○ Has it been to advise/help you conduct the case yourself, to conduct the case on your behalf, to represent you at any hearings, or in different ways at different stages?</p> <p><b>IF APPLICABLE: Did you/the business have to pay for the advisor or solicitor?</b></p> <p>○ If so, how was this funded? (including any 'no win, no fee' arrangement)</p> <p><b>IF APPLICABLE: Why did you decide not to have a solicitor conduct the case for you and represent you throughout the court proceedings?</b></p> <p>○ IF APPLICABLE: Why did you represent yourself?</p> <p>○ Did you seek any advice on how to represent yourself? IF YES: Where?</p> <p><b>IF APPLICABLE: Why did you decide to move from having a solicitor conduct the case for you and represent you to not conducting the case and representing yourself? (reverse order of options if relevant)</b></p> <p>○ What stage in the process did this occur?</p> <p>○ Did cost have an impact on this decision?</p> <p><b>Did you/the business seek any general information or advice on the process of court proceedings?</b></p> <p>○ Where did you seek information/advice?</p> <p>○ Who did you speak to?</p> <ul style="list-style-type: none"> <li>○ Friends or family?</li> <li>○ The court</li> <li>○ Another source of advice?</li> </ul> <p>○ How helpful was this, and why?</p> <p><b>Before deciding to start court proceedings did you consider any alternatives to resolving your problem/issue?</b></p> <p>○ What were they?</p> <ul style="list-style-type: none"> <li>○ Negotiation? Was this done directly? Or through a solicitor?</li> <li>○ Mediation?</li> <li>○ Complaints scheme/an ombudsman</li> <li>○ Exchange of letters?</li> <li>○ Letting the issue drop?</li> <li>○ Other?</li> </ul> <p>○ What did you/do you think of these options?</p>	<p>MODERATOR: this question is referring to general information or advice, not advice from a legal advisor.</p>	

3. Discussion of their problem/issue and experience	Notes/ comments	Time
<p><b>Did you pursue any of these options before going to court?</b></p> <ul style="list-style-type: none"> <li>○ What happened?</li> <li>○ What did you think of it/them? Were you happy with what happened?</li> </ul> <p><b>Why did you decide to pursue this/these options?</b></p> <ul style="list-style-type: none"> <li>○ Did you see them as likely to lead to avoiding going to court? <ul style="list-style-type: none"> <li>○ If so, was that important to you? Why?</li> </ul> </li> <li>○ Or did you expect these alternatives as a step on the way to going to court anyway? <ul style="list-style-type: none"> <li>○ If so, was that important to you? Why?</li> </ul> </li> </ul> <p><b>Why did you eventually decide to start court proceedings?</b></p> <p><b>What would you say were the most important moments or turning points in terms of your decision to start court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ What were the greatest influences on your/the company's decision to start court proceedings?</li> <li>○ Who were the key people involved in this process other than you?</li> </ul> <p><b>When did you decide to start court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ Around what date, and at what stage of the situation?</li> </ul> <p><b>Could you talk me through the main stages in the proceedings to date?</b></p> <p><b>Where are you now in terms of the court process?</b></p> <ul style="list-style-type: none"> <li>○ How close are you to resolving your problem/issue?</li> <li>○ How would you describe your experience of the process?</li> </ul> <p><b>How did you find the court process overall?</b></p> <ul style="list-style-type: none"> <li>○ Can you think of any positive aspects?</li> <li>○ Can you think of any negative aspects?</li> </ul> <p><b>Did your experiences differ from what you expected?</b></p> <ul style="list-style-type: none"> <li>○ In what way did it differ?</li> </ul>		

4. The decision-making process	Notes/ comments	Time
<p><b>Now we'll talk a bit more in depth about how you actually came to the decision to start court proceedings...</b></p> <p><b><u>KNOWLEDGE</u></b></p> <p><b>How much did you know about the court process and the possible outcomes, at the time you decided to start court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ How familiar were you with the process of starting court proceedings?</li> <li>○ How familiar were you with what the court process actually entailed?</li> <li>○ IF FAMILIAR: Was this due to previous personal experience? OR perceptions from elsewhere?</li> </ul> <p>How much did you know about the legal position of your case when you decided to start court proceedings?</p> <p><b>At the time did you feel sufficiently well informed to make the decision?</b></p> <p><b>Was your decision to enter into the court process based on any information or advice?</b></p> <ul style="list-style-type: none"> <li>○ What was the information and advice?</li> <li>○ Who provided the information/advice?</li> <li>○ How did you come across the information/advice?</li> <li>○ Did you have to pay for it?</li> </ul> <p><b><u>SKILLS</u></b></p> <p><b><i>IF INDIVIDUAL or individual acting in a business capacity:</i></b> <b>When you made your decision were you aware of what the court process would require of you personally?</b></p> <p><b><i>IF INDIVIDUAL or individual acting in a business capacity:</i></b> <b>Did you feel that you had the necessary abilities/understanding to enter into the court process at the time?</b></p>	<p><i>The subheadings introducing the question areas in this section derive from the Theoretical Domains Framework (TDF).</i></p> <p>MODERATOR NOTE: Try to isolate the most important factors and what role costs played within this.</p> <p>MODERATOR: If participant is unsure please explain that we are referring to whether they felt their case was in the right and that the law was on their side.</p>	<p>20 mins</p>



4. The decision-making process	Notes/ comments	Time
<p><b><i>IF INDIVIDUAL or individual acting in a business capacity:</i></b>  <b>And did you feel that you had the necessary abilities/understanding to deal with the court process itself and the possible outcomes of the process?</b></p> <p><b><i>IF ORGANISATION:</i></b> When you made your decision were you aware of what the court process would require of the business?</p> <p><b><i>IF ORGANISATION:</i></b> And did you feel that your business had the necessary abilities to deal with the court process itself and the possible outcomes of the process?</p> <p><b><u>BELIEFS ABOUT CAPABILITIES</u></b></p> <p><b><i>IF INDIVIDUAL or individual acting in a business capacity:</i></b>  <b>Were you confident in being able to navigate the court process when you made the decision?</b></p> <p><b><i>IF ORGANISATION:</i></b> Were you confident in being able to navigate the court process on the behalf of your business, when you made the decision?</p> <p><b>ALL:</b> Did you foresee any problems/difficulties at the time you made the decision?</p> <ul style="list-style-type: none"> <li>○ If so, what were they?</li> <li>○ How confident were you of dealing with these problems/difficulties?</li> </ul> <p><b><u>SOCIAL INFLUENCES</u></b></p> <p><b><i>IF INDIVIDUAL or individual acting in a business capacity:</i></b>  <b>How far did other people influence your decision to enter the court process?</b></p> <p><b><i>IF ORGANISATION:</i></b> How far did the conduct of other businesses influence your decision to enter the court process?</p>		

4. The decision-making process	Notes/ comments	Time
<p><b>ALL: Was there any expectation / pressure / encouragement from anyone else to enter into the court process?</b></p> <p>Probe on:</p> <ul style="list-style-type: none"> <li>○ Friends</li> <li>○ Family</li> <li>○ Information</li> <li>○ Advice</li> <li>○ Professionals</li> <li>○ Other?</li> </ul> <p><b><u>SOCIAL/PROFESSIONAL ROLE AND IDENTITY</u></b></p> <p><b><i>IF INDIVIDUAL or individual acting in a business capacity:</i></b>  <b>Do you know anyone else in a similar situation who also made the decision to enter into court proceedings?</b></p> <p><b><i>IF INDIVIDUAL or individual acting in a business capacity:</i></b>  <b>Do you feel that your decision was fairly usual/typical for someone in your position?</b></p> <p><b><i>IF ORGANISATION:</i></b> Do you feel that your company's decision was fairly usual/typical for a business in your position?</p> <p><b><u>GOALS</u></b></p> <p><b>Did you have a goal or goals for the end of the court process?</b></p> <ul style="list-style-type: none"> <li>○ Did this change at any point during the process?</li> </ul> <p><b>When you made your decision did you actually want to enter into the court process?</b>  <b>How committed were you to this route?</b></p> <ul style="list-style-type: none"> <li>○ IF APPLICABLE: Did you feel you had no other choice?</li> </ul> <p><b>Would you have preferred to have followed a different course of action?</b></p>		

4. The decision-making process	Notes/ comments	Time
<p><b><u>OPTIMISM</u></b></p> <p><b><i>IF INDIVIDUAL or individual acting in a business capacity:</i></b>  <b>Did you feel that you'd be able to achieve your desired goal/resolve your problem/issue when you made the decision?</b></p> <ul style="list-style-type: none"> <li>○ How confident were you that you would achieve your goal?</li> </ul> <p><b><i>IF INDIVIDUAL or individual acting in a business capacity:</i></b>  <b>How confident were you in your decision to enter into the court process when you made it?</b></p> <p><b><i>IF ORGANISATION:</i></b> Did you feel that you'd be able to achieve the business' desired goal or resolve the problem/issue when you decided to enter court proceedings?</p> <ul style="list-style-type: none"> <li>○ How confident were you that you would achieve your goal?</li> </ul> <p><b><i>IF ORGANISATION:</i></b> How confident were you in the business' decision to enter into the court process when it was made?</p> <p><b><i>ALL:</i></b> And how confident were you in the legal validity of the case?</p> <p><b><u>BELIEFS ABOUT CONSEQUENCES</u></b></p> <p><b>What were your expectations of the court process?</b></p> <ul style="list-style-type: none"> <li>○ What did you hope to achieve?</li> <li>○ How much did you expect it to cost?</li> <li>○ Did you expect a judge to make the final decision?</li> </ul> <p><b>What were your expectations of the possible outcome at the time you made the decision?</b></p> <ul style="list-style-type: none"> <li>○ Did you expect the case to be settled before this point? IF Yes: what point?</li> <li>○ Did you expect that you would have to compromise on the final outcome, i.e. accept less money than their original claim?</li> </ul>	<p>MODERATOR NOTE: It is likely that it would not have been possible for individuals to predict the cost of certain elements.</p>	

4. The decision-making process	Notes/ comments	Time
<p>○ What did you expect to happen if your case wasn't successful? Would you have been worse off than before?</p> <p><b><u>ENVIRONMENTAL CONTEXT/RESOURCES</u></b></p> <p><b>How far did money and the cost of the court process affect the decision to enter into court proceedings?</b></p> <p><b>At what point would you consider a claim to not be financially viable?</b></p> <p>○ <b>IF ORGANISATION:</b> Do you have a set point at which a claim is worth pursuing? How is this set? Is this set by the amount the claim is worth?</p> <p><b>How and when were you made aware of the costs of entering into court proceedings?</b></p> <p><b>Were you aware of the likely/potential costs of:</b></p> <ul style="list-style-type: none"> <li>○ Legal advice and/or representation</li> <li>○ Court fees</li> <li>○ Travel</li> <li>○ <b>INDIVIDUALS or INDIVIDUALS ACTING IN A BUSINESS CAPACITY ONLY:</b> time off work</li> <li>○ <b>ORGANISATION:</b> cost to the business of time taken to deal with the case</li> </ul> <p><b>Do you know how much each element cost?</b></p> <p><b>Midway through claim: Are you aware of any additional court fees that you will need to pay?</b></p> <p>○ Will additional court fees affect your decision to proceed with your case? How?</p> <p><b>Completed claim: Do you know how much the court proceedings cost in total?</b></p> <p>○ Did you have to pay several court fees at different stages of the court proceedings? Did this affect your decision to proceed with the case?</p>		

4. The decision-making process	Notes/ comments	Time
<p><b>When were you made aware of the need to pay these costs?</b></p> <p><b>What other costs did you incur as a result of entering into the process?</b></p> <p><b>How much did you expect the process to cost when you made the decision?</b></p> <ul style="list-style-type: none"> <li>○ What did you base this on?</li> <li>○ Did you feel this cost was reasonable?</li> </ul> <p><b>What financial resources were available to you/the business when you made the decision?</b></p> <p><b><i>IF INDIVIDUAL:</i> Have you received assistance with costs?</b></p> <ul style="list-style-type: none"> <li>○ From who?</li> <li>○ How did you find out about this resource?</li> <li>○ How much?</li> <li>○ For what?</li> </ul> <p><b><i>IF INDIVIDUAL:</i> Do you currently have any savings?</b></p> <ul style="list-style-type: none"> <li>○ IF YES: Did you use any of your savings to cover the cost of the court proceeding?</li> </ul> <p><b><i>IF INDIVIDUAL:</i> Did you apply for fee remission?</b></p> <ul style="list-style-type: none"> <li>○ How much of the court fee did the remission cover? Full court fee? Part of the court fee?</li> </ul> <p><b><i>IF INDIVIDUAL:</i> Overall, did you find it difficult to pay the costs of the court process?</b></p> <ul style="list-style-type: none"> <li>○ IF YES: Can you explain why?</li> <li>○ Which parts of the costs were hardest to pay, and why?</li> </ul> <p><b><i>IF ORGANISATION:</i> Overall, how difficult did the business find it to pay the costs of the court process?</b></p> <ul style="list-style-type: none"> <li>○ Which parts of the costs were hardest to pay, and why?</li> </ul>		

4. The decision-making process	Notes/ comments	Time
<p><b>ALL: Did you expect to recover any of the costs from the defendant if you won the case?</b></p> <ul style="list-style-type: none"> <li>○ Have you in fact recovered any costs/do you still expect to recover any costs?</li> <li>○ How much of the cost did you recover/are you hoping to recover?</li> <li>○ What costs did this cover/what costs will this cover?</li> </ul> <p><b><u>MEMORY, ATTENTION, DECISION MAKING</u></b></p> <p><b>Was the decision to enter into court proceedings an easy or difficult one?</b></p> <p><b>How much did you/the business have to think about it?</b></p> <p><b><u>EMOTION</u></b></p> <p><b>How did you feel at the point at which you made your decision?</b></p> <p>(ask question openly first then use prompts)</p> <ul style="list-style-type: none"> <li>○ Positive</li> <li>○ Happy</li> <li>○ Hopeful</li> <li>○ Angry</li> <li>○ Afraid</li> <li>○ Anxious</li> </ul> <p><b>Did your emotions/mood at the time affect your decision? How so?</b></p>	<p>MODERATOR NOTE: Try to map out the participant's emotions at each point on the timeline.</p>	

5. Key factors that influenced decision making and reflection on their experience	Notes/ comments	Time
<p><b>Considering the discussion that we have had about how you came to the decision to start court proceedings, what do you think are the key factors that influenced your/the business' decision?</b></p>	<p>MODERATOR NOTE: consider discussion at Section 4 and probe</p>	<p>10 mins</p>

5. Key factors that influenced decision making and reflection on their experience	Notes/ comments	Time
<p><b>Considering the experience that you have been through in taking this case to court, what would you do differently, if anything, if you had to do it again?</b></p> <ul style="list-style-type: none"> <li>○ Not take the case to court? Go to mediation?</li> <li>○ Access legal representation?</li> <li>○ Seek further advice before starting court proceedings?</li> <li>○ Settle at earlier opportunity?</li> <li>○ Proceed further through process?</li> <li>○ Consider the cost of taking legal action in more detail?</li> </ul> <p><b>IF INDIVIDUAL or INDIVIDUAL ACTING IN A BUSINESS CAPACITY: What advice would you give to someone, who was in a similar situation to yours, about starting court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ Advise against it? Why?</li> <li>○ Advise them to start court proceedings? Why?</li> <li>○ Advise them to access professional advice?</li> <li>○ Research costs?</li> </ul> <p><b>IF ORGANISATION: What advice would you give to another business that was in a similar situation to your company and were about starting court proceedings?</b></p> <ul style="list-style-type: none"> <li>○ Advise against it? Why?</li> <li>○ Advise them to start court proceedings? Why?</li> <li>○ Advise them to access professional advice?</li> <li>○ Research costs?</li> </ul>	<p>appropriately if the participant struggles to identify the key factors.</p> <p>Try to establish the hierarchy of these factors.</p>	

6. Conclusions	Notes/ comments	Time
<p><b>Thinking about everything we've discussed today, what was the most important factor in your decision to take your case to court?</b></p> <p><b>You may have noticed that we have mentioned the cost of court proceedings several times; the reason behind this is that the Ministry of Justice is currently reviewing the fees it charges.</b></p> <p><b>In light of this, what part would you say court fees in particular played in your decision to take your case to court?</b></p> <ul style="list-style-type: none"> <li>○ And would that change if court fees changed?</li> </ul>	<p>Key messages and sums up.</p> <p>Draws interview to a close.</p>	5 mins

6. Conclusions	Notes/ comments	Time																																																																					
<p><b>IF CLAIM WORTH UNDER £2,000:</b></p> <p>How much more would you have been willing and able to pay, if the court fees had increased?</p> <p><b>IF CLAIM WORTH BETWEEN £2,000 AND £100,000:</b></p> <p>Would you have been willing and able to pay the court fees if they had increased to... [insert appropriate court fee from third column of table]?</p> <table border="1" data-bbox="197 645 1018 1621"> <thead> <tr> <th>Claim (£)</th> <th>Current fee (£)</th> <th>Scenario to test 5% increase (£)</th> </tr> </thead> <tbody> <tr><td>2,500</td><td>95</td><td>125</td></tr> <tr><td>3,000</td><td>95</td><td>150</td></tr> <tr><td>3,500</td><td>120</td><td>175</td></tr> <tr><td>4,000</td><td>120</td><td>200</td></tr> <tr><td>4,500</td><td>120</td><td>225</td></tr> <tr><td>5,000</td><td>120</td><td>250</td></tr> <tr><td>6,000</td><td>245</td><td>300</td></tr> <tr><td>7,000</td><td>245</td><td>350</td></tr> <tr><td>8,000</td><td>245</td><td>400</td></tr> <tr><td>9,000</td><td>245</td><td>450</td></tr> <tr><td>10,000</td><td>245</td><td>500</td></tr> <tr><td>15,000</td><td>395</td><td>750</td></tr> <tr><td>20,000</td><td>395</td><td>1,000</td></tr> <tr><td>25,000</td><td>395</td><td>1,250</td></tr> <tr><td>30,000</td><td>395</td><td>1,500</td></tr> <tr><td>40,000</td><td>395</td><td>2,000</td></tr> <tr><td>50,000</td><td>395</td><td>2,500</td></tr> <tr><td>60,000</td><td>395</td><td>3,000</td></tr> <tr><td>70,000</td><td>395</td><td>3,500</td></tr> <tr><td>80,000</td><td>395</td><td>4,000</td></tr> <tr><td>90,000</td><td>395</td><td>4,500</td></tr> <tr><td>100,000</td><td>395</td><td>5,000</td></tr> </tbody> </table> <p><b>IF CLAIM OVER £100,000:</b></p> <p>If the court fees had been increased to £5,000, would you have been willing and able to pay?</p> <p>Is there anything else about your experience of court proceedings, which we haven't already discussed, that you would like to raise?</p>	Claim (£)	Current fee (£)	Scenario to test 5% increase (£)	2,500	95	125	3,000	95	150	3,500	120	175	4,000	120	200	4,500	120	225	5,000	120	250	6,000	245	300	7,000	245	350	8,000	245	400	9,000	245	450	10,000	245	500	15,000	395	750	20,000	395	1,000	25,000	395	1,250	30,000	395	1,500	40,000	395	2,000	50,000	395	2,500	60,000	395	3,000	70,000	395	3,500	80,000	395	4,000	90,000	395	4,500	100,000	395	5,000		
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4,500	120	225																																																																					
5,000	120	250																																																																					
6,000	245	300																																																																					
7,000	245	350																																																																					
8,000	245	400																																																																					
9,000	245	450																																																																					
10,000	245	500																																																																					
15,000	395	750																																																																					
20,000	395	1,000																																																																					
25,000	395	1,250																																																																					
30,000	395	1,500																																																																					
40,000	395	2,000																																																																					
50,000	395	2,500																																																																					
60,000	395	3,000																																																																					
70,000	395	3,500																																																																					
80,000	395	4,000																																																																					
90,000	395	4,500																																																																					
100,000	395	5,000																																																																					



<b>6. Conclusions</b>	<b>Notes/ comments</b>	<b>Time</b>
<b>Thank participants; explain the next steps (e.g. what the MoJ will do with the findings). THANK AND CLOSE. Reassure about confidentiality.</b>		