



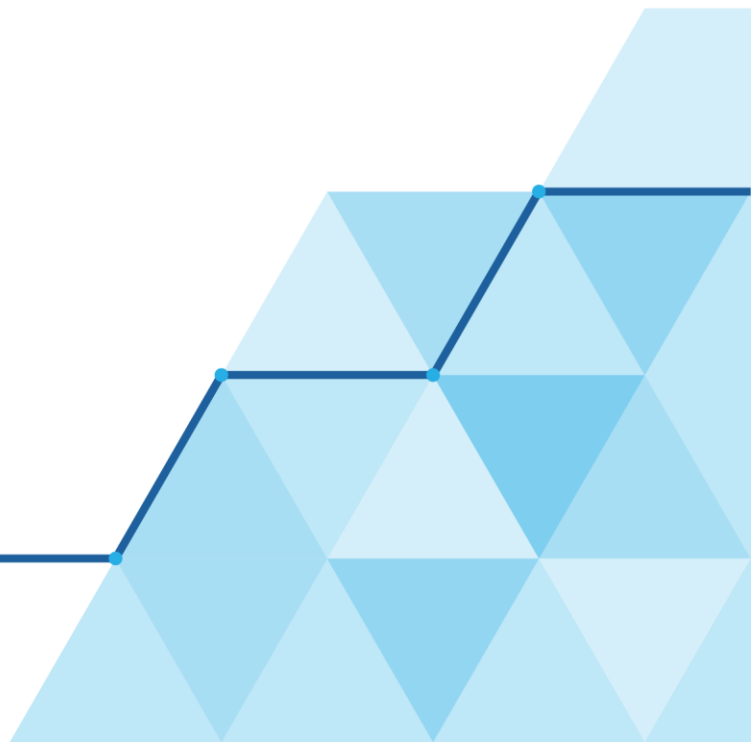
Ministry
of Justice

Proposal for reform

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

This consultation begins on 22 March 2021

This consultation ends on 17 May 2021





Ministry
of Justice

Proposal for reform

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

A consultation produced by the Ministry of Justice. It is also available at <https://consult.justice.gov.uk/digital-communications/increasing-selected-court-fees-income-thresholds>

About this consultation

To:	This consultation is aimed at users of the impacted jurisdictions of HM Courts and Tribunals Service, the legal profession, the judiciary, the advice sector, the voluntary sector and all those with an interest in the work of HM Courts and Tribunals Service.
Duration:	From 22/03/21 to 17/05/21
Enquiries (including requests for the paper in an alternative format) to:	Fees Policy Team Ministry of Justice 102 Petty France London SW1H 9AJ Email: mojfeespolicy@justice.gov.uk
How to respond:	Please send your response by 17 May 2021 to: Fees Policy Team Ministry of Justice 102 Petty France London SW1H 9AJ Email: mojfeespolicy@justice.gov.uk
Additional ways to feed in your views:	This consultation exercise is accompanied by an online survey to submit responses. This can be found at https://consult.justice.gov.uk/digital-communications/increasing-selected-court-fees-income-thresholds . For further information please use the “Enquiries” contact details above.
Response paper:	A response to this consultation exercise is due to be published by July 2021 at: https://consult.justice.gov.uk/

Contents

Ministerial foreword	3
Executive summary	5
The proposal	7
Questionnaire	14
About you	16
Contact details/How to respond	17
Complaints or comments	17
Extra copies	17
Publication of response	17
Representative groups	17
Confidentiality	17
Impact Assessment, Equalities and Welsh Language	19
Impact assessment	19
Equalities	19
Welsh Language	20
Consultation principles	21

Proposal for reform:

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

Ministerial foreword

In the UK, we deliver a world-class courts and tribunals system. The reputation of the justice system is second to none and the quality of our judiciary is admired throughout the world. The public trusts the courts and tribunals service to be effective and efficient while maintaining access to justice - it is the role of the Lord Chancellor to ensure this happens.

Our courts and tribunals system runs on the principle that those who use courts or tribunals (outside the criminal jurisdiction) should pay towards the cost of the service they use, if they can afford to do so. However, there are some court and tribunal services for which we charge fees which are set below the cost of the service, or where we do not charge a fee at all. Examples include applications for non-molestation orders, and cases in the First-tier Tribunal concerning mental health.

The income received from fees covers less than half of the costs of running the courts and tribunals system. This additional cost is subsidised by the taxpayer. There have been minimal increases to fees in the courts and tribunals since 2016, despite growing costs due to inflation, amongst other things. This proposal aims to increase some court fees in line with historical inflation dating from August 2016 to April 2021, or the year the fee was last amended (capped at August 2016). This is to ensure that those who can afford to pay for the service continue to do so at a rate that is more comparable with the increased costs of providing these services. These proposed increases reflect historic inflation and therefore do not amount to an increase in real terms.

Whilst the increases outlined in this proposal will not remove the need for the taxpayer to subsidise the system in part, they will reduce the taxpayer contribution required to ensure that our courts and tribunals have the necessary funding to deliver their important services and ensure access to justice for all. This is even more important as we look to recover from the impact of Covid-19.

This proposal will also provide inflationary uplifts to the income thresholds in our Help with Fees remission scheme, applying inflation backdated to August 2016 through to April 2021, to ensure that any user who may not be able to afford courts or tribunals fees can still access these services with the help of a full or partial fee remission.

Overall, this proposal aims to provide much needed funding to Her Majesty's Courts and Tribunals Service by increasing selected fees while ensuring we maintain access to justice by uplifting our income thresholds in our Help with Fees scheme, so that a greater number of court users receive a full or partial remission of their court fee than would have otherwise been the case.

Proposal for reform:

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

A handwritten signature in blue ink, appearing to read 'C. Philp', with a horizontal line extending to the right.

Chris Philp

Parliamentary Under Secretary of State

(Minister for Immigration Compliance and the Courts)

Executive summary

This document sets out the Government's proposal to increase selected court fees in line with inflation¹. The proposal, if implemented, would backdate increases to fees by inflation to 2016 or (if later than 2016) the year the fee was last increased. These proposed increases reflect historic inflation and therefore do not amount to an increase in real terms. The fees included in this proposal may change dependent on the responses to the consultation. This document also sets out the Government's proposal to inflate 'Help with Fees' (HwF) and the UK Supreme Court's remission scheme income thresholds in line with inflation² backdated to 2016 through to April 2021, to ensure that those who may not be able to afford court fees can still access the related services.

The proposal is limited to fees which are under-recovering compared to their current 'unit cost' (estimated cost of the service) and fees which are enhanced, meaning they can be set above the cost of service. Enhanced fees can only be set at such a rate with explicit parliamentary approval. Unit costs have been estimated for 2018/19 and inflated to 2021/22 for the proposed fees.

The proposed fee increases will raise an estimated additional net income of £11-£17 million a year for Her Majesty's Courts and Tribunals Service (HMCTS) after fee remissions, including the proposed changes to HwF, are applied. This will reduce the subsidisation required by the taxpayer and supplement the additional funding already being provided by the Government to aid Covid-19 recovery, ensuring that HMCTS can continue to deliver access to justice for all. Given the current economic uncertainty and the difficulty in forecasting rates of inflation accurately at this time, the figures included in this proposal are indicative and will be revised, based on actuals, prior to the implementation of the revised fee. Therefore, this estimated income is subject to change.

¹ Inflation is based on Consumer Prices Index (CPI), backdated from August 2016 through to April 2021 – this is 7.7% (11 fees will be increased by a lower rate, as they were last changed either in July 2018 (2 fees) or July 2019 (9 fees)). Published CPI figures are currently only available until December 2020 (inclusive) – available at <https://www.ons.gov.uk/economy/inflationandpriceindices/bulletins/consumerpriceinflation/december2020>. Office for Budget Responsibility (OBR) estimates for CPI inflation for 2021Q1 are used, as published in its Economic and Fiscal Outlook, November 2020 – available at <https://obr.uk/efo/economic-and-fiscal-outlook-november-2020/>. Given the unprecedented impact of the Covid-19 pandemic, economic forecasts have been uncertain and revised. The inflationary increases considered in this proposal are largely indicative, given that these will be revised with published inflation outturns once these are available, which may increase or decrease the currently estimated fee changes. We will also be examining the impact of inflation outturns on HMCTS costs.

² Inflation is based on Consumer Prices Index including owner occupiers' housing costs (CPIH). CPIH figures for March are used, consistent with the methodology to inflate fees. As with fees, the latest OBR forecast for CPI for Q12021 was used to calculate inflation from 2020 to 2021 and thresholds have been rounded to the nearest five pounds

Proposal for reform:

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

The Government is seeking views from users of the impacted jurisdictions of HMCTS, the legal profession, the judiciary, the advice sector, the voluntary sector and all those with an interest in the work of HMCTS.

Proposal for reform:

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

The proposal

1. HMCTS administers the courts and tribunals system, allowing people to execute and defend their rights. It is the role of the Lord Chancellor to ensure that courts are efficient and effective while protecting access to justice. People interact with HMCTS for a number of different reasons, often during the hardest times of their lives, for example when they are:
 - victims or witnesses of crime;
 - defendants accused of crime;
 - consumers who are in debt;
 - people appealing an administrative decision;
 - people involved in the adoption or protection of a child;
 - businesses and individuals involved in commercial disputes; and
 - people affected by the end of a relationship or a breakdown of a family.

2. There are a number of jurisdictions in the courts and tribunals system which deal with different types of disputes. In relation to this proposal, the impacted jurisdictions are:
 - Civil Courts (namely the County Court, the High Court and the Court of Appeal) which are central to the resolution of simple or complex civil disputes.
 - Courts hearing family proceedings, which help families resolve any disputes which might arise.
 - The Court of Protection, which makes decisions and appoints representatives on financial or welfare matters for people who can't make decisions.
 - The civil jurisdiction of the Magistrates' Courts, which deals with various civil matters and family proceedings.

3. The courts and tribunals system is underpinned by two overarching principles: the need to protect access to justice, and the need to run efficiently and effectively. The Lord Chancellor has a personal, statutory duty to ensure there is an efficient and effective system in place to support the business of the courts. In setting fees, the Lord Chancellor is also required to take into account the common law right of

Proposal for reform:

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

access to justice – ensuring that those who need to access the courts are not denied this right.

4. To fulfil these obligations, the Lord Chancellor has the power to charge and prescribe fees in relation to anything done by the courts and tribunals. The legislation which provides the Lord Chancellor's duty and powers regarding fee-setting is set out in paragraphs 18-25. The fees are set out in statutory instruments. A user is required to pay the fee set out in the relevant statutory instrument in order to take certain steps, including starting proceedings (issuing a claim, filing a counterclaim, applying to enforce a court order) or moving their case forward (making applications and proceeding to a hearing).
5. The Lord Chancellor has the power to set both non-enhanced fees (at or below cost) or (in some areas) enhanced fees. As a principle, fees should generally be set at a level that recovers at least part of the cost of the service. Few fees recover the whole cost of the service and a large proportion of court and tribunal fees require some level of taxpayer subsidy to help fund the service. There are some services where we do not charge a fee, including, for example, non-molestation orders and cases taken to the First-tier Tribunal concerning mental health.
6. There are some cases where a user cannot afford to pay a fee, so, as part of the Lord Chancellor's duty to protect access to justice, a fee remission scheme called 'Help with Fees' (HwF) exists, with a similar scheme available in the UK Supreme Court. This scheme provides fee remissions to eligible users. HwF eligibility is determined by several different remission criteria, including the applicant's income, savings, if they live with a partner or if they have dependent children, the size of the fee, and whether they are in receipt of certain benefits. Successful applicants receive either a partial or total remission of their fee³.
7. Court and tribunal fees are regularly reviewed and evaluated. In 2019/20, there was a net fee income of £724m against the £2bn running costs of HMCTS. Like other Government departments, the Ministry of Justice (MoJ) has a responsibility to assess its costs and deliver savings to reduce the cost to the taxpayer. Fees are a major source of income for the MoJ and any increases to fees ultimately reduce taxpayer funding required. The majority of fees have not been increased since 2016. This proposal aims to increase selected fees by inflation in the jurisdictions outlined in Paragraph 3 to meet rising costs. These proposed increases reflect historic inflation and therefore do not amount to an increase in real terms.

³ In exceptional circumstances, a remission can also be granted outside of the main HwF assessment. This is considered on a case by case basis by officers of the court. Please note that remissions are not available for fees paid for copy or duplicate documents and searches. Neither is HwF generally available for businesses.

Proposal for reform:

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

8. In accordance with the Lord Chancellor's statutory duties set out in Paragraph 3, it is now important that we look to increase fees to meet rising costs especially as many of these fees have not been increased since 2016, despite increases in HMCTS costs during this time. This will reduce some of the cost to taxpayers of funding HMCTS and allow the service to run more efficiently and effectively. In order to protect access to justice for those on a low income, we are also proposing to inflate HwF income thresholds for single people as well as the couple and child premiums⁴ to April 2021 levels in line with inflation, backdated to 2016.
9. The inflationary changes in this proposal will only apply to selected fees. More information about the scope of the proposed increases is included in Paragraphs 12-17 below.
10. The increases to fees would raise an estimated gross income of £21-26m p.a. once implemented, falling to £18-£22m p.a. after remissions are accounted for. The changes to the HwF scheme are expected to cost £5-6m p.a. in reduced fee income, and so the whole package will raise an estimated £11-£17m for the department. The estimated funding from this proposal will help fund HMCTS and enable us to continue subsidising the areas which do not attract a fee. The final estimated income could change given the difficulty in forecasting rates of inflation accurately at this time.
11. The proposal, if implemented, will come into effect in late September/early October 2021.

The scope of this consultation

12. The proposal, if implemented, will increase 133 fees by inflation backdated to 2016, or the year the fee was last increased, if they have been updated since 2016. These fees are subject to change following the responses to the consultation. The fees affected are included in the following fee orders:
 - Family Proceedings Fees Order 2008 No 1054 (43 impacted fees);
 - Civil Proceedings Fees Order 2008 No 1053 (67 impacted fees);
 - Court of Protection Fees Order 2007 No 1745 (3 impacted fees); and
 - Magistrates' Courts Fees Order 2008 No 1052 (20 impacted fees).
13. The fees to be increased are either under-recovering compared to their 'unit cost' (estimated cost of the service) or have been set under the enhanced fee-power, meaning they have already received explicit parliamentary approval to be set above the cost of service. Unit costs have been estimated for 2018/19 and inflated

⁴ This includes the thresholds in the Supreme Court remission scheme

Proposal for reform:

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

to 2021/22 for the proposed fees outlined in **Annex A**. Fees have been inflated using Consumer Prices Index (CPI) inflation, backdated from August 2016 (or later, for the 11 fees that were last changed after August 2016) to the first quarter of 2021, with the CPI forecast used for Q1 2021. Given the unprecedented impact of the Covid-19 pandemic, economic forecasts have been uncertain and revised. The fees included in this proposal are indicative and will be revised, based on actuals, prior to the implementation of the revised fees.⁵

14. At this stage we have excluded some fees from the proposal, including, for example:
 - Tribunal fees;
 - Fees reduced to cost recovery levels in August 2020;
 - Fees included in the MoJ Consultation: Alignment of the fees for online and paper civil money and possession claims;
 - Probate application fees;
 - Fees for Judicial Reviews (JR) in Civil Courts;
 - Fees that are currently set at £0; and
 - Fees where after rounding⁶ they do not change.
15. The full list of the 133 fees included in this proposal is outlined in **Annex A**.
16. The proposal also aims to inflate HwF income thresholds (including the remission scheme in the UK Supreme Court with the same income thresholds) in line with inflation since 2016. The proposed HwF income thresholds, couple and child premiums are set out in **Annex B**.
17. The Government is seeking views from users of the impacted jurisdictions of the courts, the legal profession, the judiciary, the advice sector, the voluntary sector and all those with an interest in the work of HMCTS.

Legislation

18. Court and tribunal fees are subject to legal requirements and policy considerations. The general policy on fee charging across all of Government is set out in HM Treasury's 'Managing Public Money' handbook, which sets out that the standard approach is to set fees to recover the full cost of the service. As a

⁵ The inflationary increases considered in this proposal are largely indicative, given that these will be revised with published inflation outturns once these are available, which may increase or decrease the currently estimated fee changes. We will also be examining the impact of inflation outturns on HMCTS

⁶ To the nearest whole pound if they are over £2, otherwise to the nearest 10p

Proposal for reform:

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

principle, fees should generally be set at a level that recovers at least part of the cost of the service.

19. The power to charge fees in the courts of England and Wales is set out in several pieces of primary legislation. The key fee setting power is at section 92 of the Courts Act 2003, which provides the Lord Chancellor with a power to, with Treasury consent, prescribe the fees payable in respect of anything dealt with by the Senior courts, family court, county courts and Magistrates' courts. When setting fees under this power, the Lord Chancellor must have due regard to the principle that access to the courts must not be denied. Most court fees are set under section 92 and are charged at the cost of the service or below it. These are known as non-enhanced fees.
20. Certain court fees, including some of the fees included in the proposal set out in this document, are set above the cost of the service. These are known as enhanced fees and can only be set at such a rate with explicit parliamentary approval. Enhanced fees are set under the power provided in section 180 of the Anti-Social Behaviour Crime and Policing Act 2014 (the Act).
21. The power provided under s.180 requires that, before setting a fee at an enhanced level, the Lord Chancellor must have regard to:
 - a. the financial position of the courts and tribunals including any costs not being met by current fee income; and
 - b. the competitiveness of the legal services market.
22. The Government has considered the factors above as well as concerns that increases will hinder access to justice. For reasons outlined in 'The Proposal' above, there is a need to contribute to funding the costs of HMCTS. This will improve the current financial position of HMCTS, especially during Covid-19 recovery. We also do not expect inflationary increases to fees to negatively impact competition within the legal services market. We feel that increasing fees by inflation will not prevent access to justice, particularly in light of our proposals regarding inflationary increases to the income thresholds in the HwF remission scheme. We have published three Impact Assessments alongside this document.
23. If implemented, the proposal will be effected via negative statutory instrument and for inflationary increases to fees, would include amendments to the following Fee Orders:
 - Family Proceedings Fees Order 2008 No 1054
 - Civil Proceedings Fees Order 2008 No 1053
 - Court of Protection Fees Order 2007 No 1745

Proposal for reform:

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

- Magistrates Courts Fees Order 2008 No 1052
24. The proposal to increase HwF, if implemented, would involve amendments to the HwF rules set out at Schedule 2 of each fee order.
25. The original Fees Orders and subsequent amendments are available online by searching the Fees Orders above at: <https://www.legislation.gov.uk/>.

Previous consultations

26. Several fees considered in this proposal have been included in previous consultations - for example, small claims fees, divorce fees, and fees relating to proceedings under The Children Act 1989. In most consultations, concerns were raised about the adverse impact of increasing fees, even if the increase was small. Evidence put forward in the consultation response “Enhanced Court Fees: The Government Response to Part 2 of the Consultation on Reform of Court Fees and Further Proposals for Consultation” shows that small increases to fees should not impact demand or impede access to justice. To ensure access to justice, HwF is in place for those that cannot afford fees.

Impact of increasing fees by inflation

27. Three Impact Assessments (IAs) have been published alongside this document. The first covers the impact of inflationary increases to selected court fees, the second covers the impact of increasing HwF income thresholds, and the third is an overarching IA which considers the increases both to court fees and to HwF. These set out the estimated impact that the proposal would have if it were to be implemented. The IAs indicate that HMCTS, court users (individuals, businesses and local authorities), legal services providers, support organisations in the advice and voluntary sector, taxpayers and MoJ are likely to be particularly affected. Further information regarding particular impacts are outlined in Paragraphs 39-40.
28. The proposal is likely to lead to additional costs for HMCTS and the voluntary/advice sector (due to changes required by implementation) as well as individuals, businesses and the public sector (due to increased fees).

Consultation period

29. This consultation seeks views on the proposal that selected fees outlined in **Annex A** should be increased in line with inflation backdated to 2016, or back to the last time the fee was updated, if this is more recent. This consultation also

Proposal for reform:

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

seeks views on updating HwF income thresholds in line with inflation since 2016 as outlined in **Annex B**. The closing date for responses is 17 May 2021.

30. The consultation paper is being published online at GOV.UK. Copies of the consultation paper are also being sent directly to:
 - A selection of impacted users, for example, users of the court, the advice sector, the voluntary sector, impacted businesses, rights groups/representative bodies, associations and local government authorities.
 - The Judiciary.
31. Responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

Questionnaire

32. Fees are the main source of direct income for HMCTS and it is important to review them in order to meet the Lord Chancellor's statutory duty to ensure an efficient and effective courts system. To ensure that the courts are properly funded and are sustainable over time, the fees paid by users of the service will need to be increased.

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

33. The Lord Chancellor also has a personal and statutory obligation to protect access to justice. HwF is a fee remission scheme available to users impacted by the proposed inflationary increases. HwF has several different remission criteria, including income. The UK Supreme Court offers a similar scheme, which applies a number of the same remission criteria, including income.

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

34. The majority of fees in scope for this proposal were last increased in 2016 or earlier.

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

35. In line with fee inflation, we propose to increase HwF income thresholds to April 2021 levels in line with inflation backdated to 2016.

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

36. The full list of fees in scope for this proposal are outlined in **Annex A**. These fees are set by the relevant fee orders.

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

Proposal for reform:

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

37. Please refer to the Demand section of the Court fees Impact Assessment published alongside this consultation for the following question.

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

38. Please refer to the equality assessment set out below for the following question.

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

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself.

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Please send your response by 17 May 2021 to:

Fees Policy Team

Ministry of Justice
102 Petty France
London SW1H 9AJ

Email: mojfeespolicy@justice.gov.uk

Complaints or comments

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

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://consult.justice.gov.uk/>.

Alternative format versions of this publication can be requested from mojfeespolicy@justice.gov.uk.

Publication of response

A paper summarising the responses to this consultation will be published in July 2021. The response paper will be available on-line at <https://consult.justice.gov.uk/>.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

By responding to this consultation, you acknowledge that your response, along with your name/corporate identity will be made public when the Department publishes a response to

Proposal for reform:

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

the consultation in accordance with the access to information regimes (these are primarily the Freedom of information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (UK GDPR) and the Environmental Information Regulations 2004).

Government considers it important in the interests of transparency that the public can see who has responded to Government consultations and what their views are. Further, the Department may choose not to remove your name/details from your response at a later date, for example, if you change your mind or seek to be 'forgotten' under data protection legislation, if the Department considers that it remains in the public interest for those details to be publicly available. If you do not wish your name/corporate identity to be made public in this way then you are advised to provide a response in an anonymous fashion (for example 'local business owner', 'member of public'). Alternatively, you may choose not to respond.

Impact Assessment, Equalities and Welsh Language

Impact assessment

39. The IAs indicate that HMCTS, court users (individuals, businesses and local authorities), legal services providers, support organisations in the advice and voluntary sector, taxpayers and MoJ are particularly affected.
40. The proposal is likely to lead to additional costs for HMCTS and the voluntary/ and advice sector (due to changes required by implementation) and businesses and the public sector (due to increased fees). The impact assessments are available at: <https://consult.justice.gov.uk/digital-communications/increasing-selected-court-fees-income-thresholds>

Equalities

41. An Equality Impact Assessment (EIA) has been conducted. Under the Public Sector Equality Duty within the Equality Act 2010 we are required to consider the equalities impacts of policy proposals in relation to the following:
 - eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.
42. From our analysis, we believe that the proposed increase in court fees will not lead to direct discrimination. These fees will apply to every court user and will not discriminate against individuals because of their protected characteristics.
43. However, evidence suggests that there is likely to be over-representation of people with certain protected characteristics amongst court users compared to the general population in each court jurisdiction. Additional information is available at: <https://consult.justice.gov.uk/digital-communications/increasing-selected-court-fees-income-thresholds>

Proposal for reform:

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

Welsh Language

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

Proposal for reform:

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

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018 that can be found here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf

Annex A: Proposed fees to increase

The tables below detail the fees we propose to increase, including the current fee and the proposed fee. Please note that given the current economic uncertainty and the difficulty in forecasting rates of inflation accurately at this time, the figures included in this proposal are indicative and will be revised, based on actuals, prior to the implementation of the revised fees.

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

Court of Protection Fees Order 2007 No 1745

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

SI Ref ID	Description	Current	Proposed	Increase
4	Application fee (Article 4)	£365	£377	£12
5	Appeal fee (Article 5)	£230	£237	£7
6	Hearing fees (Article 6)	£485	£500	£15

Magistrates Courts Fees Order 2008 No 1052

The fees in scope from the Magistrates Courts Fees Order include fees such as application fees, hearings fees, copy fees, issue fees for documents or fees for the issue of warrants.⁷

SI Ref ID	Description	Current	Proposed	Increase
1.1	Application for a justice of the peace to perform function not on court premises	£25	£26	£1

⁷ Please note, Help with Fees is not available for copy fees

Proposal for reform:

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

2.1	Application to state a case for the opinion of the High Court	£135	£139	£4
2.3	Appeal - proceedings under Schedule 5, Licensing Act 2003	£60	£63	£3
2.4	Appeal (no other fee specified)	£60	£63	£3
3.2	Request for a certificate of satisfaction	£15	£16	£1
3.3	Request for a certified copy of a memorandum of conviction	£20	£21	£1
3.4	Request for certificate/certified document (no fee specified)	£20	£21	£1
5.1a	Copy of a document (10 pages or less).	£10	£11	£1
5.2	Copy of a document in electronic form (for each copy)	£10	£11	£1
6.1	Request for licence/consent/authority (no other fee specified)	£25	£27	£2
6.2	Application for renewal/variation of an existing licence	£25	£27	£2
6.3	Application for the revocation of licence (no other fee specified)	£25	£27	£2
7.1	On taking attestation of a constable or special constable	£10	£11	£1
7.2	For every oath (etc) where no other fee is specified.	£25	£27	£2
8.2a	Application for leave/permission to commence proceedings (no other fee specified)	£116	£125	£9

Proposal for reform:
Increasing selected court fees and Help with Fees income thresholds by inflation

8.2b	Proceedings where leave/permission has been granted	£116	£125	£9
9.1	Application for a warrant of entry	£20	£22	£2
9.2	Application for any other warrant (no other fee specified).	£75	£81	£6
10.1	Application for a warrant of commitment	£245	£264	£19
10.2	Warrant of commitment (Child Support Act 1991)	£40	£41	£1

Family Proceedings Fees Order 2008 No 1054

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

SI Ref ID	Description	Current	Proposed	Increase
1.2	Filing an application for a divorce, nullity or civil partnership dissolution	£550	£592	£42
1.8	Application for parental order	£215	£232	£17
2.1a	Parental responsibility (section 4(1)(c) or (3), 4A(1)(b) or(3))	£215	£232	£17
2.1b	Parental responsibility (section 4ZA(1)(c) or (6))	£215	£232	£17
2.1c	Guardians (section 5(1) or 6(7))	£215	£232	£17
2.1d	Section 8 orders (section 10(1) or (2))	£215	£232	£17

Proposal for reform:
Increasing selected court fees and Help with Fees income thresholds by inflation

2.1e	Enforcement orders (section 11J(2))	£215	£232	£17
2.1f	Compensation for financial loss (section 11O(2))	£215	£232	£17
2.1g	Change of child's surname or removal from jurisdiction while residence order in force (section 13(1))	£215	£232	£17
2.1h	Special guardianship orders (section 14A(3) or (6)(a), 14C(3) or 14D(1))	£215	£232	£17
2.1i	Secure accommodation order (section 25) – England	£215	£232	£17
2.1ia	Secure accommodation order (section 25) – Wales	£215	£232	£17
2.1j	Change of child's surname or removal from jurisdiction while care order in force (section 33(7))	£215	£232	£17
2.1k	Contact with child in care (section 34(2), (3), (4) or (9))	£215	£232	£17
2.1l	Education supervision order (section 36(1))	£215	£232	£17
2.1m	Variation or discharge etc of care and supervision orders (section 39)	£215	£232	£17
2.1n	Child assessment order (section 43(1))	£215	£232	£17
2.1o	Emergency protection orders (sections 44, 45 and 46)	£215	£232	£17
2.1p	Warrant to assist person exercising powers under emergency protection order (section 48)	£215	£232	£17
2.1q	Recovery order (section 50)	£215	£232	£17

Proposal for reform:

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

2.1r	Cancellation, variation or removal or imposition of condition of registration of child minder or day carer (section 79K)	£215	£232	£17
2.1s	Warrant to assist person exercising powers to search for children or inspect premises (section 102)	£215	£232	£17
2.1t	Applications in respect of enforcement orders (paragraph 4(2), 6(2), 7(2) or 9(2) of Schedule A1)	£95	£102	£7
2.1v	Financial provision for children (paragraph 1(1) or (4), 2(1) or (5), 5(6), 6(5), (7) or (8), 8(2), 10(2), 11 or 14(1) of Schedule 1)	£215	£232	£17
2.1w	Approval of court for child in care of local authority to live abroad (paragraph 19(1) of Schedule 2) - England	£215	£232	£17
2.1wa	Approval of court for child in care of local authority to live abroad (paragraph 19(1) of Schedule 2) - Wales	£215	£232	£17
2.1x	Extension of supervision order (paragraph 6 of Schedule 3)	£215	£232	£17
2.1y	Extension or discharge of education supervision order (paragraph 15(2) or 17(1) of Schedule 3)	£215	£232	£17
2.1z	Paragraph 8(1) of Schedule 8 (appeals concerning foster parents)	£215	£232	£17
2.2	Application for proceedings under Section 31 of Act	£2,055	£2,213	£158
3.1	Application/permission to apply for adoption	£170	£183	£13

Proposal for reform:
Increasing selected court fees and Help with Fees income thresholds by inflation

3.2	Application for a placement order (under Section 22)	£455	£490	£35
3.3	Application to the High Court	£170	£183	£13
4.1	Application for warning notice to be attached to a contact order	£50	£54	£4
5.1	Application (without notice)	£50	£53	£3
5.2	Application for decree nisi, conditional order, separation order (no fee if undefended)	£50	£54	£4
5.3	Application (on notice) (unless otherwise listed)	£155	£167	£12
5.4	Application for a financial order	£255	£275	£20
8.1a	Copy of a document (10 pages or less)	£10	£11	£1
8.2	Copy of a document in electronic form (for each copy)	£10	£11	£1
9.3	Issue of default costs certificate - Family	£60	£65	£5
12.1	Application to question a judgement debtor or other person	£50	£54	£4
13.3	Issue for a warrant of possession or a warrant of delivery	£110	£118	£8

Proposal for reform:
Increasing selected court fees and Help with Fees income thresholds by inflation

Civil Proceedings Fees Order 2008 No 1053

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

SI Ref ID	Description	Current	Proposed	Increase
1.5CC	Any other remedy (County Court)	£308	£332	£24
1.5HC	Any other remedy (High Court)	£528	£569	£41
1.6	Filing proceedings against an unnamed party	£55	£59	£4
1.8a	Permission to issue proceedings	£55	£59	£4
1.8b	Assessment of costs (under Part 3, Solicitors Act 1974)	£55	£59	£4
2.1a	Hearing fee: Multi track case	£1,090	£1,174	£84
2.1ci	Hearing fee: Small claims case (does not exceed £300)	£25	£27	£2
2.1cii	Hearing fee: Small claims case (exceeds £300 but not £500)	£55	£59	£4
2.1ciii	Hearing fee: Small claims case (exceeds £500 but not £1,000)	£80	£86	£6
2.1civ	Hearing fee: Small claims case (exceeds £1000 but not £1500)	£115	£124	£9
2.1cv	Hearing fee: Small claims case (exceeds £1,500 but not £3,000)	£170	£183	£13
2.1cvi	Hearing fee: Small claims case (exceeds £3000)	£335	£352	£17

Proposal for reform:
Increasing selected court fees and Help with Fees income thresholds by inflation

2.2	Appellant's/respondent's notice (High Court)	£240	£259	£19
2.3a	Appellant's/respondent's notice (County court small claims)	£120	£129	£9
2.3b	Appellant's/respondent's notice (County court other claims)	£140	£151	£11
2.4(a)	General application (on notice) excl HA'97 & Court Fund Pay Out	£255	£275	£20
2.4(b)	General application (on notice) Harassment Act 1997 & Court Fund Pay Out	£155	£167	£12
2.5(a)	General application (by consent/without notice) excluding Harassment Act 1997 & Court Fund Pay Out	£100	£108	£8
2.5(b)	General application (by consent/without notice) HA'97 & Court Fund Pay Out	£50	£54	£4
3.1b	Petition for bankruptcy (presented by creditor/other person)	£280	£302	£22
3.2	Petition for an administration order	£280	£302	£22
3.3	Any other petition	£280	£302	£22
3.4a	Request for a certificate of discharge from bankruptcy	£70	£75	£5
3.4b	Copy of a certificate of discharge from bankruptcy	£10	£11	£1
3.6	Winding up fee	£160	£172	£12
3.11	Application within proceedings (by consent/without notice)	£25	£26	£1

Proposal for reform:
Increasing selected court fees and Help with Fees income thresholds by inflation

3.12	Application within proceedings (with notice)	£95	£100	£5
4.1a	Copy of a document (10 pages or less)	£10	£11	£1
4.2	Copy of a document in electronic form (for each copy)	£10	£11	£1
5.1	Where the party filing the request is legally aided	£220	£237	£17
5.2a	Costs up to £15000	£369	£397	£28
5.2b	Costs £15000 - £50000	£743	£800	£57
5.2c	Costs £50000 - £100000	£1,106	£1,191	£85
5.2d	Costs £100000 - £150000	£1,480	£1,594	£114
5.2e	Costs £150000 - £200000	£1,848	£1,991	£143
5.2f	Costs £200000 - £300000	£2,772	£2,986	£214
5.2g	Costs £300000 - £500000	£4,620	£4,976	£356
5.2h	Costs Above £500000	£6,160	£6,635	£475
5.3	Issue of default costs certificate - Civil	£66	£71	£5
5.4	Appeal (detailed assessment proceedings) – Civil	£231	£249	£18
5.5	Request/application to set aside a default costs certificate	£121	£130	£9
6.1	On the filing of a request for detailed assessment for Court of Protection	£85	£88	£3

Proposal for reform:

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

6.2	Appeal against a Court of Protection costs assessment decision	£65	£70	£5
7.1	Sealing a writ of control/possession/delivery (High Court)	£66	£71	£5
7.2	Order requiring a judgement debtor or other person to attend court	£55	£59	£4
7.3a	Third party debt order or the appointment of a receiver by way of equitable execution	£110	£118	£8
7.3b	Application for a charging order	£110	£118	£8
7.4	Application for a judgement summons	£110	£118	£8
7.5	Register a judgement or order, or for permission to enforce an arbitration award, or for a certificate or a certified copy of a judgment or order for use abroad	£66	£71	£5
8.3	Application to require judgement debtor to attend court	£55	£59	£4
8.4a	Application for a third party debt order	£110	£118	£8
8.4b	Application for a charging order	£110	£118	£8
8.5	Application for a judgement summons	£110	£118	£8
8.6	Issue of a warrant of possession/warrant of delivery	£121	£130	£9
8.7	Application for an attachment of earnings order - Civil	£110	£118	£8
8.9	Application for enforcement of an award of a sum of money or any other decision made by any court, tribunal, body or person	£44	£47	£3

Proposal for reform:

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

8.10	Request for an order to recover a specified road traffic debt	£8	£9	£1
8A.1	Service by a bailiff of an order to attend County Court for questioning	£110	£118	£8
10.1	Bills of sale	£28	£30	£2
10.2	Official certificate of the result of a search (for each name)	£50	£54	£4
10.3	Search, in person, of court records (per 15 minutes)	£11	£12	£1
12.1	Affidavit	£12	£13	£1
13.1a	Application - permission to appeal/extension of time	£528	£569	£41
13.1b	Permission to appeal is not required or has been granted	£1,199	£1,291	£92
13.1c	Appellant/respondent filing an appeal questionnaire	£1,199	£1,291	£92
13.2	On filing a respondent's notice	£528	£569	£41
13.3	On filing an application notice	£528	£569	£41

Annex B: Proposed changes to HwF

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

Income Test	Current Threshold	Proposed Threshold
A single person's monthly income before tax	£1,085	£1,165
A couple's monthly income before tax	£1,245	£1,335
Additional monthly income before tax per dependent child	£245	£265



© Crown copyright 2019

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Alternative format versions of this report are available on request from mojfeespolicy@justice.gov.uk