

<b>Title:</b> Information sharing between the Ministry of Justice and Department for Work & Pensions (DWP) and Her Majesty's Revenue & Customs (HMRC) for the purpose of Fee Remissions. <b>IA No:</b> MOJ141 <b>Lead department of agency:</b> Ministry of Justice (MoJ) <b>Other departments or agencies:</b> Her Majesty's Courts and Tribunals Service (HMCTS), Office of the Public Guardian (OPG), UK Supreme Court, DWP, HMRC	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> May 2012			
	<b>Stage:</b> Enactment			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
<b>Contact for enquiries:</b> Andrew Rowlinson andrew.rowlinson@justice.gsi.gov.uk				
<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> N/A	

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

**What is the problem under consideration? Why is government intervention necessary?**  
MoJ agencies (HMCTS and OPG) and the UK Supreme Court provide fee remissions (full or partial fee waivers) to users of its fee charging services so as to ensure that access to justice is protected for individuals who are less well off. The majority of successful remission applications are currently granted through the provision of hard copy proof of the receipt of qualifying state benefits. There is currently no legal authority, which allows those persons administering fee remissions to obtain customer information directly from DWP or HMRC. Providing this legal authority would allow an IT interface service to provide this proof of eligibility more quickly and cheaply from mid-2013/14 when Universal Credit commences.

**What are the policy objectives and the intended effects?**  
The objective is to improve the efficiency of the fee remission system, especially in the context of the planned introduction of Universal Credit in October 2013. The intended effects of the policy are to:

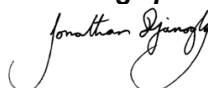
- verify remission eligibility quickly and accurately;
- protect the taxpayer subsidy by limiting opportunity for fraud and dishonesty;
- ensure that the remission system is targeted to those individuals who genuinely cannot afford to pay fees;
- reduce the burden on courts, tribunals, and OPG users to provide evidence of remission eligibility; and
- reduce the burden on Other Government Departments to produce duplicate proof of benefit entitlement.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
The option to implement an IT interface to verify remission eligibility has been considered against the options:

- to continue to verify remissions eligibility through hard copy proof of the receipt of current qualifying state benefits; and
- to means test all other applications on the basis of up-to-date hard copy evidence, including individuals in receipt of Universal Credit upon its implementation in mid-2013/14.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 05/2018					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> N/A	<b>&lt; 20</b> N/A	<b>Small</b> N/A	<b>Medium</b> N/A	<b>Large</b> N/A
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A		<b>Non-traded:</b> N/A

**I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.**



Signed by the responsible Minister: \_\_\_\_\_

Date: 07/05/2012

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Legal authority for the electronic sharing of personal information between DWP/HMRC and HMCTS, the UK Supreme Court and the OPG for the purpose of assessing court and tribunal fee remissions.

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.4	High: 0.5	Best Estimate: 0.1
2012/13	2012/13	10			

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate		1.0	0.1

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

There will be costs associated with implementing the information sharing gateway depending on the IT solution used. It has provisionally been estimated that the IT interface with DWP in particular may cost in the region of £1m to establish. Annual running costs may be around £0.1m per annum.

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

The Criminal Justice System in England and Wales may incur costs relating to 1-2 criminal proceedings for the unauthorised sharing of this personal information during any 5 five year period, which perhaps results in 1 non-custodial sentence. This possible cost is not considered to be significant in present value terms.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		0.2	1.3
High		0.3	2.2
Best Estimate		0.3	1.8

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

Expected avoidance of additional administration to Ministry of Justice agencies of some £0.3m per year once Universal Credit is fully in force and all relevant pre-existing qualifying state benefit recipients have been migrated. Costs would be avoided through the use of an IT interface to assess applicants in receipt of Universal Credit who would otherwise be in receipt of an existing qualifying state benefit, rather than means testing these applicants under the more costly to administer means testing criteria.

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

The information sharing would allow the courts, tribunals, UK Supreme Court, and the OPG to use an IT interface to access DWP's Customer Information System (CIS) to obtain proof of qualifying state benefit entitlement directly, rather than requiring the individual to contact DWP. This is expected to provide a more cost-effective solution to DWP by reducing the number of individuals who require paper based proof. Separately, HMRC would no longer have to provide hard copy proof of receipt of Working Tax Credit. The IT interface with DWP should also lower the rejection rate of remission applications by ensuring the evidence provided is up-to-date. The interface would thus provide a faster and more accurate service to remissions applicants.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.5
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The IT interface is assumed not to change the existing costs for administering remission applications for those in receipt of qualifying state benefits. Existing state benefit claimants are migrated to Universal Credit incrementally over a four year period. Applicants in receipt of Universal Credit are means-tested in the absence of an IT interface. The annual volume of successful remission applications remains at 2010/11 levels.

## BUSINESS ASSESSMENT (Option 1)

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

# Evidence Base

## Background

1. The proposal set out below primarily covers civil and family justice in England and Wales. Civil justice is the area of law that deals with resolving civil disputes across a range of areas including debt, personal injury, consumer and contract law and protecting individual liberties. Family justice is the area of law that deals with the breakdown of families, of parenting and of relationships between couples.
2. The proposal also covers the tribunals, probate service, Court of Protection, Office of the Public Guardian (OPG) and the UK Supreme Court. Tribunals are specialist judicial bodies which decide disputes in a particular area of law. The probate service deals with a person's estate when they die. The Court of Protection and the OPG exist, respectively, to protect people in England and Wales who may lack capacity to take their own decisions and to help people plan ahead for the future in the event that they may lack mental capacity. The Supreme Court is the final court of appeal for civil cases in the UK and for criminal cases in England, Wales and Northern Ireland. The Supreme Court<sup>1</sup> hears appeals on arguable points of law of the greatest public importance.
3. Civil and family courts, probate services, tribunals and the Court of Protection in England and Wales are administered by Her Majesty's Courts & Tribunals Service (HMCTS), which is an executive agency of the Ministry of Justice.<sup>2</sup> The OPG is also an executive agency of the Ministry of Justice (MoJ). The UK Supreme Court is a non-Ministerial Department that is separate from the MoJ, HMCTS, the Scottish Court Service and the Northern Ireland Courts and Tribunals Service.
4. Parties involved in civil law cases have paid a fee to make use of the courts in England and Wales since as early as the 19th century. Originally user fees were paid directly to the judges of the courts, who retained them personally. With major reforms of public administration, including the establishment of the court system in broadly its modern form and the introduction of judicial salaries, fee setting powers eventually passed to the Lord Chancellor under Section 165 of the County Courts Act 1888. Hence, it has long been the case that civil justice is not publicly funded and that users must pay for the service that they use. Since the 2007 Spending Review settlement, Ministry of Justice policy has been to remove any outstanding subsidy provided by the taxpayer for civil and family courts and probate services, except for the cost of providing a fee remission system.
5. The remission system ensures that access to justice is maintained for those individuals on lower incomes who would otherwise have difficulty paying a fee to use the courts, tribunals or Public Guardian services. Such individuals can therefore access court, tribunal or OPG services free of charge or at a reduced rate. A fee remission is a full or partial fee waiver of the fees that become payable when an individual uses these services.
6. The current remission system in the civil courts of England and Wales<sup>3</sup> is made up of three eligibility criteria, although a few tribunals, the Court of Protection and the OPG operate varying remission systems (a comparison of the varying remission systems is contained in Annexes B-D):
  - Remission 1 – A full fee remission for an individual in receipt of one of the following qualifying state benefits:- Income Support, income-based Jobseekers Allowance, Pension Credit guarantee credit, income-related Employment and Support Allowance and Working Tax Credit but not also receiving Child Tax Credit.
  - Remission 2 – A full fee remission for an individual or couple with or without children based on a means test to calculate gross annual income (income before tax and other deductions). Gross annual income not exceeding stated threshold amounts will receive a full fee remission.
  - Remission 3 – A full or partial fee remission for an individual based on an income and expenditure means test to calculate the individual's (and if applicable their partner's) monthly disposable income.

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<sup>1</sup> <http://www.supremecourt.gov.uk/index.html>

<sup>2</sup> The territorial jurisdiction of some tribunals encompasses all of Great Britain or the United Kingdom.

<sup>3</sup> See the Civil Proceedings Fees Order 2008, S.I. 2008/1053; the Civil Proceedings Fees (Amendment) Order 2008, S.I. 2008/2853; and the Civil Proceedings Fees (Amendment) Order 2009, S.I. 2009/1498.

7. All of the current fee-charging courts, tribunals and Public Guardian services operate remission systems, which involve individuals being assessed through the receipt of qualifying state benefits. In addition to the qualifying state benefits listed under Remission 1, individuals in the receipt of the following state benefits are eligible for a remission:
  - Housing Benefit for the Residential Property Tribunal, Court of Protection and the OPG;
  - Council Tax Benefit for the Court of Protection and the OPG;
  - Local Housing Allowance for the OPG;
  - Working Tax Credit with a Gross Annual Income of less than a stated value for the Leasehold Valuation, Residential Property and Gambling Appeals tribunals; and
  - Working Tax Credit with a Gross Annual Income of less than a stated value and provided the individual is in receipt of Child Tax Credit or disability or severe disability elements for the Gender Recognition Panel.
8. Staff may reject an application if the applicant's evidence does not support the information provided or if the evidence does not appear genuine. At present, there is no legal authority for the MoJ's agencies or UK Supreme Court to obtain any personal information about individuals from the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs<sup>4</sup> (HMRC) for the purpose of assessing fee remission eligibility. Therefore all current remission applications must be accompanied by an up-to-date hard copy proof of receipt of the relevant qualifying state benefits

### **Problem under consideration**

9. This Impact Assessment examines the creation of a new information sharing gateway between the persons assessing remission applications, DWP and HMRC for the purpose of assessing fee remissions.
10. The legal authority for an information sharing gateway would enable the creation of an IT interface to provide rapid proof of whether the remission applicant is receiving a qualifying state benefit. Anecdotal evidence suggests that applicants often provide proof of state benefit entitlement that is out of date. This means that the applicant needs either to locate a correctly dated benefit entitlement notice or to obtain new benefit notices from DWP or HMRC before a remission can be granted.
11. In addition, as a result of the Welfare Reform Act 2012, most of the existing qualifying state benefits that "passport" remission applicants into a 100% fee waiver will be consolidated into a single new working age benefit known as Universal Credit (UC) from mid-2013/14 onwards.<sup>5</sup> It has been estimated that around twice as many adults would be entitled to receive some element of UC than who are entitled to receive the current qualifying state benefits on which HMCTS relies for Remission 1. This is because UC has a single taper rate to withdraw financial support as earnings rise to remove the distinction between in-work and out-of-work support and as a result will be available to a greater number of individuals than the current qualifying state benefits.
12. An automatic fee remission for all those adults in receipt of UC would extend the scope of the fee remissions system beyond those currently eligible under Remission 1. It is therefore expected that:
  - the Remission 1 (qualifying state benefit) would no longer be viable for UC recipients from mid-2013/14; and
  - a new system for determining eligibility for fee remissions for this group will be required if all UC recipients are not to means-tested under Remissions 2 and 3.
13. The proposed information sharing would therefore reduce the amount of supporting evidence that an individual is required to produce and avoid the additional administration costs of means-testing applications by providing an interface with DWP that would confirm an individual's eligibility to fee

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<sup>4</sup> HMRC currently provides evidence of receipt of Working Tax Credit, which is scheduled to be phased out following the introduction of Universal Credit in October 2013.

<sup>5</sup> The existing state benefits that will be replaced are Working Tax Credit, Child Tax Credit, Housing Benefit, Income Support, income-based Jobseeker's Allowance and income-related Employment and Support Allowance. It is expected that Universal Credit will initially apply to new claims from October 2013. Current qualifying benefits, with the exception of Pension Credit Guarantee Credit, will gradually be withdrawn from existing claimants over the following four years. UC will consist of a basic personal amount with additional amounts where appropriate, for example, where someone has a disability or caring responsibilities. The personal amount is the basic building block of UC as it is in existing benefits. The purpose of the personal amount is to provide for basic living costs. For further information on UC, see the underlying Impact Assessment: <http://www.dwp.gov.uk/docs/universal-credit-wr2011-ia.pdf>.

remissions rapidly. The IT interface would also provide a more cost-effective service to verify remission eligibility and mean that fewer remission applications would be rejected due to out of date evidence. The arrangements for information-sharing with HMRC would not involve a dedicated IT interface; it would instead rely on existing secure e-mail or a dedicated telephone hotline as the only information required is receipt of the Working Tax Credit.

## Policy Rationale

14. In order to maintain access to justice and hence to comply with Article 6 of the European Convention on Human Rights (the right to a fair trial), the Ministry of Justice will continue to provide fee remissions to individuals. Their eligibility is partly based on receipt of qualifying state benefits, which are going to be significantly reformed by the introduction of UC. A public consultation on how the MoJ will adapt the existing remissions system given the forthcoming introduction of UC will be published in due course.
15. In order to establish remission eligibility, the underlying components of UC will need to be determined. An automatic and full remission for individuals in receipt of any UC payment would not meet the objective of a well-targeted remission system since some individuals on higher incomes would still be eligible for UC who could otherwise afford to pay fees. For example, a household earning £600 per week may still be eligible to receive some element of UC, whereas they may currently be required to contribute towards their fee.
16. Even in the absence of UC, the legal authority for an information sharing gateway would enable the creation of an IT interface with DWP to provide the proof of remission eligibility for receipt of the current qualifying state benefits; a separate information sharing system would exist with HMRC using secure e-mail or a dedicated telephone hotline for determining eligibility based on receipt of Working Tax Credit. This sharing of personal information would provide a faster and more accurate way of assessing Remission 1 eligibility.
17. The replacement of most qualifying state benefits by an overall tapered benefit, UC, in late 2013 means that it would no longer be possible to administer Remission 1. All remission applications would therefore have to be assessed against the more costly and time-consuming Remission 2 or Remission 3 criteria where applicants are required to provide more detailed evidence that must then be checked by the relevant staff. The proposed information sharing gateway will enable courts, tribunals, UK Supreme Court and the OPG to obtain confirmation of fee remission eligibility directly from DWP and HMRC. This means that these bodies can continue to make use of the cheaper to administer Remission 1.
18. Consequently, information sharing will play a key role in reducing the burden to courts, tribunals, and the OPG in verifying documentation and to remission users in having to obtain and provide required evidence to support their remission application, compared to the base case.
19. The intended effects of the legal authority for an information sharing gateway are to:
  - verify remission eligibility quickly and accurately;
  - protect the taxpayer subsidy by limiting opportunity for fraud and dishonesty;
  - ensure that the remission system is targeted on those individuals who genuinely cannot afford to pay fees;
  - reduce the burden on courts, tribunals, UK Supreme Court and OPG users to provide evidence of remission eligibility;
  - reduce the burden on DWP and HMRC to produce duplicate proof of benefit entitlement; and
  - ensure that the remission system will operate effectively once Universal Credit has been introduced.

## Description of Options

### *Option "0"*

20. Under the base case, courts, tribunals, UK Supreme Court and the OPG would continue to rely upon hard copy proof of receipt of qualifying state benefits when assessing an individual's eligibility for Remission 1. In mid-2013/14, UC is scheduled to commence and all remission applicants who are in

receipt of UC would then have to be assessed against Remissions 2 or 3 because UC in some form will be given to a significantly greater number of individuals than the existing qualifying state benefits. The annual cost of administering remission applications therefore increases at this time, other things being equal, and continues to rise until all of the relevant pre-existing state benefit recipients are fully migrated to UC four years later.

#### *Option 1*

21. Under this option, Parliament gives DWP and HMRC the legal authority to share personal information about individuals with courts, tribunals, UK Supreme Court and the OPG for the purposes of assessing their eligibility for Remission 1. It is assumed that the legal authority and a new IT interface underpinning the information gateway with DWP both come into force in time for the planned introduction of UC in mid-2013/14, which means that the annual cost of administering court and tribunal remission applications would be lower than in the Option "0" base case.
22. A criminal sanction is created for the unauthorised sharing of this personal information. The maximum sentence for this offence is imprisonment for a period of up to 2 years and/or a financial penalty.
23. This offence is required as the existing provisions for unauthorised disclosure of personal information do not allow for a custodial sentence. The deterrent effect of having a criminal sanction with the threat of imprisonment is appropriate when protecting the use of confidential and personal data that are intended for the purposes of administering fee remissions.
24. It is provisionally estimated that this offence may account for an additional 1-2 criminal proceedings in each five year period, which may lead to 1 additional non-custodial sentence<sup>6</sup>. In present value terms, the new offence is therefore considered unlikely to have a material impact on the Criminal Justice System in England and Wales given that it is expected there would be a small number of convictions and sentences over the next 10 years as a result.

#### **Costs of Option 1**

25. Compared to the base case, granting the legal authority to share information will not in itself result in new or additional costs to the public sector.
26. The proposed legal gateway would be permissive, which means that DWP and HMRC have the right not to share customer information for the purposes of fee remissions. There would be no requirement that the requested personal information must always be shared with the courts, tribunals, UK Supreme and the OPG upon request. However, it is assumed in this Impact Assessment that there are no occasions when either DWP or HMRC declines to share the requested information.
27. The legal authority would enable the creation of an IT interface to help assess court and tribunal remission eligibility. It has provisionally been estimated that the new interface may cost in the region of £1 million to establish at 2012/13 prices and that annual running costs may be around £0.1 million per annum at 2012/13 prices.

#### **Benefits of Option 1**

28. The option of implementing an IT interface to verify remissions has been considered against the option to continue to assess remission eligibility through the current paper based solution. This means that applicants in receipt of qualifying state benefits would continue to provide documentary proof of eligibility.
29. The main benefit to the courts, tribunals, UK Supreme Court and the OPG of Option 1 is to avoid the additional administration that would otherwise occur under the base case given that those individuals in receipt of UC from mid-2013/14 onward would then be assessed against the income and expenditure tests embodied in Remissions 2 and 3.

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<sup>6</sup> This estimate is based on a similar information sharing gateway in the courts that facilitates the enforcement of a warrant (Section 125C of the Magistrates' Courts Act 1980 as amended by the Access to Justice Act 1999). This contains provisions for the wrongful disclosure of information obtained through this provision. In the period between 2000 and 2010, there were only two proceedings for this offence (in 2000 and in 2005). One of these was discontinued and the other was committed for trial which did not lead to a conviction for this offence. There are no recorded convictions for this offence in the period between 2000 and 2010.

30. The Remission 1 (qualifying state benefit) test would no longer be viable for UC recipients from mid-2013/14. An automatic and full remission for recipients of UC would not be viable since it is estimated that around twice as many adults would be entitled to receive some element of UC than who are entitled to receive the current qualifying state benefits.
31. According to HMCTS and OPG data set out in the following table, around 63% of all successful remission applications in the fee-charging jurisdictions during 2010/11 related specifically to remission applications granted through the receipt of qualifying state benefits:

**Number of successful applications, 2010/11**

Jurisdiction	Remission 1	Remission 2	Remission 3	TOTAL
County Court	44,800	7,300	1,700	<b>53,800</b>
High Court	2,000	2,600	500	<b>5,200</b>
Insolvency	10,600	5,800	400	<b>16,800</b>
Family	61,000	18,300	4,700	<b>84,100</b>
Probate	100	0	0	<b>200</b>
Magistrates' Court	1,800	200	100	<b>2,000</b>
Gender recognition panel	200	0	0	<b>200</b>
Upper Tribunal (Lands)	0	0	0	<b>0</b>
Gambling Appeals	0	0	0	<b>0</b>
Residential Property Tribunal	100	0	0	<b>100</b>
Office of the Public Guardian	25,000	47,000	0	<b>72,000</b>
Court of Protection	3,300	100	0	<b>3,500</b>
<b>TOTAL</b>	<b>148,900</b>	<b>81,300</b>	<b>7,400</b>	<b>237,900</b>
<i>Share of total</i>	<i>63%</i>	<i>34%</i>	<i>3%</i>	<i>100%</i>

32. Please note that the figures in the table are rounded to the nearest 100 applications. As the eligibility criteria vary between the jurisdictions, they have been grouped by categories with similar administration processes that broadly relate to Remissions 1, 2 and 3. The Immigration and Asylum Chamber of the First-tier Tribunal is not included in the table because fee-charging did not begin until late 2011/12 and, in any event, its remissions system is currently based on the receipt of Asylum Support Funding or of legal aid. In December 2011 the Government issued a public consultation on the proposed use of fee-charging in the Employment Tribunal and Employment Appeal Tribunal, which would be underpinned by the civil courts remission system of England and Wales. However, as the Government has yet to respond to this consultation, the employment jurisdiction is not included in the table.<sup>7</sup> Fee-charging for civil cases in the UK Supreme Court commenced upon the Court's creation in October 2009; there have only been 6 successful remission applications in the UK Supreme Court during 2010/11, so the Court is not explicitly mentioned in the preceding table.
33. The information sharing gateway will require customers to provide three pieces of information only (i.e., surname, date of birth and National Insurance Number) to receive confirmation that they are eligible for Remission 1. This would provide a faster service to the majority of courts, tribunals, UK Supreme Court and OPG users who at present require official confirmation of state benefit entitlement from DWP or HMRC.
34. The estimated economic benefit to courts, tribunals, UK Supreme Court and the OPG of this electronic information sharing is based on the differential unit costs of administering Remissions 1, 2 and 3. Based on 2010/11 outturns and updated to 2012/13 prices, the estimated costs of each of the three Remission types (rounded to the nearest whole number of pounds) are set out in the table below:

Type	Unit cost (2012/13 £)
Remission 1	7
Remission 2	9
Remission 3	12

<sup>7</sup> <https://consult.justice.gov.uk/digital-communications/et-fee-charging-regime-cp22-2011>

35. The estimates are the average variable costs – i.e., staff costs only and exclude other costs such as buildings – of administering fee remissions. This cost element is based on the average timings for each of the typical processes taken by staff to verify remission applications. The average variable cost is used here to be conservative and because it captures the portion of the total cost of administering the remission system that is most likely to change as a result of the proposed information sharing.
36. It is unclear the extent to which the cost of administering Remission 1 applications would fall in real terms if an IT interface replaced the current practice of relevant staff checking the existing hard copy proof of receipt of qualifying state benefits. In order to be conservative, it is assumed that the estimated £7 unit cost of Remission 1 in 2012/13 prices remains unchanged. Moreover, it is assumed that the estimated unit costs of the other Remission types also remain constant.
37. The MoJ's agencies do not forecast the number of successful or unsuccessful remission applications that it is likely to receive in the coming years. It is therefore assumed that the total number of successful applications received by Remission type in 2010/11 will simply repeat annually over the next 10 years. It is estimated that some 70% of successful Remission 1 applicants annually would have fallen into Remission 2 under the base case scenario due to their relatively low incomes. The remaining 30% of successful Remission 1 applicants would have become subject to Remission 3.<sup>8</sup>
38. It is likely that a proportion of Remission 2 and 3 applicants would also be future UC recipients. However, this proportion is presently unknown because it will depend on the detail of the forthcoming UC scheme and on the exact proposals on which the MoJ will consult regarding how best to adapt the existing remissions system given the commencement of UC in late 2013. For simplicity, it is assumed in Option 1 that the adapted remissions system will ensure equivalent entitlements to what is now Remissions 1, 2 and 3 under UC.
39. The following table sets out annual estimates of the value of time saved by courts, tribunals, UK Supreme Court and the OPG compared to the base case from not having to assess the successful remission applications under Remissions 2 and 3 that could otherwise be assessed under Remission 1 (i.e., around 150,000 instances per annum). These undiscounted figures are rounded to the nearest £10k and should not be regarded as precise estimates given the uncertainties involved.

2012/13 £k	2012/13	2013/14*	2014/15	2015/16	2016/17
<b>Time saving</b>	£0	£40	£80	£160	£240

2012/13 £k	2017/18	2018/19	2019/20	2020/21	2021/22	TOTAL
<b>Time saving</b>	£330	£330	£330	£330	£330	£2,170

\* UC begins in October 2013

40. It is assumed in the table for the purposes of this Impact Assessment that the number of UC recipients who would have been assessed under Remission 1 increases every year from 2013/14 onwards in equal increments (i.e., one-quarter of the annual total in 2014/15, one-half in 2015/16, etc.), of which 70% is now assessed under Remission 2 and 30% under Remission 3 instead. By 2017/18 the migration of all pre-existing qualifying state benefit claimants to UC is completed, apart from recipients of Pension Credit Guarantee Credit which is not being replaced by UC. It is estimated that approximately 25% of Remission 1 adults are “passported” due to receipt of this qualifying benefit, so this estimated proportion of successful Remission 1 applications is not included in the estimates.<sup>9</sup>

<sup>8</sup> These percentages are based on analysis of the 2009/10 Family Resources Survey (<http://statistics.dwp.gov.uk/asd/frs/>). This data source was used to estimate the proportion of adults in England & Wales who would have been eligible for Remissions 1 and 2 in that year, which is the most recent for which data are available. However, it is important to note that civil court and tribunal users are not necessarily representative of the adult population as a whole.

<sup>9</sup> This is based on analysis of the 2009/10 Family Resources Survey. The Survey does not disaggregate recipients of Pension Credit by the elements of Savings Credit and/or Guarantee Credit. Using Pension Credit as a whole to determine eligibility for Remission 1 tends to produce an over-estimate of the proportion of adults who would have been eligible in 2009/10 due to this qualifying state benefit, so DWP data are used to adjust the 33% figure of Remission 1 eligible adults due to receipt of Pension Credit. As around 80% of Pension Credit recipients benefited from Guarantee Credit that year, it follows that the relevant percentage of Remission 1 eligible adults were in receipt of Pension Credit Guarantee Credit is four-fifths of 33%. Please note that the actual proportion of civil court and tribunal users who are also recipients of Pension Credit Guarantee Credit in any given year may be higher or lower than this estimate. MoJ agencies do not record the detailed reasons why Remission 1 beneficiaries are successful.



41. Compared to the base case, it is likely that the creation of an electronic information sharing gateway with DWP in Option 1 would reduce the rejection rate of remission applications as there would be fewer invalid applications due to provision of incomplete or out-of-date evidence by applicants. However, MoJ agencies do not routinely record the number of remission applications that are rejected or the reasons for these rejections, so this economic benefit of avoided administration is unquantified.
42. The legal authority to share personal information would allow courts, tribunals, UK Supreme Court and OPG staff to use an IT interface to access DWP's Customer Information System (CIS) to obtain proof of qualifying state benefit entitlement directly, rather than requiring the individual to contact DWP as happens at present. The legal authority would also allow HMRC to share personal information in respect of Working Tax Credit, although this qualifying benefit will be phased out following the introduction of Universal Credit. The reduced demand for benefit entitlement notices due to the IT interface is an unquantified economic benefit.
43. An electronic information gateway in Option 1 would also deliver benefits to remission applicants in the form of a faster and more accurate service that requires the provision of less direct information from applicants. The shorter time and reduced information burden on applicants is an unquantified economic benefit.

### **Assumptions and Sensitivities**

44. The estimates assume that an IT interface for verifying remission eligibility becomes available in October 2013 and is available nationally. It is expected that individuals in receipt of UC must be means-tested and that 70% of those in receipt of UC would be tested under the gross income test, which at present averages £9 per instance, and the remaining 30% of applications would be tested under the disposal income test, which at present averages £12 per instance.
45. It is assumed that individuals will be mapped over to UC in equal increments from October 2013. Current qualifying state benefits, with the exception of Pension Credit Guarantee Credit, will gradually be withdrawn.
46. It is assumed that Ministry of Justice policy will continue to provide fee remissions to individuals who are in receipt of the current qualifying state benefits or who would, but for the introduction of Universal Credit, be in receipt of qualifying benefit. This analysis assumes for the purposes of illustration that Ministry of Justice policy replicates the conditions for awarding remissions through existing qualifying state benefits (Remission 1) under UC.
47. The volume of successful applications from 2010/11 is assumed to repeat annually for the foreseeable future. It is important to note the underlying uncertainty due to the absence of reliable forecasts about the future volume of remission applications.
48. So as to outline a plausible range of outcomes, a sensitivity is employed whereby the annual number of successful remissions applications is 25% higher and lower than was the outturn in 2010/11. This has the effect of establishing a notional upper bound of £2.7 million at 2012/13 prices in total quantifiable benefits over the ten years to 2021/22. The corresponding lower bound is £1.6 million. Both of these estimates are also expressed in undiscounted terms.

### **Summary**

49. The information sharing gateway will play a key role in reducing the burden to courts, tribunals, UK Supreme Court and the OPG in verifying documentation and to remission users in having to obtain and provide required evidence to support their remission application. The proposed date for implementation is assumed to be October 2013.

50. The table below set outs rounded estimates of the quantifiable annual cost and benefit to MoJ agencies of implementing Option 1, compared to the base case. It concludes that the undiscounted net benefit over the next 10 years would be around £0.3 million in 2012/13 prices. It is important to emphasise, however, that the exact net benefit is uncertain and that it includes various unquantified variables – notably, the avoided administration costs to other Government Departments, avoided costs due to a lower rejection rate of remission applications and a faster and more accurate service for remission applicants.

2012/13 £m	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	TOTAL
Annual benefit	£0.0	£0.0	£0.1	£0.2	£0.2	£0.3	£0.3	£0.3	£0.3	£0.3	<b>£2.2</b>
Annual cost	£0.0	-£1.1	-£0.1	-£0.1	-£0.1	-£0.1	-£0.1	-£0.1	-£0.1	-£0.1	<b>-£1.9</b>
<b>Net benefit</b>	<b>£0.0</b>	<b>-£1.0</b>	<b>£0.0</b>	<b>£0.1</b>	<b>£0.1</b>	<b>£0.2</b>	<b>£0.2</b>	<b>£0.2</b>	<b>£0.2</b>	<b>£0.2</b>	<b>£0.3</b>

### Post-Implementation Review

51. The information sharing will be reviewed around five years after the implementation date to ascertain whether the policy has had the intended effect. This is likely to take the form of a desktop review. This will assess:
- To what extent the policy has made the fee remission system simpler to administer
  - To what extent the policy has simplified the process of applying for a fee remission.
  - What are the costs and benefits, in hindsight and going forward
52. The review will make use of the data routinely collected by HMCTS and the OPG. This will allow the impact of the policy to be assessed at the appropriate date.

# Annex A: Specific Impact Tests

## Equalities Impact Test

1. An Equality Impact Assessment has been completed and is published separately. The information sharing aims to improve the administration of the fee remissions systems by providing proof of remission eligibility more quickly. Remissions are used by a wide range of disadvantaged individuals including those who have particular needs such as those who are disabled, elderly, and on a low income. In this respect the proposals could be described as helping to promote equality by making it easier for individuals to apply for fee remissions.

## Competition Assessment

2. We do not consider this proposal to be pro or anti-competitive. There are no impacts on suppliers or providers.

## Small Firms Impact Test

3. This proposal has no effect on small businesses since the Remission system is only available to individuals and not companies.

## Carbon Assessment

4. We do not anticipate any significant impact on emissions of greenhouse gases since any IT interface that is implemented will use existing IT infrastructure.

## Other Environmental Impacts

5. We do not expect that the proposal will have any impact on noise pollution, landscape, wildlife, air quality or any other environmental impact.

## Health Impact Assessment

6. We do not anticipate any significant impact on human health. This proposal will have no impact on the lifestyles of any major subgroup of the population or on the demands for health and social care services.

## Human Rights Impact

7. The information sharing is compliant with Article 8 of the European Convention on Human Rights (the right to privacy). The information sharing will be adequate, relevant and not excessive in relation to the administration of fee remissions. This will ensure an appropriate and defensible balance between the legitimate aims of improving the administration of fee remissions and the right to privacy.
8. The information sharing will allow only a limited number of relevant persons to obtain information for the specific purpose of administering fee remissions. The proposed IT interface will be password protected and located on the Government's secure network. A criminal sanction will apply for the wrongful disclosure of customer information to help protect customer privacy.

## Justice Impact Test

9. The proposals are unlikely to have any significant impact on the Justice System. The information sharing gateway creates a new criminal sanction for the wrongful disclosure of information. It is provisionally estimated that there may be 1-2 criminal proceedings every five years, which may result in 1 non-custodial sentence. The new offence is therefore unlikely to have a material impact on the Criminal Justice System in England and Wales given that there is expected to be few resulting criminal convictions.

## Rural Proofing Assessment

10. The impacts of this proposal will be no different in rural areas.

## Sustainable Development

11. This proposal is not expected to have any impact on sustainable development.

## Annex B: Comparison table of the Remission 1 criteria (Qualifying State Benefits Test – “Passported benefit”) operated by agencies of the Ministry of Justice and the UK Supreme Court

Jurisdiction	Income Support	Income based job seekers allowance	Income related Employment and Support Allowance	Pension Credit Guarantee Credit	Housing Benefit	Council Tax Benefit	Working Tax Credit
<ul style="list-style-type: none"> <li>Civil Courts;</li> <li>Family Courts;</li> <li>Magistrates’ courts;</li> <li>UK Supreme Court; and</li> <li>Non-Contentious Probate <sup>1</sup></li> </ul>	✓	✓	✓	✓			✓ provided that Child Tax Credit is <u>not</u> also received
<ul style="list-style-type: none"> <li>Upper Tribunal (Lands Chamber)</li> </ul>	✓	✓	✓	✓			✓ provided that Child Tax Credit is <u>not</u> also received
<ul style="list-style-type: none"> <li>Gender Recognition Panel</li> </ul>	✓	✓		✓			✓ provided that Child Tax Credits, or a disability or severed disability element is also received and that the Gross annual income considered is £18,948 or less
<ul style="list-style-type: none"> <li>Gambling Appeals</li> </ul>	✓	✓	✓	✓			✓ provided that Child Tax Credits, or a disability or severed disability element is also received and that the Gross annual income considered is £17,474 or less
<ul style="list-style-type: none"> <li>Residential Property Tribunal</li> </ul>	✓	✓		✓	✓		✓ provided that Child Tax Credits, or a disability or severed disability element is also received and that the Gross annual income considered is £16,190 or less
<ul style="list-style-type: none"> <li>Leasehold Valuation Tribunal <sup>2</sup></li> </ul>	✓	✓		✓	✓		✓ provided that Child Tax Credits, or a disability or severed disability element is also received and that the Gross annual income considered is £14,213 or less
<ul style="list-style-type: none"> <li>Office of the Public Guardian <sup>3 4</sup></li> </ul>	✓	✓	✓	✓	✓	✓	✓ provided that Child Tax Credit, or a disability or severed disability element is also received
<ul style="list-style-type: none"> <li>Court of Protection <sup>3</sup></li> </ul>	✓	✓	✓	✓	✓	✓	✓ provided that Child Tax Credit, or a disability or severed disability element is also received

<sup>1</sup> The consultation paper, “Introducing fees in employment tribunals and Employment Appeal Tribunal (CP22/2011), proposed that the Employment Tribunals will use the Civil Courts and Non-Contentious Probate fee remission system.

<sup>2</sup> The Leasehold Valuation Tribunal also exempts those in receipt of a certificate issued under the Funding Code and proceedings have been transferred from a county court for determination.

<sup>3</sup> The individual is not eligible for a fee remission if they are in receipt or have been awarded damages in excess of £16,000, for proceedings in the Court of Protection or Office of the Public Guardian.

<sup>4</sup> Those in receipt of Local Housing Allowance are also eligible for a fee remission, for proceedings in the Office of the Public Guardian.

## Annex C: Comparison table of the Remission 2 criteria (“Gross Annual Income Test”) operated by agencies of the Ministry of Justice and the UK Supreme Court

Jurisdiction	Gross Annual Income Threshold
<ul style="list-style-type: none"> <li>• Civil Courts;</li> <li>• Family Courts;</li> <li>• Magistrates’ courts;</li> <li>• UK Supreme Court; and</li> <li>• Non-Contentious Probate</li> </ul>	Full fee remission (100% remission), if the individual’s Gross Annual Income does not exceed: £13,000 (Single Person) £18,000 (Couple) For each dependant child these annual income limits increase by £2,930.
<ul style="list-style-type: none"> <li>• Upper Tribunal (Lands Chamber)</li> </ul>	Full fee remission (100% remission), if the individual’s Gross Annual Income does not exceed: £13,000 (Single Person) £18,000 (Couple) For each dependant child these annual income limits increase by £2,930.
<ul style="list-style-type: none"> <li>• Gender Recognition Panel</li> </ul>	Full fee remission (100% remission), if the individual’s relevant income does not exceed £18,948, or partial remission if the individual’s relevant income is more than £18,948 but equal to or less than £28,415 (the individual would be required to pay £30).
<ul style="list-style-type: none"> <li>• Gambling Appeals</li> </ul>	Not Detailed in Statutory Instrument
<ul style="list-style-type: none"> <li>• Residential Property Tribunal</li> </ul>	Not Applicable
<ul style="list-style-type: none"> <li>• Leasehold Valuation Tribunal</li> </ul>	Not Applicable
<ul style="list-style-type: none"> <li>• Office of the Public Guardian</li> </ul>	Partial fee remission (50%), if the client’s gross annual income does not exceed £12,000
<ul style="list-style-type: none"> <li>• Court of Protection</li> </ul>	Full fee remission (100%), if the individual’s Gross Annual Income does not exceed £12,000; and Partial fee remission, if the individual’s Gross Annual Income is between <ul style="list-style-type: none"> <li>• £12,001 and £13,500 (75% fee remission)</li> <li>• £13,001 and £15,500 (50% fee remission)</li> <li>• £15,001 and £16,500 (25% fee remission)</li> </ul>

## Annex D: Comparison table of the Remission 3 criteria (“Disposal Income Test”) operated by agencies of the Ministry of Justice and the UK Supreme Court

Jurisdiction	Gross Annual Income Threshold
<ul style="list-style-type: none"> <li>• Civil Courts;</li> <li>• Family Courts;</li> <li>• Magistrates’ courts;</li> <li>• UK Supreme Court; and</li> <li>• Non-Contentious Probate</li> </ul>	<p>Test based on net monthly income and expenditure:</p> <p>Net Monthly income minus permitted expenditure:</p> <ul style="list-style-type: none"> <li>• housing costs,</li> <li>• child maintenance and care expenses,</li> <li>• payments under court order</li> </ul> <p>Fixed Allowances:</p> <ul style="list-style-type: none"> <li>• Partner: £159</li> <li>• Children: £244 for each dependant child</li> <li>• General: £315 (only if claiming housing costs)</li> </ul> <p>A contribution is payable based the amount of the disposable income</p>
<ul style="list-style-type: none"> <li>• Upper Tribunal (Lands Chamber)</li> </ul>	<p>Test based on net monthly income and expenditure:</p> <p>Net Monthly income minus permitted expenditure:</p> <ul style="list-style-type: none"> <li>• housing costs,</li> <li>• child maintenance and care expenses,</li> <li>• payments under court order</li> </ul> <p>Fixed Allowances:</p> <ul style="list-style-type: none"> <li>• Partner: £159</li> <li>• Children: £244 for each dependant child</li> <li>• General: £315 (only if claiming housing costs)</li> </ul> <p>A contribution is payable based the amount of the disposable income</p>
<ul style="list-style-type: none"> <li>• Gender Recognition Panel</li> </ul>	Not Applicable
<ul style="list-style-type: none"> <li>• Gambling Appeals</li> </ul>	Not Detailed in Statutory Instrument
<ul style="list-style-type: none"> <li>• Residential Property Tribunal</li> </ul>	Not Applicable
<ul style="list-style-type: none"> <li>• Leasehold Valuation Tribunal</li> </ul>	Not Applicable
<ul style="list-style-type: none"> <li>• Office of the Public Guardian</li> </ul>	Not Applicable
<ul style="list-style-type: none"> <li>• Court of Protection</li> </ul>	Not Applicable