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Public attitudes to civil and family court fees

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Individuals and businesses who bring cases to the civil and family courts are charged a fee by the court to contribute towards the costs of the court service. The Ministry of Justice is reviewing these court fees and has issued a consultation setting out the proposed changes to these fees. This report presents findings from a survey examining public attitudes to court fees to give a better understanding of what the public think of civil and family courts, the extent to which they feel it is acceptable to charge fees from court users to cover the cost of these services, and what level of fees they think are reasonable.

Key findings

- The majority of people agreed with the principle that individuals and businesses who use civil and family court services should contribute towards the cost of these if they could afford to. However, the extent to which people feel court users should pay a fee varied by the type of court case, court users' income and perceived ability to pay, as well as fee levels.
- 83% of people agreed that divorce applicants should pay a fee towards the cost of the court service if they could afford to, 68% agreed that parents applying for a court decision on how often they see their children should do so, and 78% agreed that individuals using the civil courts should pay a fee if they could afford to.
- Similarly, when presented with specific hypothetical situations, the majority of people felt that the court users described should pay something towards the court costs (varying between 70–89% of respondents for the different situations).
- Overall, approximately half of respondents thought that people who earned less than £15,000 a year should not pay a court fee (52% for family courts and 48% for civil courts) compared with approximately a quarter who disagreed (24% for family courts and 27% for civil courts).
- Around a fifth of people thought that courts should be free to all at the point of use and fully-funded by the taxpayer (22% for family courts, 18% for civil courts).
- When presented with the hypothetical situations, many of those who had initially said they thought that courts should be free to all and/or that court users should not contribute to court costs, said that it was reasonable for the court users described to pay the stated fee.
- There were some socio-demographic variations in attitudes towards court fees, although there was no consistent pattern across questions for particular groups.
- Between 48% and 64% of people said they felt very or fairly confident in different aspects of the civil and family justice systems. However, around a quarter (between 22% and 29%) said that they did not know how confident they were.
- Attitudes towards court fees did not vary markedly by confidence in the family and civil court system, although those who were confident that civil courts take both parties' views into account and made fair decisions were more likely to say the losing party should pay the court costs.

Background

Family courts in England and Wales deal with issues or disputes that can arise when relationships end, such as divorce and deciding which parent a child should live with and how often they should see the other parent. Only a small proportion of separated parents use the courts to resolve their disputes, with many resolving disputes through other routes such as informal agreements or mediation. Family courts also deal with other issues involving children, such as adoption or care proceedings. Civil courts deal with a range of disputes between individuals and/or businesses including recovering debt, unpaid bills, contract breaches (for example between landlords and tenants), bankruptcy and personal injury claims.

Both family and civil courts charge users who start court cases a fee towards the costs of the court service. Court fees contribute towards the operating costs of the courts, such as building costs, IT and telephone costs, and the salaries of court staff and judges. Court fees are separate to legal costs (such as solicitors' fees). Individuals on low incomes can apply to get their court fees 'remitted' through the fee remissions system. If they qualify, they pay none or part of the fee. For civil cases, there are further fees if the case is defended or reaches the court hearing stage. However, the majority of civil cases are settled early and do not progress to these stages. Although the person starting a civil case pays the court fee upfront when they issue the claim, if they win the case then the losing party can be ordered by the judge to repay the fee as part of the settlement.

At present, the amount recovered in fees is less than the amount required to cover the operating costs of the courts, and the shortfall is funded by general taxes. The Ministry of Justice has consulted on a new court fee structure which aims to achieve close to full cost recovery. That is, the new fee structure aims to get enough income through court fees to meet the operating costs of the civil and family courts (excluding the cost of fee remissions).

This report presents findings from a survey examining public attitudes to court fees. It provides evidence on what the public think of civil and family courts, the extent to which they feel it is acceptable to charge fees from court users, and what level of fees they think are reasonable. The report also examines the extent to which public views vary by their confidence in the family and civil justice

systems. Most respondents would not have had personal experience of the civil or family court systems. Their awareness and understanding of these systems may vary greatly, and their views may be based on what they have heard from friends or relatives, the media, or on their general attitudes and principles.

Approach

Data were collected via the Opinions and Lifestyle survey run by the Office for National Statistics, a stratified random probability sample survey of adults aged 16 and over living in private households in Great Britain. Questions were included in April and May 2013, and asked of 1,799 respondents in England and Wales. Scotland was excluded as it has a different justice system. The response rate for the survey was 57% in April and 53% in May. Data were weighted to account for the complex sample design and for non-response bias.

Comments in the text on differences between figures indicate a statistically significant difference at the five per cent level. Percentages quoted in the text may not equal the sum of their components as listed in the tables as, to avoid rounding errors, they have been recalculated and rounded independently.

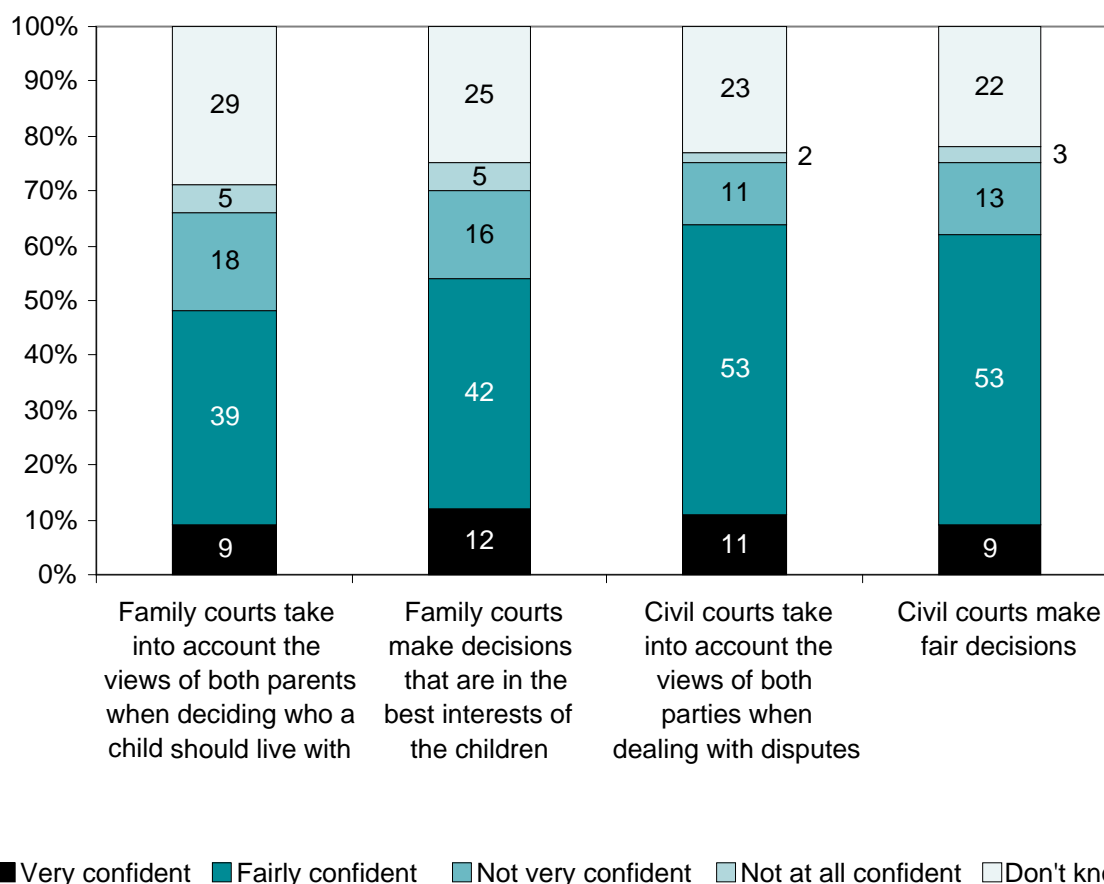
Results

Confidence in the family and civil justice systems

Respondents were asked about their confidence in different aspects of the family and civil justice systems in order to understand people's general views towards these systems, as well as to provide respondents with prompts about the role and aims of these systems.

Overall people were more likely to be confident in civil courts than family courts. A minority of people said they were not confident in different aspects of family or civil courts. However, the proportion of people who responded "don't know" was relatively high for each of the measures, suggesting perhaps that a relatively large proportion of people felt that they did not have sufficient knowledge or experience to provide a view, or perhaps that they held a neutral view, see Figure 1.

Figure 1: Confidence in the family and civil justice systems



Examining confidence in the family courts shows that just under half of people (48%) were very or fairly confident that the family courts took into account the views of both parents in cases involving who a child should live with following a relationship breakdown, with nearly a quarter (23%) not confident that they did so. Just over half of people (54%) were very or fairly confident that family courts made decisions in the best interests of the children, with around a fifth (21%) not confident that they did so.

For civil courts, approximately three-fifths of people were very or fairly confident that civil courts took the views of both parties into account (64%) and that civil courts made fair decisions (62%) with around a seventh not confident (13% and 15% respectively).

Across all measures, around a quarter of people (22–29%) said they did not know how confident they were. This suggests that many people did not feel they had sufficient knowledge or experience to provide a view. Among those who did feel able to

express an opinion, between 67% and 83% were very or fairly confident, see supplementary tables.

The extent to which attitudes varied by different socio-demographic characteristics was also examined. There were relatively few significant differences between different groups. This may be because other factors not measured by the survey, such as personal experiences or general attitudes towards public services, are more important in explaining people's views.

- There were no statistically significant differences in confidence levels by sex, income, or marital status (other than some differences between widowed people and others, which are likely to be related to age).
- However, levels of confidence varied by household type, with people living in households with dependent children¹ more

¹ Dependent children are those aged under 16, or aged 16–18, never married and in further education. Foster children living in the household are not classed as dependent children.

to be confident in the family courts than people living in one person households. For example, 59% of people living in a couple with dependent children and 60% of lone parents living with dependent children were very or fairly confident that family courts made decisions in the best interests of the children, compared with 18% and 16% saying they were not confident. Among people living in single person households, 43% said they were confident and 25% not confident. See supplementary tables.

- There was also some variation by age, with people aged 75 and over less likely to say they felt very or fairly confident than younger people across the four measures. However, this was mainly due to the higher proportion of those aged 75 and over saying 'don't know'. The proportions who were not confident were broadly similar across the age groups. See supplementary tables.

Attitudes to court fees

Respondents were asked about their attitudes to court fees in the family and civil courts. The results presented below show that the majority of people thought that individuals (and businesses) who use the family and civil courts should pay a fee towards the cost of the court service, although they appeared to be sensitive to court users' ability to pay, that is, their income level or whether they could afford to pay. Views also varied depending on the type of court case. Only a minority thought that courts should be free to all who use them. See Table 1.

The majority of people thought that individuals and businesses who use the family and civil courts should pay a fee towards the cost of these services if they could afford to. This varied by the type of court case, with 83% of people agreeing that divorce applicants should pay a court fee if they could afford to, 68% of people stating that parents applying for a court decision on how often they see their children should pay a fee, and 78% of people stating that individuals using the civil courts should pay a fee if they could afford to. A similar proportion (79%) said that businesses should pay a court fee if they were bringing a civil case, suggesting that people's views

did not differ depending on whether the civil court users were individuals or businesses.

When asked if all users should make a small contribution to the costs of the court, the figures are similar. Around two thirds (65%) thought that everybody who uses the family courts should make a small contribution, and nearly four-fifths (78%) of people thought this in relation to the civil courts. It is not possible to know whether respondents were thinking of all court users or just those who could afford to pay when stating that all should make a small contribution, or whether they thought the contribution should vary by ability to pay.

However, given that approximately half of respondents thought that people who earned less than £15,000 a year should **not** pay a court fee (52% for family courts and 48% for civil courts) it is likely that respondents do feel that ability to pay is an important factor.

Approximately a fifth of people thought that courts should be free to all at the point of use and fully-funded by the taxpayer (22% for family courts, 18% for civil courts). For this group free access to the courts may be a matter of principle, regardless of the ability of users to pay a fee.

Approximately half of people (52%) thought that the losing party should always be the one who paid towards the civil court costs if they could afford it.

Between 3% and 7% of respondents gave 'don't know' answers to these questions about their attitudes towards fees compared with around a quarter of respondents giving 'don't know' answers in response to the confidence questions. This could reflect the way the questions were worded and the answer options available. Respondents were asked whether they agreed or disagreed with the fee attitude statements and could answer that they neither agreed or disagreed, whereas they were asked how confident they were in certain elements of the court systems with no neutral option available. It could also suggest that willingness to express views on confidence in the civil and family justice systems is related to knowledge and/or experience, while views on fees are more likely to be based on principle regardless of knowledge of the system.

Table 1: Attitudes to fees in the family and civil courts

	Percentages						<i>Unweighted base</i>
	Strongly agree	Agree	Neither agree or disagree	Disagree	Strongly disagree	Don't know	
Attitudes to family courts							
People who want a divorce should contribute towards the cost of the court service if they can afford to	29	53	7	6	1	4	1,799
Parents who want to go to court for a decision about how often they see their child should contribute towards the cost of the court service if they can afford to	19	49	12	14	2	5	1,799
No individual who earns less than £15,000 a year should have to pay a fee to go to court	11	40	17	21	3	7	1,799
Family courts should be free to all at point of use and fully funded by the tax payer through general taxes	4	18	15	44	13	6	1,799
Everybody who uses the family courts should make a small contribution towards the costs of the court	16	48	14	16	3	3	860
Attitudes to civil courts							
People who use the civil courts to resolve a dispute should be asked to pay a fee towards the cost of the courts upfront if they can afford to	20	58	8	7	1	6	1,799
Businesses who use the civil courts to resolve a dispute should contribute towards the cost of the courts upfront	26	53	9	6	1	6	1,799
The losing party should always be the one to pay towards the costs of the courts if they can afford to	13	39	18	22	2	6	1,799
No person who earns less than £15,000 a year should have to pay a civil court fee	8	40	18	24	4	7	1,799
Civil courts should be free to all people at point of use and fully funded by the tax payer through general taxes	3	16	15	46	14	6	1,799
Everybody who uses the civil courts to resolve a dispute should make a small contribution towards the costs of the court	17	61	7	10	1	4	860

Base: all respondents, apart from the 'everybody who uses the family/civil courts should make a small contribution towards the costs of the court' statements which were only asked of respondents to the May questionnaire.

Overall, people's attitudes to family court fees did not vary markedly with their confidence in the family justice system, and their attitudes to civil court fees did not vary significantly depending on their confidence in the civil justice system, see supplementary tables. However, there were some exceptions:

- For family court fees, people who were very or fairly confident that family courts took into account the views of both parents in a child contact case were more likely to say that family courts should be free to all than those who were not confident that family courts took both parents' views into account (26% compared with 17%)
- For civil court fees, people who were very or fairly confident that civil courts take both parties' views into account were more likely to say that the losing party should always pay court costs than people who were not confident both parties' views were taken into account (59% compared with 39%). Similarly, people who were very or fairly confident that civil courts made fair decisions were also more likely to say that the losing party should always pay court costs (58% compared with 43% of those who were not confident). This indicates that people are more likely to say that the losing party should always pay court costs if they are confident that the civil courts are just and make fair decisions.

There were some socio-demographic variations in attitudes to both family and civil court fees, although there was no clear pattern evident in terms of groups that were particularly likely to hold certain views.

Family court variations:

- Those aged 55 to 64 years old were more likely to say that people wanting a divorce should pay a fee if they could afford to (91%) than those aged 25–44 (83%) and those aged 75 and over (82%)
- Married people² (87%) and divorced people³ (89%) were more likely than single people (74%) to say that people wanting a divorce should pay a fee if they could afford to. However, divorced people were more likely than

married people to think that individuals earning less than £15,000 per year should not pay a fee (63% compared with 50%)

- There were no significant differences between people living with and without children in their views on whether parents going to court for child contact cases should pay a court fee if they could afford to, with around seven in ten of each group saying that a fee should be paid. Similarly there were no significant differences by sex, age or income

Civil court variations:

- Women were less likely than men to say that the losing party should always pay court costs (47% compared with 57%), while those aged 16–24 were less likely to say that the losing party should always pay (26%) compared with all other age groups (54–61%)
- People on lower incomes were less likely to say that individuals using the civil courts should pay a fee if they could afford to (74% of those earning up to £9,359 per year compared with 86% of those earning £26,000 and over) and that the losing party should pay costs (44% of those earning up to £9,359 per year compared with 58% of those earning £15,600 and over)

Attitudes towards fee amounts in hypothetical situations

To assess what level of fees are acceptable to the public, respondents were presented with three hypothetical situations involving a family or civil court case. They were asked if they thought it was reasonable for the person starting the case to pay a stated fee, which they were told would meet the cost of the court service. There were two hypothetical fees associated with each situation, with half the sample presented with the higher fee in each situation, and the other half presented with the lower fee. Respondents who felt that the stated fee was not reasonable were then asked why they felt it was not reasonable for the person described in the situation to pay the fee, and whether they should contribute anything towards the court costs. Respondents were not told what the actual court fee amounts were at the time of interview, although some may have known these from their own experiences.

² Includes people in same-sex civil partnerships.

³ Includes people who were formerly in a civil partnership.

The majority of people said that the individuals described in the situations should pay either the stated fee or a smaller amount towards the cost of the court in all three scenarios, with the results broadly in line with the findings from the previous questions on their general attitudes to court fees. The proportion of people who thought the stated court fees were reasonable varied depending on the fee amount proposed (with higher fees more likely to be thought too expensive or not reasonable) and the type of case (potentially reflecting respondents' perceptions of the extent to which people bringing these cases to court were responsible for the situation).

The situations were presented as follows:

- A 37 year old woman who earns £25,000 a year is divorcing her husband. They have no children. She has applied to a family court to grant her a divorce. If the cost of this service was approximately [£800 or £400], do you think it is reasonable for her to pay the full amount?
- A 42 year old man who earns £25,000 a year is divorced from his ex-wife. They have a 7 year old son. They disagree about how often the man should see his son. The man is planning to go to a family court to ask for increased contact with his son. If the cost of this service was approximately [£1000 or £300], do you think it is reasonable for him to pay the full amount?
- A couple in their mid-20s, with combined earnings of £40,000 a year, have moved out of the flat they had been renting for two years. The landlord has not returned their deposit of £1,200. He says the flat needed extensive cleaning and minor repairs after they left. They disagree, saying they left the flat in the condition it was in when they moved in. The couple are planning to use the courts to get their deposit back. If they win their case, they are likely to get their court fee repaid by the landlord. If the cost of this service was approximately [£300 or £150], do you think it is reasonable for them to pay the full amount upfront?

Table 2: Whether thought the stated fees were reasonable

Situation	Stated fee	Percentages				Don't know	Unweighted base
		Thought stated fee was reasonable	Thought smaller amount should be paid	Thought no fee should be paid			
Divorce	£800	67	19	5	9	899	
	£400	77	11	4	8	900	
Child contact	£1,000	34	43	14	10	899	
	£300	59	21	12	9	900	
Rent deposit	£300	57	13	21	9	899	
	£150	66	6	20	9	900	

Base: all respondents in the split sample, (respondents were split into two groups for the hypothetical situation questions).

Table 2 shows the responses to these situations. The majority of people said that the individuals described should pay either the stated fee or a smaller amount towards the costs of the court.

Almost nine out of ten respondents said that the divorce applicant should pay a fee, either that stated or a lower fee (86% of the group presented with the £800 fee, 89% of the group presented with the £400 fee), broadly in line with the earlier finding of 83% who felt that people applying for a divorce should contribute towards court costs if they could afford to.

Approximately eight out of ten respondents said that the father seeking increased contact should pay either the stated or a lower fee (77% of the group presented with the £1000 fee, 80% of the group presented with the £300 fee), slightly higher than the 68% of respondents who said that parents going to family courts for such cases should contribute towards court costs if they could afford to.

Around seven out of ten respondents said that the couple seeking their rental deposit back should pay either the stated or a lower fee, (70% of the group

presented with the £300 fee, 72% of the group presented with the £150 fee), again consistent with the earlier finding of 78% of respondents who felt that individuals who use the civil courts to resolve disputes should contribute towards court costs if they could afford to. See below for how views on these situations varied by general attitudes to fees.

The proportion of respondents who felt the stated fee was reasonable varied within each situation, with the group presented with the higher fee less likely to think this was reasonable than the group presented with the lower fee. For the divorce and rent deposit scenarios the differences were relatively small –

around ten percentage points. However, the difference was more noticeable for the child contact situation which had the largest distinction between the two stated fees. A third of respondents (34%) considered that the fee of £1000 was reasonable, compared with three-fifths of respondents (59%) presented with the £300 fee.

The most common reasons given for thinking that the specific fees stated in the situations were not reasonable were that the fees were too expensive, and the people in the situations hadn't done anything wrong, see Table 3.

Table 3: Reasons given for thinking the stated fees were not reasonable

Situation	Stated fee	Percentages							Unweighted base
		The fee is too expensive in itself	They haven't done anything wrong	They can't afford it	Courts should be fully-funded by taxpayer	Other	Don't know		
Divorce	£800	34	15	16	8	26	5	191	
	£400	27	11	23	10	29	2	124	
Child contact	£1,000	29	29	15	5	31	5	515	
	£300	13	37	11	7	34	3	286	
Rent deposit	£300	12	46	6	7	27	6	321	
	£150	6	51	3	7	29	7	246	

Base: those who said the stated fee they were presented with was not reasonable.

Note: this was an open question, that is, these reasons were not presented to respondents. Respondents could give more than one answer, so percentages will not sum to 100.

These varied slightly by the situation, with the most common reason given for thinking the divorce fee was not reasonable being that it was too expensive, with around a third of respondents (34%) thinking £800 was too expensive, and just over a quarter (27%) saying £400 was too expensive.

In contrast, the most common reason given in the situation involving a couple seeking their rental deposit back from their landlord was that the couple hadn't done anything wrong, with approximately half of respondents saying this (46% of those presented with the higher fee of £300 and 51% of those presented with the lower £150 fee). Interestingly, the description of the case did not assign blame to the landlord (or the couple), but respondents seem to have assumed that the couple are in the right.

In the example describing a father seeking increased contact with his child, people who thought that the lower fee amount of £300 was not reasonable were most likely to say that this was because the father hadn't done anything wrong (37%). However people who were presented with a £1000 fee were equally likely to say that the father hadn't done anything wrong and that the fee was too expensive in itself (both 29%).

In all three situation types, people presented with the higher fee amount who felt it was not reasonable were more likely to say this was because it was too expensive than those who felt the lower fee was not reasonable (although due to the small numbers, the differences were not statistically significant for the divorce or rent situations). This was particularly apparent in the child contact situation.

How views on situations varied by general attitudes to fees

People's views on these specific situations varied by their overall views of courts and fees, with those who thought that courts should be free to all at point of use, as expected, more likely to say that the people described in the scenarios should not have to pay a fee. Similarly, those who thought that people who use civil and family courts should make a contribution towards the cost of the service if they can afford to were more likely to think that the stated fee amount were reasonable. However, a proportion of people who agreed in principle that courts should be free to all and/or that users should not have to contribute towards court costs appeared to change their view when presented with a specific situation, that is, they agreed that it was reasonable for the court user described to pay the stated fee. This may be because although they hold certain views in principle, when faced with the details of a specific case they change their view or consider it from a different perspective.

Around four-fifths of people who agreed that people who wanted a divorce should contribute to the costs of the court service if they could afford to, agreed that the stated fees in the divorce situations were reasonable (75% for the £800 fee; 83% for the £400 fee). The figures were statistically significantly lower among those who disagreed that people who wanted a divorce should contribute to the costs if they could afford to (although the small base sizes means that the confidence intervals on these estimates are relatively wide).

Approximately three-fifths of people who said that family courts should be free to all at point of use and funded by the taxpayer, when presented with a specific case involving divorce said that the stated fee was reasonable (59% for the £800 fee; 62% for the £400 fee). The apparent change in view from the general questions to the specific situations could be because they held certain views in principle, but these views changed when considering the details of a specific case.

People who agreed that parents who went to court for a child contact decision should contribute to the costs of the court service if they could afford to were more likely to say that the stated fee was reasonable in the child contact situation than those who felt that parents should not contribute to court costs (40% compared with 14% in relation to the £1000 fee situation; 71% compared with 34% for the £300 fee situation). That just over a third (34%) of those who said parents should not contribute to court costs even if they could afford to thought that paying a £300 fee was reasonable in the situation, again suggests that views may change when considering the specific details of a case.

Similarly, even among those who thought that family courts should be free to all at point of use, a substantial minority said that the payment of the stated fee in the child contact scenario was reasonable (34% of those presented with the £1000 scenario and 42% of those presented with the £300 scenario).

People's views on the rent deposit scenarios also varied by their general attitudes to court fees. People who agreed that people who used the civil courts should contribute to the costs of the court service if they could afford to were more likely to say that the stated fee was reasonable than respondents who disagreed with this (64% compared with 34% for those presented with the £300 fee and 75% compared with 31% for the £150 fee).

Of those who thought that civil courts should be free to all, almost six in ten thought that the stated fee in the situation was reasonable (57% for the £300 fee and 56% for the £150 fee). A similar proportion of those who thought that civil courts should not be free to all said that the £300 fee was reasonable (62%). However, of those presented with the £150 fee, a significantly higher proportion of those who thought that civil courts should not be free to all said that the fee was reasonable (75%). See supplementary tables.

As with the divorce and child contact scenarios, there appears to be a change in view among some of those who were not supportive of court fees at the earlier questions when they are presented with a specific situation.

How views on situations varied by confidence

People's views on whether the father seeking increased contact with his child should pay the stated fee in the situation did not vary markedly by their confidence in whether family courts took parents' views into account or made the best decisions for children. This held for both the group presented with a £1000 fee and the group presented with a £300 fee.

However, confidence in the civil justice system was associated with respondents' views on the rental deposit scenario, with people who were very or fairly confident that civil courts took both parties' views into account when dealing with disputes being more likely to think a £300 fee was reasonable than people who were not confident (63% compared with 45%). There was not a statistically significant difference for respondents presented with the £150 fee.

Conclusions

Overall, the public's levels of confidence in the civil justice system are slightly higher than their confidence in the family justice system, with approximately three fifths of people confident that civil courts took the views of both parties into account and that civil courts made fair decisions, compared with approximately half of people confident that family courts took into account the views of both parents, and made decisions in the best interests of the children. Around a quarter of respondents did not express a view.

When asked questions about their general attitudes to court fees, the majority of people said that individuals and businesses who use the civil and family courts to resolve disputes should pay a fee towards the cost of the court service if they could afford to. Approximately half of respondents agreed that people who earned less than £15,000 a year should not pay a court fee, and around a fifth agreed that family and civil courts should be free to all at the point of use and fully funded by general taxation. This indicates that the majority of the public agree with the current system of charging civil and family court users a court fee if they can afford to pay, with a remissions system in place to exempt those who cannot pay.

The majority of respondents felt that the court users described in the hypothetical situations should pay either the stated fee or a smaller amount towards the costs of the court. This varied for the different cases described in the situations, with respondents most likely to say the fee should be paid in the divorce situation, and least likely to say that the couple seeking the return of their rental deposit should pay a fee.

As expected, views on whether the people described in the situations should pay the specific stated fees varied by respondents' general views on fees, with those who thought that court users should contribute to court costs and that courts should not be free to all, more likely to think the hypothetical fees were reasonable and should be paid. Even so, many people who initially disagreed that court users should contribute to court costs if they could afford to, and agreed that courts should be free to all at point of use, when presented with the fees in the hypothetical situations said that the fees were reasonable. This suggests that perhaps they changed their views when thinking about the specific details of a case.