

**Title:** Prisons and Courts Bill: Court and Tribunal staff: Provision of legal advice and exercise of powers

**IA No:** MoJ038/2016

**RPC Reference No:** N/A

**Lead department or agency:** Ministry of Justice

**Other departments or agencies:** HM Courts and Tribunals Service

## Impact Assessment (IA)

**Date:** 22/02/2017

**Stage:** Final

**Source of intervention:** Domestic

**Type of measure:** Primary legislation

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### Summary: Intervention and Options

**RPC Opinion:** Not Applicable

#### Cost of Preferred (or more likely) Option

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
£61.6m	Nil	Nil	Not in scope	Not in scope

#### What is the problem under consideration? Why is Government intervention necessary?

HM Courts and Tribunals Service (HMCTS) staff can already be authorised to exercise certain aspects of the jurisdiction of a court or tribunal. More extensive and flexible use of such staff across all courts and tribunals will be an important factor in the delivery of our reforms to the justice system. We are describing this cadre of HMCTS staff as 'authorised court and tribunal staff', in line with the relevant draft legislation provisions. The term 'case officers' has also been used in the development of these provisions. Relevant primary legislation already exists in every jurisdiction to deliver a limited function for authorised HMCTS staff, except in the Crown Court. New legislation is therefore required to realise the full extent of our ambition.

#### What are the policy objectives and the intended effects?

The Government believes that where appropriate, specially trained court staff would be able to deal with some uncontroversial, straightforward matters under judicial authorisation as effectively as the judges currently do. This would help to resolve disputes more quickly. To achieve this outcome the Government would create a generic role for authorised court and tribunal staff, with a flexible and accountable method of assignment to support the work of the judiciary. New powers are required to provide for the functions in the Crown Court and to reform the role of the justices' clerk, in the magistrates' courts and family jurisdiction alongside appropriate safeguards which will apply to the other jurisdictions. The aim of the policy is to ensure that suitably authorised court and tribunal staff can be deployed flexibly (following successful completion of the relevant training, and with consideration of business requirements) across all jurisdictions.

#### What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

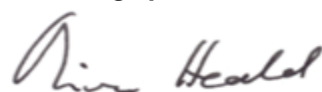
- Option 0: Do nothing. Deliver limited role for authorised court and tribunal staff through existing rules.
  - Option 1: Reform justices' clerk role. Legislate to create a new power to extend the role of authorised court and tribunal staff into the Crown Court only and extend the safeguards that apply to justice's clerks to the Crown Court.
  - Option 2: Reform justices' clerk role, legislate to create a new single power applicable to all jurisdictions and provide safeguards to facilitate extensive use of authorised court and tribunal staff in all jurisdictions.
  - Option 3: Reform justices' clerk role, legislate to create a new power covering magistrates' courts, the Crown Court and the family jurisdiction, and provide safeguards to facilitate extensive use of authorised court and tribunal staff in all jurisdictions.
- Option 3 is the preferred option.

#### Will the policy be reviewed? There is no plan to review the policy.

Does implementation go beyond minimum EU requirements?	N/A			
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
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** 22/02/2017

## Summary: Analysis & Evidence - Option 1 (and subsequent reform)

**Description.** Reform justices' clerk role. Legislate to create a new power to extend the role of authorised court and tribunal staff into the Crown Court only and extend the safeguards that apply to justices' clerks to the Crown Court.

### FULL ECONOMIC ASSESSMENT (of primary legislation and subsequent reform)

Price Base Year 14/15	PV Base Year 16/17	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 15.7	High: 20.7	Best Estimate: 19.0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	0.6 (steady state)	2.6
High	0	1.4 (steady state)	6.5
Best Estimate	0	1.2 (steady state)	5.2

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

HMCTS would acquire costs from the introduction or widening of the role of authorised court and tribunal staff in the Crown Court and providing safeguards of around £1.2m pa. These would be the costs of salaries for additional authorised court and tribunal staff.

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

Training and recruitment costs for authorised court and tribunal staff may vary by jurisdiction and have not been monetised.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	3.2 (steady state)	18.3
High	0	5.2 (steady state)	27.2
Best Estimate	0	4.6 (steady state)	24.2

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

HMCTS would gain benefits from the introduction or widening of the role of authorised court and tribunal staff in the Crown Court and providing safeguards of around £2.6m pa. These benefits will come from authorised court and tribunal staff taking on some tasks previously completed by the judiciary such as case progression work and case management hearings. HMCTS would also gain benefits of around £1.9m pa from reforming the justices' clerk role.

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

Users of the Crown Court may experience a more efficient service in the resolution of case management decisions outside the formal hearings. Justices' clerks could also do more tasks in the magistrates' courts potentially reducing delays for users.

#### Key assumptions/sensitivities/risks

Discount rate

3.5

- Changes to the role of justices' clerks and the associated benefits would be achieved through primary legislation. All other costs and benefits presented in this assessment are those of anticipated subsequent reforms (which would be delivered via secondary legislation) that are enabled by the powers given in the primary legislation.
- A 15% optimism bias has been applied to the benefits and costs to mitigate the risk of overstating benefits and understating costs.
- There is a risk that volumes may change. However, published statistics show that whilst receipt volumes may fluctuate, as an average over several years they have remained reasonably constant.
- Analysis is based on our current understanding of what the future changes would be. Best estimates of the types of tasks that would be completed by authorised court and tribunal staff, and what percentages of the task would be transferred to authorised court and tribunal staff, have been informed by current practice and Subject Matter Experts. The legislation would have been passed and be ready to action in 2018/19. There would be a staged implementation in the Crown Court and immediate full implementation in all other jurisdictions.

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs:	Benefits:	Net:	Nil
N/A	N/A	N/A	

## Summary: Analysis & Evidence - Option 2 (and subsequent reform)

**Description.** Reform the justices' clerk role, legislate to create a new single power applicable to all jurisdictions and provide safeguards to facilitate extensive use of authorised court and tribunal staff in all jurisdictions.

### FULL ECONOMIC ASSESSMENT (of primary legislation and subsequent reform)

Price Base Year 14/15	PV Base Year 16/17	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 37.0	High: 73.9	Best Estimate: 61.6

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	3.7 (steady state)	23.7
High	0	9.4 (steady state)	59.2
Best Estimate	0	7.5 (steady state)	47.3

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

HMCTS would acquire costs from the introduction or widening of the role of authorised court and tribunal staff in the Crown Court, civil jurisdiction, family jurisdiction and tribunals of around £7.5m pa. These would be the costs of salaries for additional authorised court and tribunal staff.

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

Training and recruitment costs for authorised court and tribunal staff may vary by jurisdiction and have not been monetised. This option would involve legislating unnecessarily in the civil jurisdiction and tribunals.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	9.6 (steady state)	60.6
High	0	21.1 (steady state)	133.1
Best Estimate	0	17.3 (steady state)	109.0

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

HMCTS would gain benefits from the introduction or widening of the role of authorised court and tribunal staff in the Crown Court, civil jurisdiction, family jurisdiction and tribunals of around £15.4m pa. These benefits will come from authorised staff taking on some tasks previously completed by the judiciary such as case progression work and case management hearings. HMCTS would also gain benefits of around £1.9m pa from reforming the justices' clerk role.

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

Users of the courts and tribunals system may experience a more efficient service in the resolution of case management decisions outside the formal hearings. Authorised court and tribunal staff would be independent of the Lord Chancellor when exercising any judicial functions. Reforming the justices' clerks role would help implement more effective case allocation and legal leadership of the interface between the Crown Court and magistrates' courts.

#### Key assumptions/sensitivities/risks

Discount rate

3.5

- Changes to the role of justices' clerks and the associated benefits would be achieved through primary legislation. All other costs and benefits presented in this assessment are those of anticipated subsequent reforms (which would be delivered via secondary legislation) that are enabled by the powers given in the primary legislation.
- A 15% optimism bias has been applied to the benefits and costs to mitigate the risk of overstating benefits and understating costs.
- There is a risk that volumes may change. However, published statistics show that whilst receipts volumes may fluctuate, as an average over several years they have remained reasonably constant.
- Analysis is based on our current understanding of what the future changes would be. Best estimates of the types of tasks that would be completed by authorised court and tribunal staff, and what percentages of the task would be transferred to authorised court and tribunal staff, have been informed by current practice and Subject Matter Experts.
- The legislation would have been passed and be ready to action in 2018/19. There would be a staged implementation in the Crown Court and immediate full implementation in all other jurisdictions.

### BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: N/A	Benefits: N/A	Net: N/A	Nil

## Summary: Analysis & Evidence - Option 3 (and subsequent reform)

**Description.** Reform the justices' clerk role, legislate to create a new power covering magistrates' courts, the Crown Court, and the family jurisdiction, and provide safeguards to facilitate extensive use of authorised court and tribunal staff in all jurisdictions.

### FULL ECONOMIC ASSESSMENT (of primary legislation and subsequent reform)

Price Base Year 14/15	PV Base Year 16/17	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 37.0	High: 73.9	Best Estimate: 61.6

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	3.7 (steady state)	23.7
High	0	9.4 (steady state)	59.2
Best Estimate	0	7.5 (steady state)	47.3

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

HMCTS would acquire costs from the introduction or widening of the role of authorised court and tribunal staff in the Crown Court, civil jurisdiction, family jurisdiction and tribunals of around £7.5m pa. These would be the costs of salaries for additional authorised court and tribunal staff.

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

Training and recruitment costs for authorised court and tribunal staff may vary by jurisdiction and have not been monetised.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	9.6 (steady state)	60.6
High	0	21.1 (steady state)	133.1
Best Estimate	0	17.3 (steady state)	109.0

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

HMCTS would gain benefits from the introduction or widening of the role of authorised court and tribunal staff in the Crown Court, civil jurisdiction, family jurisdiction and tribunals of around £15.4m pa. This will come from authorised staff taking on some tasks previously completed by the judiciary such as case progression work and case management hearings. HMCTS would also gain benefits of around £1.9m pa from reforming the justices' clerk role.

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

Users of the courts and tribunals system may experience a more efficient service in the resolution of case management decisions outside the formal hearings. Authorised court and tribunal staff would be independent of the Lord Chancellor when exercising any judicial functions. Defining the role of justices' clerks would help implement more effective case allocation and legal leadership of the interface between the Crown Court and magistrates' courts. Unlike Option 2, there would be no potentially unnecessary legislation.

#### Key assumptions/sensitivities/risks

Discount rate

3.5

- Changes to the role of justices' clerks and the associated benefits would be achieved through primary legislation. All other costs and benefits presented in this assessment are those of anticipated subsequent reforms (which would be delivered via secondary legislation) that are enabled by the powers given in the primary legislation.
- A 15% optimism bias has been applied to the benefits and costs to mitigate the risk of overstating benefits and understating costs.
- There is a risk that volumes may change. However, published statistics show that whilst receipts volumes may fluctuate, as an average over a several years they have remained reasonably constant.
- Analysis is based on our current understanding of what the future changes would be. Best estimates of the types of tasks that would be completed by authorised court and tribunal staff, and what percentages of the task would be transferred to authorised staff, have been informed by current practice and Subject Matter Experts.
- The legislation would have been passed and be ready to action in 2018/19. There would be a staged implementation in the Crown Court and immediate full implementation in all other jurisdictions.

### BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs:	Benefits:	Net:	Nil
N/A	N/A	N/A	

# Evidence Base

## A. Background

1. The Government is investing over a £1 billion to transform the courts and tribunals system. We will deliver a service that is just, proportionate, accessible to all and works better for everyone, from judges and legal professionals, to witnesses, litigants and victims of crime. This measure is part of a wider legislative package that underpins the court reform programme and collectively contributes to benefits of £252 million per annum at steady state from 2023-24. While most of the measures in the Bill produce significant direct savings, some do not. However, the measures are interdependent and all contribute to wider, indirect savings by streamlining processes, enabling more flexibility in judicial deployment, digitalisation, effective deployment and utilisation of our staff and estates. In short, each measure is vital for us to deliver the reform programme and associated savings as planned.
2. HM Courts and Tribunals Service (HMCTS) staff can already be authorised to exercise certain aspects of the jurisdiction of a court or tribunal and can perform some administrative tasks to progress cases. Justices' clerks provide legal advice to lay magistrates on matters of law and exercise some case management functions.
3. There are, however, diverse approaches to, and nomenclature for, authorised HMCTS staff in the different jurisdictions and different sources of powers, accountability, and mechanisms for review reflecting, in part, different conceptions and the evolution of the role of authorised staff in those jurisdictions. As a result while relevant primary legislation already exists in every jurisdiction, except the Crown Court, for HMCTS staff to deliver certain functions, the exercise of these powers in some jurisdictions has been limited to date due to the absence of the necessary safeguards, for example independence from the Lord Chancellor when exercising judicial functions. We believe that such safeguards are required in order to realise the full extent of the benefits of authorised courts and tribunal staff.
4. In the Crown Court the power to authorise staff is restricted to "formal and administrative matters" (Senior Courts Act 1982, s 82). In the civil jurisdiction the power exists (in the Civil Procedure Act 1997) for the Civil Procedure Rule Committee to assign functions to court staff. A similar power exists in tribunals. However, the Tribunal Procedure Committee has delegated this power (in accordance with the Tribunals, Courts and Enforcement Act 2007) to the Senior President of Tribunals (SPT) which he exercises via Practice Statements. In the magistrates' courts and the family jurisdiction, the Lord Chancellor, with the concurrence of the Lord Chief Justice (Courts Act 2003 s 82), identifies which powers of a single justice can be exercised by a justices' clerk.
5. More extensive and flexible use of authorised court and tribunal staff across all courts will be an important factor in the transformation of the justice system. The government believes that judges' time would be better spent on complex, deliberative matters, allowing the more straightforward tasks, and cases, to be progressed by appropriately authorised court and tribunal staff. The increased use of authorised court and tribunal staff is supported by the senior judiciary including but not limited to the final report of the Civil Court Structure Review led by Briggs LJ<sup>1</sup> and the report of the President of the Queen's Bench Division on efficiency in the Criminal Justice System<sup>2</sup>.
6. Authorised HMCTS staff would be assigned a variety of functions and responsibilities, including case management powers and some mediation roles. By utilising authorised HMCTS staff powers, a range of approaches to case management activity could be deployed, ensuring that case management issues are resolved at an appropriate and proportionate level.

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<sup>1</sup><https://www.judiciary.gov.uk/civil-courts-structure-review/civil-courts-structure-review-ccsr-final-report-published/>

<sup>2</sup> <https://www.judiciary.gov.uk/the-president-of-the-queens-bench-divisions-review-of-efficiency-in-criminal-proceedings/>

7. A specialist subset of the authorised court and tribunal staff role would be case lawyers who are required to make decisions using an understanding of complex legal issues and reliable legal judgement, underpinned by legal research, which would be expected of a professional lawyer. These functions would be specific to particular jurisdictions and some would require staff with legal training and qualifications and/or close supervision by the judiciary. Additionally, some authorised staff roles would include the provision of legal advice to lay justices.
8. Concurrently the government is seeking to reform the role of justices' clerks, HMCTS's most senior lawyers. A new cross-jurisdictional, non-statutory role would be created to manage the new authorised court and tribunal staff structure. This would allow justices' clerks to move away from their current focus on the work of magistrates' court and better realise their potential to take on a greater judicial leadership role across all jurisdictions.
9. A power in primary legislation is required to extend the functions of authorised court and tribunal staff into the Crown Court. The government, therefore, proposes to establish a new power for the Criminal Procedure Rules Committee to authorise judicial functions for authorised court and tribunal staff in the Crown Court through rules of court. This would also impact on the approach in the magistrates' courts and the Family Court where similar rules of court will be required.
10. In the other jurisdictions which are within the scope of these changes the government intends to build on the existing process for assignment of judicial responsibilities. Furthermore, the intention is to introduce safeguards with regard to all authorised HMCTS staff across the jurisdictions to ensure that, amongst other things, the statute provides for their independence whilst exercising judicial functions. Authorised court and tribunal staff would not be subject to direction by the Lord Chancellor for the purposes of exercising their assigned functions. The Lord Chief Justice and the SPT would be ultimately responsible for the assignment and direction of authorised court and tribunal staff.

## **B. Policy Rationale and Objectives**

11. The conventional economic rationale for government intervention is based on efficiency or equity arguments. Government intervenes if there is a perceived failure in the way a market operates ("market failures") or to correct existing institutional distortions ("Government failures"). Government also intervenes for equity ("fairness") reasons.
12. The government would like to correct existing institutional arrangements which are leading to inefficiency within the court system. Outdated processes are costly for both the government and court users, including businesses. Working with the senior judiciary, the government has concluded that continuing gradual iterative reform of the justice system based on individual jurisdictions will not be sufficient to deliver the level of change needed, either in terms of delivering the system-wide improvements needed by users or the reduced costs needed to make sure that the system delivers justice in a proportionate and sustainable way. Instead it is seeking to take forward a radical and ambitious programme to transform the justice system by applying common design features and principles across the whole of the justice system.
13. The rationale for government intervention in this instance is the need to revise the legislative framework which currently does not support the use of authorised court and tribunal staff in the Crown Court or allow for the greater efficiency of a cross-jurisdictional management structure. The associated policy aim is to ensure that authorised HMCTS staff can be deployed flexibly (following successful completion of the relevant training, and with consideration of business requirements) across all jurisdictions. In order to achieve this outcome we wish to create a generic role for authorised court and tribunal staff with a flexible and accountable method of assignment which would support the work of the judiciary by

reserving judicial time for the more complex and contentious cases that make the best use of their time.

### C. Affected Stakeholder Groups, Organisations and Sectors

14. The following groups would be most affected by the options considered in this Impact Assessment (IA):

- HMCTS
- Judges and Judicial Office Holders
- Court Users

### D. Description of Options Considered

15. To meet the policy objectives, the following options have been considered:

- **Option 0/ Do nothing: Deliver limited role for authorised court and tribunal staff through existing rules.**
- **Option 1: Reform the justices' clerk role, legislate to create a new power to extend the role of authorised court and tribunal staff into the Crown Court only and extend the safeguards that apply to justice's clerks to the Crown Court.**
- **Option 2: Reform the justices' clerk role, legislate to create a new single power applicable to all jurisdictions and provide safeguards to facilitate more extensive use of authorised court and tribunal staff in all jurisdictions.**
- **Option 3: Reform the justices' clerk role, legislate to create a new power covering magistrates' courts, the Crown Court and the family jurisdiction and provide safeguards to facilitate extensive use of authorised court and tribunal staff in all jurisdictions.**

**Option 0: Do nothing, deliver limited role for authorised court and tribunal staff through existing rules.**

16. This option would maintain the existing powers and would, therefore, retain the current gap in powers. Consequently, the Crown Court would only be able to assign formal or administrative tasks to authorised court and tribunal staff, precluding any improvements to current processes and efficiency. In other jurisdictions the exercise of powers by authorised court and tribunal staff may be inhibited without the proposed safeguards. Under this option the judiciary would continue to undertake straightforward case management functions which would take more of their time away from the complex and contentious cases. Additionally, amendments to the method of assigning powers of authorised court and tribunal staff in the magistrates' court and Family Court would not be made due to the concurrent, and separate proposed reforms to Local Justice Areas.

17. In summary, this option would reduce the ability to create the coherent, cross-jurisdictional leadership structure for authorised court and tribunal staff which is envisaged. This is because this option would not allow for the introduction of authorised court and tribunal staff into the Crown Court. In tribunals, the civil jurisdiction and the family jurisdiction the role of authorised court and tribunal staff would be limited and, therefore, would not realise the full potential benefits. In the magistrates' courts and family jurisdiction the statutory requirement to appoint justices' clerks would remain and would restrict the necessary reforms required to introduce an authorised court and tribunal staff management structure or to reform of the justices' clerk role.

18. Under this option, there would still be some costs associated with the training and recruitment of new HMCTS staff for the limited delivery in the civil jurisdiction, family jurisdiction and tribunals which could reduce delays and ensure cases are progressed via the most appropriate channel which would yield benefits to court users.

**Option 1: Reform justices' clerk role, legislate to create a new power to extend the role of authorised court and tribunal staff into the Crown Court only and extend the safeguards that apply to justices' clerks to the Crown Court.**

19. The magistrates' courts and family jurisdiction currently have justices' clerks who perform a range of functions including advice to the justices on matters of law and some procedural and case progression matters. The functions of justices' clerks are set out in court rules. Justices' clerks perform a similar role in the family jurisdiction to that which they undertake in magistrates' courts.

20. Under this option, and as a result of this primary legislation, a new power to authorise functions for court and tribunal staff could be created in the Crown Court and the safeguards that apply to justices' clerks would be introduced into the Crown Court (in addition to where they already exist) but not into the other jurisdictions. Option 1 is likely to deliver a more limited function for authorised court and tribunal staff in other jurisdictions, as the required safeguards, such as judicial assignment of the functions of authorised HMCTS staff and independence from the Lord Chancellor when exercising judicial functions, would not be available.

21. Amendments to the method of assigning powers for authorised court and tribunal staff in the magistrates' court and Family Court would still have to be made due to the concurrent, and separate reforms to Local Justice Areas. We do not believe that this is the right option within the context of our priorities for justice reform.

**Option 2: Reform justices' clerk role, legislate to create a new single power applicable to all jurisdictions and provide safeguards to facilitate more extensive use of authorised court and tribunal staff in all jurisdictions.**

22. Under this option primary legislation could be used to align the mechanisms for authorising powers for court and tribunal staff across all jurisdictions within the scope of the changes. This approach would provide a single method of assignment rather than relying on different processes across the jurisdictions. If this approach were combined with the reform of the role of justices' clerks and the addition of safeguards for authorised court and tribunal staff, it might help to create a more coherent approach to the role of such staff. The result would be a reform of the current justices' clerk role in the magistrates' courts and family jurisdiction in addition to the expansion or introduction of a role for authorised court and tribunal staff, which could realise all the proposed benefits in the civil jurisdiction, tribunals, family jurisdiction and the Crown Court.

23. There would be, however, drawbacks to such an approach. A cross-jurisdictional power would require the replacement of existing authorisation powers in the civil and tribunals jurisdictions both of which are well established and could be used as a platform for an expansion of the role of authorised court and tribunal staff. There is no identifiable benefit to such a replication and, as a result, we do not consider this approach is the right option to pursue.

**Option 3: Reform justices' clerk role, legislate to create a new power covering magistrates' courts, the Crown Court and the family jurisdiction and provide safeguards to facilitate extensive use of authorised court and tribunal staff in all jurisdictions.**

24. Under this option primary legislation would enable procedural rules committees to authorise which tasks could be exercised by authorised court and tribunal staff in the magistrates' courts, Crown Court and Family Court. It would extend the role of authorised court and tribunal staff into the Crown Court,



reform the role of justices' clerks in the magistrates' courts and family jurisdiction and provide for a broader application of safeguards which could enable extended use of authorised court and tribunal staff across all of the jurisdictions within the scope of the changes.

25. This is the preferred option as it best meets the government's ambition for authorised court and tribunal staff. This option would require the provision of a new power across magistrates' courts, the Crown Court and the family jurisdiction but would leave established delegation powers in civil jurisdiction and tribunals untouched. Proposed statutory safeguards would apply across all jurisdictions which could enable an expansion of the role and responsibilities of authorised court and tribunal staff in the civil jurisdiction and tribunals without a new power (as in Option 2) subject to the authorisation of the relevant rule committees.

## **E. Cost and Benefit Analysis**

26. This IA identifies both monetised and non-monetised impacts on individuals and groups in England and Wales with the aim of understanding what the overall impact on society might be from implementing the preferred option. As Option 0 would still allow for some benefits of reform to be realised without government intervention (as outlined briefly above), this option is used as the baseline for making comparisons with the other options. Therefore, because Option 0 is compared to itself its costs and benefits, and therefore its Net Present Value (NPV), are necessarily zero.
27. Changes to the role of justices' clerks and the associated benefits would be achieved through primary legislation. All other costs and benefits presented in this assessment are those of anticipated subsequent reforms (which would be delivered via secondary legislation) that are enabled by the powers given in the primary legislation. It would be for the relevant rules committees, or the SPT, to decide the appropriate use of authorised court and tribunal staff within the constraints set out by legislation and there is no intention for this analysis to prejudice subsequent decisions made by those authorities.
28. The costs and benefits outlined below represent the Ministry of Justice's best estimates of the likely impacts of reforms to the roles of authorised court and tribunal staff. As they are based on current thinking of what future changes may look like, there is some uncertainty around the precise figures. This current thinking has been informed by the best available information, Subject Matter Experts and operational staff. Best estimates of the types of tasks that would be completed by authorised court and tribunal staff, and what percentages of the task would be transferred to them, have been informed by current practice and the Subject Matter Experts. Our current best estimates are continuously reviewed and may be subject to change.
29. As the Court Reform programme is undertaking a root and branch transformation, the number of calculations involved in the derivation of the figures provided in this IA has been extensive and to detail them all here would be disproportionate. This is especially so because, again owing to the transformational nature of the Reform programme, many of the estimates are assumptions driven at this stage and likely to change, both in response to potential future consultations – if undertaken by any of the jurisdictional rule committees or the SPT - and as processes and roles are further clarified.
30. Instead, the level of analysis is intended to allow those interested in this policy to understand the comparative scale of the costs and benefits involved in relation to authorised court and tribunal staff in each jurisdiction. Where assumptions concerning novel processes have been made, these have been based on existing management information and extensive consultation with stakeholders, including senior members of the judiciary, and have passed through rounds of challenge sessions to test their plausibility.
31. The analysis has been compiled for a number of key jurisdictions, including the magistrates' courts, Crown Court, the civil jurisdiction, the family jurisdiction and the two largest first-tier tribunals by caseload: the Immigration and Asylum Chamber (IAC) and Social Security and Child Support (SSCS) jurisdiction. Many of the smaller courts and tribunals by volume, such as the High Court and the Mental Health tribunal, are not included but would nevertheless be subject to similar powers.

32. Some jurisdictions have, however, not been included in this IA. Authorised court and tribunal staff in the Employment Tribunals were analysed in the Reform of the Employment Tribunal System IA, published 5th December 2016<sup>3</sup>. Probate and the Court of Protection would also be subject to similar powers but are yet been modelled as the initial design work is still underway.
33. There are also no monetised costs or benefits to users of the courts and tribunals system in this IA. However it has been assumed that the existence and expanded use of authorised court and tribunal staff would yield benefits by reducing delays and by ensuring cases are progressed via the most appropriate channel.
34. In what follows, the costs and benefits of each option, and the net benefits, are allocated by the relevant jurisdiction. For a descriptive summary of the net benefits associated with each option, see Annex A.

**Option 1: Reform justices' clerk role. Create a new power to extend the role of authorised court and tribunal staff into the Crown Court only and provide safeguards in the Crown Court only.**

35. Option 1, by extending the role of authorised court and tribunal staff into the Crown Court, would incur additional costs and provide additional benefits in the Crown Court compared with Option 0. The benefits of authorised court and tribunal staff in the family jurisdiction, civil jurisdiction and tribunals, as outlined in Option 0, could still be realised.

*Magistrates' courts and family jurisdiction*

36. In the magistrates' courts and the family jurisdiction there would be reform of the justices' clerk role. In 2014/15 there were 25 full-time equivalent (FTE) justices' Clerks. It has been assumed that, post-reform, fewer FTEs would be required due to a rationalisation of court process and improved efficiency through the increased use of technology. Our current best estimates suggest there would be around 7 FTE required, providing a net benefit of £1.9m per annum.
37. Removing the jurisdictional boundaries imposed by the statutory role of justices' clerk and assistant justices' clerks is a key part of the government's plan to align the criminal courts. This would help implement more effective case management between the two jurisdictions to improve efficiency and accountability and drive up the overall performance of the criminal courts.

*Crown Court*

38. Authorised court and tribunal staff would undertake some tasks currently completed by judges. For the purposes of this IA, it has been assumed that these are likely to be case management and case progression tasks although it would be the responsibility of the individual rules committees to set out the precise functions that we can expect a suitably authorised member of HMCTS staff to undertake post-reform in the Crown Court. For this reason we have used our current best estimates derived from current learning and the input of Subject Matter Experts.
39. The introduction of authorised court and tribunal staff as described above would free up judicial time, equating to around 3,000 sitting days per annum, so allowing judges to focus on more complex matters. This would provide an economic benefit of around £2.6m per annum. As the annual cost of authorised court and tribunal staff in the Crown Court would be around £1.2m, this would provide a net benefit of around £1.5m per annum<sup>4</sup>.

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<sup>3</sup> <https://www.gov.uk/government/consultations/reforming-the-employment-tribunal-system>

<sup>4</sup> Numbers may not sum due to rounding.

40. The above is a best estimate as it would be for the relevant rules committees to decide the appropriate use of authorised court and tribunal staff within the constraints set out by legislation. If they were to delegate fewer tasks to authorised HMCTS staff, and only free up 50% of our current best estimate of judicial sitting days, there would still be a net benefit of £0.7m per annum.
41. The relevant rules committees may also authorise more tasks, or authorise them in areas of the jurisdiction that have not been modelled using the best estimates above. If, for example, 25% more judicial sitting days were freed up than the current best estimate, this would create a net benefit of £1.9m per annum.
42. There would be costs in addition to those in Option 0 associated with the training and recruitment of new authorised court and tribunal staff in the Crown Court.

### Option 1: Summary

43. Table 1 shows the net impact of the reform of the justices' clerk role, extending the role of authorised court and tribunal staff into the Crown Court and of providing safeguards in the Crown Court included under Option 1:

**Table 1. Net Impact of Option 1**

	<b>Total Cost</b>	<b>Total Benefit</b>	<b>Net Benefit</b>
<b>Option 1 (compared with Option 0)</b>	£1.2m pa	£4.5m pa	£3.3m pa

44. Option 1 would have a monetised best estimate NPV of £19.0m with a 2016/17 base year, 2018/19 implementation and a 10 year appraisal period.

**Option 2: Reform the justices' clerk role, legislate to create a new single power applicable to all jurisdictions and provide safeguards, such as independence, when exercising a judicial function, to facilitate more extensive use of authorised court and tribunal staff in all jurisdictions.**

45. Option 2 would incur additional costs and provide additional benefits in the tribunals, the family jurisdiction and the civil jurisdiction compared with Option 0. The benefits from the reform of the justices' clerk role in the magistrates' courts and family jurisdiction, as described in Option 1, would also be realised. The benefits of extending the role of authorised court and tribunal staff into the Crown Court and providing safeguards in the Crown Court, as described in Option 1, would also be realised.
46. There would be costs associated with the training and recruitment of new authorised court and tribunal staff, in addition to those described in Option 0 as the full role could be implemented in all jurisdictions.

#### *Magistrates' courts*

47. The costs and benefits from reforming the justices' clerk role in the magistrates' court would be as described in Option 1.

#### *Family jurisdiction*

48. The costs and benefits from reforming the justices' clerk role in the family jurisdiction would be as described in Option 1.

49. The costs and benefits from introducing safeguards to extend the role of authorised court and tribunal staff in the family jurisdiction would be as follows. Authorised court and tribunal staff would undertake some tasks currently completed by judges although it would be the responsibility of the individual rules committees to set out the precise functions that we can expect a member of authorised HMCTS staff to undertake post-reform in the family jurisdiction. For this reason we have used our current best estimates. The figures below are based on the assumption that authorised court and tribunal staff would complete some case management hearings and interlocutory work in some cases.
50. The introduction of authorised court and tribunal staff would free up some judicial time, equating to around 9,400 sitting days per annum, allowing judges to focus on more complex matters, providing an economic benefit of around £7.4m per annum. As the cost of annual authorised court and tribunal staff in the family jurisdiction would be around £2.9m, this would provide a net benefit of around £4.5m per annum.
51. Whilst the above is a best estimate, the relevant rules committees would decide the appropriate use of authorised court and tribunal staff within the constraints set out by legislation. If they were to authorise fewer tasks to this cadre of staff, and only free up 50% of the best estimate of judicial sitting days, there would still be a net benefit of £2.3m per annum.
52. The relevant rules committees may also authorise more tasks, or authorise them in areas of the jurisdiction that have not been modelled using the best estimates above. If, for example, 25% more judicial sitting days were freed up than our current best estimate, this would create a net benefit of £5.7m per annum.

#### *Crown Court*

53. The costs and benefits from extending the role of authorised court and tribunal staff into the Crown Court and providing safeguards in the Crown Court would be as described in Option 1.

#### *Tribunals*

54. Option 0 would incur some of the costs and benefits described here as some of the changes to authorised court and tribunal staff due to reform in tribunals can be delivered under current rules. As we do not know the proportion of the total costs and benefits that can be delivered under current rules we have included the full amounts here. This provides a highest level best estimate of costs and benefits of Option 2 relative to Option 0. The IAC and the SCS jurisdictions have been modelled in detail and are included in the analysis below.
55. The full costs and benefits of reform could be realised under Option 2 because of the provision of safeguards including authorised court and tribunal staff independence from the Lord Chancellor when exercising their judicial functions.
56. Authorised court and tribunal staff would undertake some tasks currently completed by judges. Under current arrangements it would be the responsibility of the SPT to set out the precise functions that we can expect a member of authorised HMCTS staff to undertake post-reform in tribunals. For this reason we have used our current best estimates. The figures below assume authorised court and tribunal staff would deal with preliminary issues, interlocutory work and some case management hearings in the IAC and SCS. Authorised court and tribunal staff would also undertake a new case progression function, allocating cases to the most appropriate track at the earliest possible stage.
57. The introduction of authorised court and tribunal staff would free up judicial time, equating to around 1,700 sitting days per annum, allowing judges to focus on more complex matters. However, the introduction of the new case progression function (not currently completed by judges) would create the equivalent of 7,100 sitting days per annum. When combined these changes would provide an

economic benefit of around £1.3m per annum. As the annual cost of authorised court and tribunal staff in the tribunals would be around £1.7m, this would create a net cost of around £0.5m per annum<sup>5</sup>.

58. There would, however, be a benefit from the introduction of the new case progression function as it could reduce delays and ensure a case is progressed via the most appropriate channel. These benefits would be realised through efficiency savings later in the process. However, as we are unable to apportion these efficiency savings to this function, we are unable to monetise this benefit.
59. The above is a best estimate as it would be for the SPT to decide the appropriate use of authorised court and tribunal staff within the constraints set out by legislation. If they were to delegate fewer tasks to authorised court and tribunal staff, freeing up 50% of the current best estimate of judicial sitting days, and introduce only 50% of the new function, decreasing the equivalent number of new authorised court and tribunal staff sitting days by 50%, then there would be a net cost of £0.2m per annum.
60. The SPT may also delegate more tasks, or delegate them in areas of the jurisdiction that have not been modelled using the current best estimates above. If, for example, 25% more judicial sitting days were freed up than the best estimate and 25% more equivalent authorised court and tribunal staff sitting days were required, this would create a net cost of £0.6m per annum.

#### *Civil jurisdiction*

61. Option 0 would incur some of the costs and provide some of the benefits described here as some of the changes to **authorised court and tribunal staff** due to reform in the civil jurisdiction can be delivered under current rules. As we do not know the proportion of the total costs and benefits that can be delivered under current rules, we have included the full amounts here. This provides a highest level best estimate.
62. The full costs and benefits can be realised under Option 2 because of the provision of safeguards including authorised court and tribunal staff independence from the Lord Chancellor when exercising their judicial functions.
63. Currently there is a more limited use of authorised court and tribunal staff in the civil jurisdiction. Post-reform, we envisage that this role would be expanded. It would be the responsibility of the individual rules committees to set out the precise functions that we can expect authorised court and tribunal staff to undertake post-reform in the civil jurisdiction. For this reason we have used our current best estimates. It has been assumed that authorised court and tribunal staff would conduct simple interlocutory hearings online, on the papers and other interlocutory work. Complex interlocutory hearings would still be completed by a judge, heard virtually or physically. Authorised court and tribunal staff would also undertake a new case progression function, allocating cases to the most appropriate hearing type at the earliest possible stage.
64. If authorised court and tribunal staff were introduced for the above tasks in money claims (both specified and unspecified), they would free up judicial time, equating to around 5,600 sitting days per annum, allowing judges to focus on more complex matters. This would provide an economic benefit of around £4.1m per annum. As the annual cost of authorised court and tribunal staff in the civil jurisdiction would be around £1.7m, this would provide a net benefit of around £2.3m per annum<sup>6</sup>.
65. The above is a best estimate as the relevant rules committees would decide the appropriate use of authorised court and tribunal staff within the constraints set out by legislation. If they were to delegate fewer tasks to authorised court and tribunal staff, and only free up 50% of the best estimate of judicial sitting days then there would be a net benefit of £1.2m per annum.

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<sup>5</sup> Numbers may not sum due to rounding.

<sup>6</sup> Numbers may not sum due to rounding.

66. The relevant rules committees may also delegate more tasks, or delegate in areas of the jurisdiction that have not been modelled in the best estimates above. If, for example, 25% more judicial sitting days were freed up than the best estimate, this would create a net benefit of £2.9m per annum.

### Option 2: Summary

67. Table 2 shows the net impact of reform of the justices' clerks role, a new single power applicable to all jurisdictions and the provision of safeguards in regard to authorised court and tribunal staff included under Option 2:

**Table 2: Net Impact of Option 2**

	<b>Total Cost</b>	<b>Total Benefit</b>	<b>Net Benefit</b>
<b>Option 2 (compared with Option 0)</b>	£7.5m pa	£17.3m pa	£9.8m pa

68. Option 2 has a monetised best estimate net present value of up to £61.6m with a 2016/17 base year, 2018/19 implementation and a 10 year appraisal period.

69. While this option can deliver all the potential benefits of the government's reform programme with respect to authorised court and tribunal staff, it would involve unnecessary legislation in the civil jurisdiction and tribunals.

**Option 3: Reform justices' clerk role, legislate to create a new power covering magistrates' courts, the Crown Court, and the family jurisdiction, and provide safeguards to facilitate extensive use of authorised court and tribunal staff in all jurisdictions.**

70. All the costs and benefits would be the same as described in Option 2. The exception is that Option 3 would not require potentially unnecessary legislation in the civil jurisdiction and tribunals.

### Option 3: Summary

71. Table 3 shows the net impact of reform of the justices' clerk role, legislating to create a new power covering magistrates' courts, the Crown Court, and the family jurisdiction and the provision of safeguards in regard to authorised court and tribunal staff included under Option 3.

**Table 3: Net Impact of Option 3**

	<b>Total Cost</b>	<b>Total Benefit</b>	<b>Net Benefit</b>
<b>Option 3 (compared with Option 0)</b>	£7.5m pa	£17.3m pa	£9.8m pa

72. Option 3 has a monetised best estimate net present value of up to £61.6m with 2016/17 base year, 2018/19 implementation and a 10 year appraisal period.

### **Preferred Option and Implementation Plan**

73. Option 3 is the Government's preferred option as it best meets our ambition for authorised court and tribunal staff and brings the maximum net benefit without legislating unnecessarily.

74. We, therefore, propose to establish a new power for the Criminal Procedure Rules Committee to authorise judicial functions for authorised court and tribunal staff in the Crown Court through rules of

court. This would also impact on the approach in the magistrates' courts and the Family Court where similar rules of court would be required to be made by the rules committee (rather than the Lord Chancellor). The case officer role would be widened in the civil jurisdiction, tribunals and family jurisdiction through the introduction of safeguards, as described under Option 2. These safeguards will apply to those courts under the s.1 Courts Act 2003 duty, this will include the following rules:

- Civil Procedure Rules (also applying to the County Court, High Court and Court of Appeal)
- Criminal (also applying to the Magistrates Court, Crown Court and Court of Appeal)
- Crown Court Rules
- Family Procedure Rules (apply to the family court and Court of Appeal)
- the Insolvency rules 1986
- Disqualification of Unfit Directors) Proceedings Rules 1987
- Companies (Unfair Prejudice Applications) Proceedings Rules 2009
- Non-Contentious Probate Rules 1987
- Court of Protection Rules

75. As noted earlier these changes are proposed in tandem with separate proposed reforms to Local Justice Areas which would also impact on the role of the justices' clerk. Additionally, we would require a new cross-jurisdictional leadership structure to support the expansion of authorised court and tribunal staff across HMCTS. We propose to reform the role of the justices' clerks by removing its statutory basis. The introduction of new safeguards would enable rules committees to maximise the use of authorised court and tribunal staff across all jurisdictions. The current safeguards in the civil jurisdiction and tribunals are not sufficient to enable the role of authorised court and tribunal staff in these jurisdictions to be broadened to the extent envisaged as part of these reforms.

76. It is intended that these safeguards would:

- (a) grant authorised court and tribunal staff independence from direction by the Lord Chancellor whilst exercising their authorised powers; and
- (b) introduce a mechanism by which the Lord Chief Justice and SPT would be responsible for the direction and assignment of eligible staff as 'authorised' court and tribunal staff, and were able to delegate that responsibility.
- (c) grant authorised court and tribunal staff indemnity and immunity in relation to decisions made in good faith when exercising their powers.

77. The extent to which the safeguards could extend the functions of authorised court and tribunal staff would, of course, rest with the assigning authority which in the civil jurisdiction would be the Civil Procedure Rules Committee and in tribunals would be the SPT. The safeguards would, therefore, be an enabler to an expansion of the role and responsibilities of authorised court and tribunal staff.

#### *Extent*

78. The provision for authorised court and tribunal staff across the criminal, civil and family jurisdictions only extends to England and Wales. However in tribunals, part 1 of the Tribunals, Courts and Enforcement Act (TCEA) 2007 extends to England and Wales, Scotland and Northern Ireland.

## **F. Risks and Assumptions**

### **Key Assumptions**

79. The costs and benefits in this IA are based on assumptions. Some apply to HMCTS as a whole whereas others would be specific to certain jurisdictions. These assumptions are as follows:

- The analysis and figures presented are in 2014/15 prices using 2014/15 baseline volumes. This assumes that caseloads will remain constant.

- Authorised court and tribunal staff costs are based on a HMCTS Band B salary, except in the Crown Court where they are based on a Band A salary and include non-wage costs such as pension and National Insurance contributions. Training and recruitment costs may vary by jurisdiction and have not been monetised.
- The legislation will have been enacted by 2018/19. There would be staged implementation in the Crown Court, as described in the Crown Court assumptions below, and immediate full implementation in all other jurisdictions. Although this is assumed, it would be subject to decisions made by the rules committees.
- Authorised court and tribunal staff would be as efficient as judges. For some tasks in the civil jurisdiction, family jurisdiction and tribunals, it has been assumed that authorised court and tribunal staff would need to escalate to a judge in 10% of cases due to the complexity of the case. In the Crown Court it has been assumed that 50-75% would be completed by a member of authorised court and tribunal staff depending on the task.
- Authorised court and tribunal staff would conduct the types of tasks specified in the analysis for each jurisdiction above.

#### *Tribunals*

- A sitting day of 6 hours has been assumed.

#### *Magistrates' Courts*

- For all relevant court staff, the hours worked by each Full Time Equivalent (FTE) remains the same, post reform, as in 2014/15, as do the average salaries.
- Post-reform assumptions in relation to FTE are that there would one senior lawyer within each region and two national specialists. They are likely to be paid at similar levels to current justices' clerks.

#### *Crown Court*

- The average cost of a judicial sitting day is based on the 2014/15 average salary, divided by 185 sitting days.
- The average cost per sitting day of an authorised member of court and tribunal staff is based on a 2014/15 salary figure divided by 179 sitting days.
- Five per cent of the costs and benefits of authorised court and tribunal staff will be realised in 2018/19, 10% in 2019/20, 50% in 2020/21 and 100% from 2021/22 onwards. Although this is assumed, it would be subject to decisions made by the rules committees.

#### *Civil Jurisdiction*

- Authorised court and tribunal staff have been assumed to work for 5.5 hours per day. A 5.5 hour judicial sitting day is standard for civil and family judicial workload. It was used for authorised court and tribunal staff to ensure consistency with judges. When estimating the FTEs required for authorised court and tribunal staff, the standard administrative working day figure of 7.4 hours was used.
- Authorised court and tribunal staff FTE has been calculated by taking the workload hours and dividing by the number of hours a day administrative staff work.

#### *Family Jurisdiction*



- Authorised court and tribunal staff are assumed to work for 5.5 hours per day. A 5.5 hour judicial sitting day is standard for civil and family judicial workload. It was used for authorised court and tribunal staff to ensure consistency with judges. When estimating the FTEs required for authorised court and tribunal staff, the standard admin working day figure of 7.4 hours was used.
- Authorised court and tribunal staff FTE has been calculated by taking the workload hours and dividing by the number of hours a day administrative staff work.
- The benefits of authorised court and tribunal staff in the family jurisdiction are as a result of a reduction in judicial sitting days. While these authorised staff may also complete work currently completed by justices' clerks, this has not been included in the model.

## Risks

80. Likewise, the analysis is based on a number of uncertainties. The main risks are as follows:

- There is a tendency in any estimation work to overstate benefits and understate costs. A 15% optimism bias has been applied to mitigate this risk. This means that in the Impact Assessment, benefits have been reduced by 15% and costs increased by 15%.
- There is a risk that volumes in each jurisdiction may change. However, published statistics show that whilst receipts volumes may fluctuate from year to year (especially in tribunals), as an average over a longer period they have remained reasonably constant. The NPV figures presented use a period of 10 years to mitigate this risk.
- We have assumed that authorised court and tribunal staff would conduct the types of tasks specified in the analysis for each jurisdiction above. Costs or benefits may be higher or lower than the best estimates presented. For this reason we have provided 50% lower and 25% higher illustrative examples to show what costs and benefits could be under these conditions.
- The 10% escalation rates from authorised HMCTS staff to judge in civil jurisdiction and tribunals is a best estimate. In reality, this could be higher or lower. However, even if this figure were much higher there is still likely to be a positive NPV in the quantified options.
- Depending on the task in the Crown Court, authorised court and tribunal staff have been assumed to cover 50-75% of the volume. In reality this may be higher or lower. However, even if this figure were much higher there is still likely to be a positive NPV in the quantified options. Higher and lower scenarios have been presented.
- There is a risk authorised court and tribunal staff could be less productive than judges, this could reduce the benefits of the reforms.
- There is a risk that greater than anticipated caution is exercised when deciding which judicial tasks to delegate to authorised court and tribunal staff and therefore the full costs and benefits described would not be realised.

## G. Wider Impacts

### One in Three out and Business Impact Target

81. The proposals are not regulatory and do not meet the definition set out under the Small Business Enterprise and Employment Act 2015. The proposal is not in scope of 'One-in, Three-Out'.

### Direct Costs and Benefits to Business

82. There are no direct costs or benefits to business.

### **Small and Medium Enterprises**

83. There are no significant effects on Small and Medium Enterprises. They may benefit within the Employment Tribunal from their case being allocated to the most appropriate channel.

### **Equalities Impact assessment**

84. See separate document.

### **Family Impact Test**

85. There is no significant impact on families. They may benefit from their case being allocated to the most appropriate channel within the family jurisdiction. This would occur under all options, including Option 0.

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**Annex A: Summary of costs and benefits realisation**

	<b>Magistrates' courts</b>	<b>Family jurisdiction</b>	<b>Crown Court</b>	<b>Tribunals</b>	<b>Civil jurisdiction</b>
<b>Option 0: Do nothing</b>	Realise no authorised court and tribunal staff (authorised persons) net benefit	Realise some of the potential authorised persons net benefit (proportion unknown)	Realise no authorised persons net benefit	Realise some of the potential authorised persons net benefit (proportion unknown)	Realise some of the potential authorised persons net benefit (proportion unknown)
<b>Option 1: Extend authorised court and tribunal staff to Crown Court</b>	Realise full authorised persons net benefit	Realise some of the potential authorised persons net benefit (proportion unknown)	Realise some of the potential authorised persons net benefit (proportion unknown)	Realise some of the potential authorised persons net benefit (proportion unknown)	Realise some of the potential authorised persons net benefit (proportion unknown)
<i>Option 1 compared with Option 0</i>	Realise all additional net benefit	No change	Realise some additional net benefit (proportion unknown)	No change	No change
<b>Option 2: New power in all jurisdictions and the introduction of safeguards in all jurisdictions</b>	Realise full authorised persons net benefit	Realise full authorised persons net benefit	Realise full authorised persons net benefit	Realise full authorised persons net benefit but legislate unnecessarily	Realise full authorised persons net benefit but legislate unnecessarily
<i>Option 2 compared with Option 0</i>	Realise all additional net benefit	Realise full additional net benefit	Realise full additional net benefit	Realise full additional net benefit	Realise full additional net benefit
<b>Option 3: New power in jurisdiction which require it and the introduction of safeguards in all jurisdictions</b>	Realise full authorised persons net benefit	Realise full authorised persons net benefit	Realise full authorised persons net benefit	Realise full authorised persons net benefit with no unnecessary legislation	Realise full authorised persons net benefit with no unnecessary legislation
<i>Option 3 compared with Option 0</i>	Realise all additional net benefit	Realise full additional net benefit	Realise full additional net benefit	Realise full additional net benefit	Realise full additional net benefit