

Title: Prisons & Courts Bill: Online procedure in courts and tribunals IA No: MoJ008/2017 RPC Reference No: MoJ008/2017 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			
Contact for enquiries: Joe Murphy Joe.Murphy@justice.gsi.gov.uk				
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
£70k	N/A	N/A	Not in scope	Qualifying provision

What is the problem under consideration? Why is government intervention necessary?
 The government is proposing legislation to establish a new online procedure capable of applying to civil, family and tribunal proceedings. This legislation would also establish an online procedure rules committee to provide simplified rules to support the online procedure. This approach would help to facilitate the use of technology to help people resolve disputes. Government intervention is required because parliamentary authority is required to establish an online procedure supported by a new online procedure rules committee.

What are the policy objectives and the intended effects?
 Ministers have agreed to establish an easier pathway to justice provided by a new online procedure set out in statute. The approach would help people resolve disputes more swiftly and efficiently. In addition, the government will establish a new online procedure rules committee which would provide simpler rules for the online procedure drafted specifically for court users who may not have legal representation. The online rules committee would notationally – cover online procedures in civil, family and tribunals jurisdictions where the requirement for such a procedure has been established and authorised by regulation. Ministers have decided that only by establishing a new statutory rules committee would the culture change required to provide the simple rules which would get the most benefit from the new online approach could be guaranteed.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 Option 0: Not proceeding with a new online court rules committee and delivering new online procedures through existing rules
 Option 1: Establishing a new online procedure and online rules committee for civil money claims only
 Option 2: Establishing a new online procedure and online rules committee for civil, family and tribunals jurisdictions
 The government has concluded that neither Option 0 nor Option 1 would guarantee the improvements in user experience and system efficiency required. Therefore Option 2 is the preferred option.

Will the policy be reviewed? There is no plan to review the policy.				
Does implementation go beyond minimum EU requirements?			No	
Are any of these organisations in scope?			Micro Yes	Small Yes
			Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:	
			Non-traded:	

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 - Policy Option 1

Description. Establishing a new online procedure and online rules committee for civil money claims only

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: - £70k
14/15	16/17	10			

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	£10K	£70K

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

It will cost HMCTS approximately £10k per annum to run the new online rules committee.

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

The online procedure will enable the digitisation of an entirely new procedure governed by a new set of rules which will provide the environment to deliver the full benefits of online working. There will be some costs to HM Courts and Tribunals Service (HMCTS) associated with some of the process changes that will be facilitated by this legislation. The main costs would be those associated with an Assisted Digital capability, IT, project management and training. However none of these costs are directly attributable to this legislation.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	0	0	0

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

There are no monetised benefits for the main affected groups.

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

The online procedure will enable the digitisation of an entirely new procedure governed by a new set of rules which will provide the environment to deliver the full benefits of online working. The government's intention is that this approach will help to simplify processes and enable some benefits for affected groups. There may be a potential modest reduction in costs of the actual rule making process as the process becomes simpler and more efficient.

Court users should find that their cases are resolved earlier with a reduced need for lawyers both directly due to the increased emphasis on mediation and indirectly as a result of the simpler rules, new automated processes and digitalisation. All of this will should lead to reduced costs for both parties. These changes, while not absolutely contingent on this legislation, are likely to be made easier by the legislation.

HMCTS would benefit from a reduced administrative workload as a result of the changes involving digitisation and the automation of processes. This in turn will lead to reduced case admin staff costs. These changes, while not absolutely contingent on this legislation, are likely to be made easier by the legislation.

There will be a reduced judicial workload as a result of the changes involving digitisation which should result in quicker hearings. This in turn will lead to reduced judicial costs to the Ministry of Justice (MoJ). These changes while, not absolutely contingent on this legislation, are likely to be made easier by the legislation.

Key assumptions/sensitivities/risks

The analysis assumes current caseloads are maintained. No significant risks have been identified around this option.

Discount rate

N/A

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	Score for Business Impact Target (qualifying provisions only) £m:

Summary: Analysis & Evidence - Policy Option 2

Description. Establishing a new online procedure and online rules committee for Civil, Family and Tribunals jurisdictions

FULL ECONOMIC ASSESSMENT

Price Base Year 14/15	PV Base Year 16/17	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: - £70K

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	£10K	£70K

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

It will cost HMCTS approximately £10k per annum to run the new online rules committee.

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

The online procedure will enable the digitisation of an entirely new procedure governed by a new set of rules which will provide the environment to deliver the full benefits of online working. There will be some costs to HMCTS associated with some of the process changes that will be facilitated by this legislation. The main costs will be around an Assisted Digital capability, IT, project management and training however none of these costs are directly attributable to this legislation.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	0	0	0

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

There are no monetised benefits for the main affected groups.

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

Court users should find that their cases are resolved earlier with a reduced need for lawyers both directly due to the increased emphasis on mediation and indirectly as a result of the simpler rules, new automated processes and digitalisation. All of this will should lead to reduced costs for both parties. These changes while not contingent on this legislation are likely to be made easier by the legislation. There may be a potential modest reduction in costs of the actual rule making process as the process becomes simpler and more efficient

There will be a reduced administrative workload as a result of the changes involving digitisation and the automation of processes. This in turn will lead to reduced case admin staff costs to HMCTS. These changes while not contingent on this legislation are likely to be made easier by the legislation.

There will be a reduced judicial workload as a result of the changes involving digitisation which should result in quicker hearings. This in turn will lead to reduced judicial costs to the MoJ. These changes while not contingent on this legislation are likely to be made easier by the legislation.

Key assumptions/sensitivities/risks

The analysis assumes current caseloads are maintained. No significant risks have been identified around this option.

Discount rate

N/A

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:	Score for Business Impact Target (qualifying provisions only) £m:

Evidence Base (for summary sheets)

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. The civil justice system exists to provide an effective means of resolving disputes that delivers the legal security that businesses need in order to invest, regulators need to oversee markets, and citizens need to enforce their rights and that guarantees that authorities obey the rule of law.
3. Currently the civil courts are responsible for handling civil disputes and issues across two main branches of operation: the County Court and the High Court. Both deal with a wide variety of cases, including money claims, consumer complaints, housing disputes, international business disputes, and patent and contract law. In respect of civil claims, over 98% are handled by the County Court¹.
4. The Civil Courts Structure Review (CCSR), was a judicially led review conducted by Briggs LJ and commissioned – in part – to complement the Government’s consideration of broader court reform. In July 2016, Briggs LJ published his final report in which he advocated the increased use of technology and recommended the establishment of a new and distinct “online court” to resolve most money disputes up to the value of £25k. He argued for a design that provided litigants with effective access to justice without having to incur the disproportionate cost of instructing lawyers if, for whatever reason, a court user decided not to retain legal expertise.
5. On 15 September 2016, the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals published a joint statement of intent on transforming the justice system² As part of the ‘transforming our justice system’ joint statement and following the publication of the CCSR, Ministers agreed to establish a new and simpler pathway to justice provided by a new online procedure.
6. As far as civil proceedings are concerned, the proposed procedure will help parties to narrow down the issues and resolve their cases through online dispute resolution, or via a mediated settlement, so reserving judicial time for only the most complex cases. In practice the process would do this by:
 - (a) encouraging parties to communicate to each other the relevant details of and evidence about their case at the earliest possible stage;
 - (b) opening up opportunities for conciliation of their claims, whether as the result of the digitisation of the exchange of documents, or through the expansion of the mediation process, in advance of trial; and
 - (c) enabling the case, if not resolved through automated online dispute resolution or mediation, to be managed and made ready for hearing with all the requisite information available on an electronic file, thereby making more efficient the processes of a Case Officer and judicial preparation and determination of those cases which are not settled earlier.

¹ This is based on 1.62m claims being issued by County Courts in 2014 compared to fewer than 25,000 proceedings started in 2014 across the Queen’s Bench and Chancery Divisions in the High Court. Source: MoJ Civil Justice Statistics Quarterly.

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553261/joint-vision-statement.pdf

7. There is a need for clear parliamentary authority to establish a new rule committee to provide the online rules to facilitate the procedure and, further, that there should be a set of simple bespoke rules, separate from the existing rules committees, and as far as possible embedded in the online software, drafted specifically for court users who may not have legal representation.
8. Ministers have also agreed that the online procedure, in addition to civil money claims should be capable of applying to family and tribunal proceedings from the outset, with one committee having responsibility for making separate, bespoke rules in respect of each jurisdiction. In brief, it is envisaged that the one committee will have the power to appoint sub-committees with such co-opted members as necessary to advise and, if required, draft rules for consideration and making by the rules committee, with the Lord Chancellor retaining the power to allow or refuse the rules. The committee would not have responsibility for online rules in the criminal jurisdiction.
9. This Impact Assessment (IA) assesses the options available to allow for the creation of court rules for the proposed online dispute resolution procedures to meet the government's wider policy objectives.

B. Policy Rationale and Objectives

10. 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 if it would like to correct existing institutional distortions ("government failures"). Government also intervenes for equity ("fairness") reasons.
11. The rationale for the proposed measures is to facilitate the creation of rules which help correct existing institutional inefficiencies within the court system and support the increased use of technology. Outdated processes are costly for both the Government and 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 of transformational reform that applies common design features and principles across the whole of the justice system.
12. The associated policy objective is to allow the development of rules which significantly improve user experience and reduce costs by providing an online service which is simple to navigate. The reforms will fundamentally change systems and processes and be built around the use of modern technologies to ensure the court and tribunal system is able to respond as promptly, effectively and proportionately to the needs of its different users that will be equally effective in 2050 as 2020. It would be a court and tribunal system that proactively helps people to navigate their way to the best resolution for them; uses the simplest language, process and systems; has the minimum number of steps possible that people need to go through to obtain justice; and improves access to justice.

C. Affected Stakeholder Groups, Organisations and Sectors

13. The following groups would be most affected by the options analysed in this Impact Assessment (IA).
 - HM Courts and Tribunals Service (HMCTS)
 - Court Users (legal service providers?)

D. Description of Options Considered

14. To meet the policy objectives, the following options have been analysed in this IA:
 - **Option 0/Baseline: Deliver the online procedure through existing rules;**
 - **Option 1: Create a new online procedure and rules committee applicable to low value civil money claims only;**

- **Option 2: Create a new online court and tribunal procedure and a new online rules committee which, notionally, has responsibility across civil, family and tribunals jurisdictions.**

Option 0: Baseline

15. Under this option, the new online procedures would be established within the scope of the current powers and through existing rules committees.
16. There is, however, concern that this would not provide the sort of cultural change required to get the most benefit from the new online approach. In particular there is a need for a set of simple, common rules which set out the process by which people would engage with the online procedures, providing users with clarity on their obligations. In order to be successful the online procedures must be designed to be accessible to those without legal assistance.
17. The government does not believe that the current rules committees are well placed to deliver such a new approach to court rules. The current rules committee have the expertise to make rules in the more traditional court system which will remain valuable and will continue to be required.. However, we believe that a fresh approach is required which would seek to make rules which complement and facilitate the increasing use of technology in the court system.

Option 1: Create a new online procedure and rules committee applicable to low value civil money claims only.

18. Under this option an online rules committee would be set up with initial responsibility only for the area where the requirement for online rules has already been articulated – the online procedure for low value civil money cases.
19. We have discussed this option with the senior judiciary and they do not feel able to support an approach that provides a committee with responsibility for one jurisdiction only, even with the ability to expand this in due course. They are strongly in favour of a small overarching committee covering – notionally - civil, family and tribunals from the outset.
20. We agree with this approach. It is our intention to maximise the use of new technology and innovative approaches and to expand the online procedure across the court system where necessary and appropriate. We would not want to preclude the use of the rules committee to provide online rules in other areas across civil, family and tribunals and we want to be clear from the start about our ambition. We therefore believe that the approach should not be confined to civil disputes. This would make sure that the approach has the flexibility to be applied to the other jurisdictions when required and provides some core element of standardisation for common rules. It would also ensure that one jurisdiction (civil) was not being favoured above the others.

Option 2: Create a new online court and tribunal procedure and a new online rules committee which, notionally, has responsibility across civil, family and tribunals jurisdictions.

21. Under this option, the scope of the new rules committee would cover - notionally - civil, family and tribunals from the very start of its existence. We do not propose to extend the notional remit of the rules committee to the criminal jurisdiction given the different nature of criminal cases.
22. Currently there are separate statutory rule committees for each jurisdiction, with statutory rule making powers. We do not propose to abolish the existing rules committees who will continue to make rules of court in their own jurisdictions outside of those areas which would become the responsibility of the new online rules committee. In order to distinguish responsibilities we anticipate taking a regulation making power which would enable us to set out which proceedings would be in scope where the need for online rules has been identified.
23. This is the preferred option as we believe it would help us maximise the potential benefits of increased digitisation and best reflects our intention which is to make extensive use of new

technology to provide more accessible court processes. The ambition is, therefore, to expand online procedures throughout those areas of the court system which may benefit from this approach and we require an approach that gives us the flexibility to achieve this ambition in the future. In this context restricting the remit of the committee to one jurisdiction only would not match our ambition and potentially could result in some areas not benefiting from online procedures. Alternatively it could lead to some jurisdictions having to rely on existing rules committees to make rules for online procedures which they are not well placed to provide and which could lead to an inconsistent approach to online rules. We therefore require legislative changes to provide the new rules committee and to establish the strategic direction and overriding objective for a new online procedure

24. The online procedure would have its own identity, through its own rule making committee with dedicated rule making powers, to emphasise what is considered a marked cultural change. To that end, it will be important to ensure that the rules made in respect of the online procedure should be solely within the remit of the online procedure rule committee.
25. Nonetheless, it should not be for the online procedure rule committee to decide which proceedings should fall within its remit. Accordingly, to formalise the procedure for determining which proceedings should be subject to the online procedure, we will seek a power to enable the Lord Chancellor, by regulations, and after having consulted with the Lord Chief Justice and the Senior President of Tribunals, to specify those proceedings which should be subject to the online procedure.
26. The online procedure rule committee would comprise a core committee supported by sub-committees to provide additional expertise for each jurisdiction – likely, but not necessarily, sitting with at least one member of the main committee. The sub-committees would not have the power to make rules, but would advise and recommend specific rules to the core group for consideration who would then make the rules. This would provide some core element of standardisation for common rules complemented by jurisdiction specific expertise where required. It would also maintain a core group of people, so limiting the actual numbers on the formal committee to provide a relatively small, agile committee structure which we believe is necessary to provide clear and concise court rules.
27. The online procedure rule committee should be no larger than is necessary to achieve this purpose. Accordingly, we consider that the committee should consist of 5 members, namely:
 - (a) Two judges to be appointed by the Lord Chief Justice;
 - (b) One person with legal expertise; and
 - (c) Two other persons at least one of whom should have experience of the lay advice sector or consumer affairs, to be appointed by the Lord Chancellor.
28. There is also the power to extend the membership of the rule committee in future if required.
29. The online procedure will allow us to launch new, straightforward digital services that allow everyone to access and understand the system. We expect that many cases will be resolved entirely online, with clear information about what is happening and what to do next, as well as openness and scrutiny by the public. These provisions will allow businesses to recover money much more easily, with digital services that allow them quickly to issue and pursue their cases. This will give them vital confidence to do business here, and will enable our world leading justice system to remain the destination of choice for dispute resolution.

E. Cost and Benefit Analysis

30. IAs normally identifies both monetised and non-monetised impacts on the affected individuals and groups with the aim of understanding what the overall impact on society might be from implementing the various policy options. These costs and benefits would then be compared to the baseline ('do nothing') option (Option 0). Therefore, as the 'do nothing' would be being compared to itself, its costs and benefits would necessarily be zero, as would its Net Present Value (NPV).

31. There are, however, with the exception of the direct costs associated with the creation of a new rules committee, no monetised costs or benefits in this IA. This is because the various options would only serve to facilitate the development of rules to underpin the proposed online procedure rather than create benefits and costs of themselves. We also do not feel that, at this stage, it would be appropriate to pre-empt the decisions of the appropriate rules committees. Instead an updated IA will be produced when these decisions, and the associated monetary costs and benefits, have become clearer.
32. Instead, the numbers used in this IA are intended to offer those reading it some sense of the potential scale of the non-monetised costs and benefits associated with the preferred option. They are based on caseload figures and upon modelling and analysis that was undertaken to assess the potential savings from HMCTS Reform across all civil and family case types. This data and analysis suggests:
- There were approximately 1.2 million money claims in 2014/15. Of these approximately 144,000 were unspecified money claims and just over 1.1 million were specified money claims. Up to 98% of all specified money claims involve claims of less than £25,000.
 - It is estimated that all money claims generate staff and judicial costs of approximately £87m. There are further indirect costs around ICT and Estates.

Option 1: Create a new online procedure and rules committee applicable to low value civil money claims only.

Costs of Option 1

Monetised

33. For HMCTS, there would potentially be modest costs arising from this legislation as a result of the need to run the new rules making committee. It is estimated that these costs would be in the order of £10K per annum on an ongoing basis. The running costs are for travel and subsistence and publications and the £10K figure is based on an extrapolation from the running costs of existing rule committees.

Non-monetised

HMCTS

34. There may be costs associated with implementing the new processes which would be facilitated by this legislation. There will be HMCTS Reform implementation costs across Civil and Family. Many of these costs will be around IT, project management and training. We cannot quantify what proportion of these overall implementation costs will be attributable to this specific legislation
35. There could also be costs associated with the operation of an Assisted Digital capability which will be required for those court users who would need help in engaging with the new digitised processes. However we cannot quantify the proportion of these costs that are attributable to this specific legislation

Solicitors

36. We expect that the new rule making process would be applied in a way that leads to a more intuitive online court process. This is likely to be the result of establishing a rules committee with different expertise and a specific mandate to create simple rules. This may reduce the need of some claimants to engage lawyers in the online court, as one of the design features of the online court is a process which requires less specialist legal knowledge, this could lead to a reduction in income for solicitors from these cases. However it is assumed that solicitors and other approved professionals would be able to substitute the time they currently spend on dealing with these cases with other work with the same income resulting in no net loss of income.

Benefits of Option 1

Non-monetised

HMCTS

37. The legislation would lead to a rule making process which is tailored to deliver an online procedure which should provide a simple court process. It is not possible, however, to quantify the direct monetary benefits arising from the proposed rule making process. Although we cannot pre-empt the content of the actual rules themselves - which would be the responsibility of the OCTP rule committee - the intention is that the new rule making process would be applied in a way that would lead to new digitised processes being introduced in a more efficient way than is possible under the current rule making process. HMCTS would be in a position to make administrative staff savings as the demand for such staff would be reduced through the implementation of any new digitised processes. Total HMCTS money claims admin staff savings are estimated at approximately £14m for those claims that are less than £25,000. However these savings are non-contingent on this specific legislation which only relates to the establishment of the required rules committee.
38. Similarly, we anticipate that the new rule making process would be applied in a way that could lead to efficiencies, including speedier hearings. HMCTS would then be in a position to make judicial savings as the demand for judicial sitting days would be reduced. This could potentially lead to annual savings of approximately £5.4m for those money claims that are worth less than £25,000. However these savings are also non-contingent on this legislation.

Court Users

39. We expect that the new rule making process would be applied in a way that leads to a more intuitive online court process. This is likely to be the result of establishing a rules committee with different expertise and a specific mandate to create simple rules. This may reduce the need of some claimants to engage lawyers in the online court, as one of the design features of the online court is a process which requires less specialist legal knowledge, this could lead to savings for claimants although we cannot quantify the resulting savings.
40. Similarly the new rule making process would be applied in a way that would lead to an online procedure with a greater degree of mediation and conciliation as a result of new rules being introduced in a more efficient way than is possible under the current rule making process. Cases could then be resolved earlier due to this increased mediation in addition to the increased automation and digitisation. This could lead to reduced costs, a less adversarial process and reduced uncertainty. We are, however, unable to quantify any cost reductions resulting from these changes.

Option 1: Overall Impact

41. The primary legislation would provide for a new online rule committee which will facilitate the introduction of an online court procedure. The online courts, once established, could result in staff savings from reduced staff administrative work. HMCTS would similarly benefit from judicial savings resulting from reduced hearing times. There would additionally be benefits for court users who would experience a simpler, faster and less adversarial process although we cannot quantify these benefits.

Option 2: Create a new online court and tribunal procedure and a new online rules committee which, notionally, has responsibility across civil, family and tribunals jurisdictions.

Costs of Option 2

Monetised

42. For HMCTS, there would potentially be modest costs arising from this legislation as a result of the need to run the new rules making committee. It is envisaged that these costs will be in the order of £10k per annum on an ongoing basis. The running costs are for travel and subsistence and publications and the £10K figure is based on an extrapolation from the running costs of existing rule committees.

Non-monetised

43. For HMCTS these costs would be very similar to Option 1. The only difference is that the potential costs that could result from the process changes facilitated under Option 2 could potentially be greater than Option 1 as some elements of non-money claims, Family, Tribunals cases could now be in scope.
44. For solicitors, the costs would be very similar to Option 1. The only difference is that the potential costs that could result from the process changes facilitated under Option 2 could potentially be greater than Option 1 as some elements of non-money claims, Family, Tribunals cases could now be in scope

Benefits of Option 2

Non-monetised

45. For HMCTS these would be similar to Option 1. The only difference is that the potential non-monetised benefits that could result from changes under Option 2 could potentially be greater than Option 1 as some elements of non-money claims, Family, Tribunals cases could now be in scope.
46. For court users, the benefits would be very similar to Option 1. However under Option 2, there could potentially be a greater number of court users involved depending on which elements of non-money claims, Family and Tribunals cases are added to the list of in scope case types.

Option 2: Overall Impact

47. The overall benefits and costs position under Option 2 would be very similar to Option 1 although the Option 2 non-monetised costs and benefits could both be greater depending on which additional case types are brought into scope.

Preferred Option

48. On the basis of the above assessment, Option 2 – establishing a new online procedure and online rules committee for Civil, Family and Tribunals jurisdictions – is the governments preferred option.

F. Assumptions and risks

Key assumptions

49. The above assessment is based on the following assumptions:

- The online rules committee will produce simple rules that all users (including non-lawyers) would be able to understand and therefore may not need to engage legal expertise as part of their case.
- The focus of the rules committee would be on under £25k low value money claim cases in civil at least in the first instance
- The 3 stage process of the online procedure, set out in paragraph 6, would encourage more people to resolve disputes before they reach hearing stage. This includes the mediation/conciliation stage achieving higher resolution levels.
- There would be an effective Assisted Digital provision in place.
- There would be the required staff and expertise needed to run the mediation and conciliation parts of the online procedure.
- The existing rules committee will continue and that the regulations setting out what is in-scope of the online rules committee are sufficient so that there is no confusion or duplication.

- There would be no change in the fees structure for those case types that are in scope for online courts.
- There would no increase in money claims volumes as a result of a simpler and more transparent process.

Risks

50. There are also various risks associated with the options assessed in this IA.

51. Parliament may reject the policy of having a small rules committee and wish to extend it with other expertise. There is also an associated risk that people with the necessary experience and expertise could not be appointed to the panel. It must also be borne in mind that responsibility for making the final rules will lie with the new rules committee. We cannot yet know what approach they will take to their rule making responsibilities and what rules, in respect of the online procedure, they may wish to make when they are established.

52. There is a risk that parliament cannot be persuaded that the assisted digital approach is good enough and so may stipulate in the legislation what exactly should be provided as a condition of having an online procedure. In other words we could get amendments which seek to say we need to provide specific assisted digital capability alongside the introduction of any new online procedures. This may not be anything like the assisted digital capability that HMCTS propose and could be more expensive.

G. Wider Impacts

Small and Medium Enterprises

53. There are no effects on Small and Medium Enterprises,

Equalities Impact assessment

54. An Equalities statement is provided in a separate document

Family Impact Test

55. There is no impact on families.

H. One-In-Three-Out

56. There are no direct costs or benefits to businesses.