

<b>Title:</b> Reforming Fees in the United Kingdom Supreme Court  <b>IA No:</b> MoJ057/2023  <b>RPC Reference No:</b> N/A  <b>Lead department or agency:</b> Ministry of Justice (MoJ) <b>Other departments or agencies:</b> UK Supreme Court (UKSC);	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 12/02/2024			
	<b>Stage:</b> Final			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Secondary legislation			
<b>Contact for enquiries:</b> mojfeespolicy@justice.gov.uk				

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> Not Applicable
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Cost of Preferred (or more likely) Option (in 2022/23 prices)			
Total Net Present Social Value N/A	Business Net Present Value N/A	Net cost to business per year N/A	Business Impact Target Status N/A

**What is the problem under consideration? Why is government action or intervention necessary?**

The UK Supreme Court (UKSC) is the final court of appeal for civil cases in the United Kingdom, and for criminal cases in England, Wales and Northern Ireland. Fees are charged for non-criminal cases which are heard by the UKSC as these represent a legitimate means of making resources available to secure access to justice. In 2022/23, such fees accounted for £0.78m of UKSC income, representing around 6 per cent of the £13.1m in annual running costs. However, while UK price levels have been rising, UKSC fees (apart from one) have not changed since their introduction in 2009, meaning that the value of these fees have fallen in real terms. To ensure access to justice is maintained and additional resources are secured for the UKSC's operation, we are proposing to uplift all fees to offset inflation from April 2011 up to March 2023. Additionally, a fee review in 2022 highlighted some issues with the current fee structure, which if amended would simplify the system for both applicants and staff. Government intervention is required because changing UKSC fees requires secondary legislation.

**What are the policy objectives of the action or intervention and the intended effects?**

The policy objectives are: to protect access to justice while ensuring that the UKSC remains adequately resourced; to alleviate the need for increased taxpayer subsidies to the UKSC; and to enable better financial planning, informed decision making, and a more efficiently managed system by reducing the complexity of the fees system.

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

The following options are considered in this Impact Assessment (IA):

- Option 0: Do Nothing. Maintain the current fee structure.
- Option 1: To reform and simplify the existing UKSC fee structure and to uplift UKSC fees by inflation, backdated to April 2011 (or August 2011 for Permission To Appeal, PTA).

The Government's preferred option is to implement Option 1 as it will alleviate the need on the taxpayer for a greater subsidy and will ensure UKSC can continue to deliver access to justice for all.

<b>Will the policy be reviewed? It will be reviewed. If applicable, set review date: October 2025</b>				
Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	<b>Micro</b> Yes/No	<b>Small</b> Yes/No	<b>Medium</b> Yes/No	<b>Large</b> Yes/No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b>		<b>Non-traded:</b>

***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 SELECT SIGNATORY: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary: Analysis & Evidence

# Policy Option 1

**Description:** Reform and simplify the existing UK Supreme Court fee structure and uplift UKSC fees by inflation, backdated to April 2011 (or August 2011 for PTA)

## FULL ECONOMIC ASSESSMENT

Price Base Year 2022/23	PV Base Year 24/25	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		£0.15	Optional
High	Optional		£0.19	Optional
Best Estimate			£0.17	

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

For option 1 the ongoing nominal cost to UKSC users from uplifting the fees by inflation is estimated to be around £0.17m-£0.21m per annum, with a best estimate of £0.19m. This equates to an annual average of £0.15m-£0.19m in real terms, with a best estimate of £0.17m. As this represents a direct transfer from court users to UKSC it does not form part of the NPV.

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

There may be costs related to familiarisation with the simplified fee structure and the increased fees for UKSC staff, legal professionals, and customers. These have not been monetised and are not expected to be substantial.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		£0.15	Optional
High	Optional		£0.19	Optional
Best Estimate			£0.17	

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

Option 1 is expected to produce an ongoing benefit to the UKSC arising from uplifting the fees in line with inflation, which is estimated in nominal terms to be around £0.17m-£0.21m per annum, with a best estimate of £0.19m. This equates to an annual average of £0.15m-£0.19m in real terms, with a best estimate of £0.17m. As above, this represents a direct transfer from court users to UKSC and so is not included in the NPV.

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

A simplified fee structure would reduce separate payment points and make the fees order easier to administer for operational staff and easier for users to understand.

<b>Key assumptions/sensitivities/risks</b>	3.5%
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The following assumptions have been made when estimating the impacts in this IA:

- The implementation date is assumed to be April 2024.
- Average annual volumes of non-criminal activity at each fee stage from 2017/18 to 2021/22 are used to estimate the income from the fee changes.
- An optimism bias of 20% is included to account for uncertainty in volumes due to general fluctuations and potential demand responses to the increases in fees.
- Fees are inflated in line with CPI inflation, backdated to April 2011, or August 2011 for PTA.
- Fees have been rounded down to the nearest £5.
- Net fee income calculation is based on the reformed remission scheme which was implemented in November 2023.
- There is no net detrimental impact on outcomes in the UKSC or access to justice.

## BUSINESS ASSESSMENT (Option 1)

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

# Evidence Base

## A. Background

### Fees in the UK Supreme Court

1. The UK Supreme Court (UKSC) replaced the Appellate Committee of the House of Lords on 1 October 2009 as the final court of appeal for civil cases in the United Kingdom, and for criminal cases in England, Wales and Northern Ireland. The UKSC hears appeals on arguable points of law of general public importance, concentrates on cases of the greatest public and constitutional importance, plays an important role in the development of UK law, and maintains and develops the role of the highest court in the United Kingdom as a leader in the common law world. The UKSC also hears cases on devolution matters under the Scotland Act 1998, the Northern Ireland Act 1998 and the Government of Wales Act 2006.
2. Fees are normally charged for cases heard by the UKSC, with the exception of criminal cases where there are no fees payable. While the UKSC is entirely independent of the Ministry of Justice, section 52 of the Constitutional Reform Act 2005<sup>1</sup> ("CRA 2005"), which created the UKSC, provides the Lord Chancellor, with the agreement of HM Treasury, to prescribe fees payable in respect of anything which the UKSC deals with. Fees are one of the ways in which the Lord Chancellor discharges their statutory duty to ensure an effective and adequately resourced UKSC.
3. UKSC decisions accrue benefits not only to users of the court but more widely to all users of the civil justice system as well as the public at large. For this reason, it was agreed, when the UKSC was established, that the costs of civil appeals in the UKSC should be borne by both UKSC users through fees and the courts and tribunal services of England, Scotland, Wales and Northern Ireland. In practice, the latter source of income has been more important. For example, in 2022/23, fees accounted for £0.78m of UKSC income, representing around 6 per cent of the courts £13.1m annual running costs.
4. To protect access to justice, Legal Aid is available to users of the UKSC in certain circumstances. The UKSC also operates a fee remissions scheme, which is aligned with the Help with Fees (HwF) scheme in HM Courts and Tribunals Service (HMCTS). This offers fee remissions for low-income court users, those in receipt of certain benefits, and those who have a small amount of savings. Finally, the Chief Executive of the UKSC holds the discretion to reduce or remit a fee where they are satisfied that there are exceptional circumstances which justify doing so, or where an application for permission to intervene in an appeal is filed by a charitable or not-for-profit organisation which seeks to make submissions in the public interest.

### Problem Under Consideration

5. Within the Supreme Court Fees Order 2009<sup>2</sup>, there are 17 separate fees charged for civil proceedings. These fees have not been increased since they were set in 2009, except for the permission to appeal fee ('PTA') which was increased in 2011<sup>3</sup>.
6. In contrast, between April 2011 and March 2023, the UK's general price level, as defined by the Consumer Prices Index (CPI), rose by around 40%, representing a substantial fall in the real term value of fees and real terms income to the UKSC. If fee income is not raised to keep

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2005/4/section/52>

<sup>2</sup> <https://www.legislation.gov.uk/uksi/2009/2131/contents/made>

<sup>3</sup> <https://www.legislation.gov.uk/uksi/2009/2131/contents/made>; The Supreme Court Fees Order 2009 (S.I. 2009/2131) was amended by Supreme Courts Fees (Amendment) Order 2011 (S.I. 2011/1737) to increase the fee for an application for permission to appeal to the UKSC from £800 to £1000

pace with inflation, the service provided by the UKSC may be affected, or there may be greater pressure on the taxpayer to subsidise the UKSC. The option assessed in this Impact Assessment (IA) therefore seeks to address this issue by restoring fee values in real terms through an uplift by inflation backdated to April 2011, or August 2011 for PTA.

7. Given the various protections described above, these fee proposals should not prevent anyone from accessing justice. For example, alongside the options described in this IA, the Government has reformed the HwF scheme to make it more generous<sup>4</sup> and has updated and aligned the UKSC fee remissions scheme to HwF. The reforms to HwF were implemented in November 2023.
8. A consultation paper, “*Reforming Fees in the United Kingdom Supreme Court*” was published on 16 October 2023. It invited comments on the proposals to simplify the fee structure, remove the distinction between devolution jurisdiction case fees and civil case fees, increase fees by historic inflation, and the principle of routinely reviewing and adjusting fees in line with inflation. These proposals are outlined in paragraph 20 of this document.
9. The consultation period closed on 27 November 2023. We received a total of 9 responses. Of these, 5 responses were from members of the judiciary. Other respondents included a former member of the judiciary, the General Council of the Bar of England and Wales, the General Council of the Bar of Northern Ireland and the Forum of Insurance Lawyers. A consultation response has been published alongside this impact assessment.<sup>5</sup> Having considered the responses to the consultation, the Ministry of Justice (MoJ) has decided to proceed with the increases proposed in the consultation.
10. In summary, this IA assesses the impact of simplifying the UKSC fee structure and uplifting the fees to reflect historic inflation backdated to April 2011, or August 2011 in the case of PTA.

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

### Rationale

11. The conventional economic approach to Government intervention is based on efficiency or equity arguments. Government may consider intervening if there are strong enough failures in the way markets operate, or if there are strong enough failures in existing Government interventions. In all cases, the proposed intervention should avoid generating a further set of disproportionate costs and distortions. Government may also intervene for reasons of equity (fairness) and for re-distributional reasons (e.g. reallocating resources from one group in society to another).
12. The primary rationale for intervention in this case is equity with regards to restoring the cost balance between user fees and the reliance on other court users and the taxpayer. While the UKSC fees are already heavily subsidised due to the externality element of its decisions, the impact of inflation has been to increase this taxpayer subsidy since the fees were last increased in 2011. Therefore, the main intention of Government intervention is to realign the fee/taxpayer balance which applied when the fees were originally set.

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<sup>4</sup> <https://www.gov.uk/government/consultations/revising-the-help-with-fees-remission-scheme>

<sup>5</sup> The response can be found at <https://consult.justice.gov.uk/>

13. The Government still considers that there are positive externalities<sup>6</sup> from the cases heard at the UKSC as the benefits accrue not only to users of UKSC but more widely to the general population. In this context, Government subsidisation of the service remains the socially optimal outcome, and for this reason UKSC fees will continue to be set at a below-cost level.

### Policy Objectives

14. The associated policy objectives are to protect access to justice while ensuring that the UKSC remains adequately resourced; and to alleviate the need for increased taxpayer subsidies to the UKSC. Increasing UKSC fees in line with historic inflation will raise funding to help recover some of the UKSC running costs from users, thereby lessening the pressure on a greater subsidy from taxpayers.

15. Despite these reforms, the UKSC will continue to derive only a low level of income from its users, with the majority of the UKSC's funding still coming from taxpayer subsidies. Importantly, we anticipate that this increase will not deter potential users of the UKSC and result in under-consumption and a socially sub-optimal outcome. This is due to the nature of UKSC users, who are mostly governments or private organisations, and existing financial support through fee remissions and the UKSC Chief Executive's exceptional power to remit fees for individuals.

## **C. Description of Options Considered**

16. To meet these policy objectives, the following options are considered in this IA:

- **Option 0 – Do Nothing. Maintain the current fee structure.**
- **Option 1 – To reform and simplify the existing UK Supreme Court fee structure and to uplift UKSC fees by inflation, backdated to April 2011 (or August 2011 for PTA).**

17. Option 1 is the Government's preferred option to meet the policy objectives.

### **Option 0**

18. Under the "Do Nothing" option UKSC fee structure and fee levels would remain unchanged. As the real value of these fees has fallen since their introduction, this option would represent a decline in the resources available to the UKSC.

### **Option 1**

19. Under this option, firstly a new fee structure would be introduced. This would simplify the existing fee structure, either by combining existing steps where there is no need for separation or removing aspects which are no longer applicable. This structure would also reduce the number of separate payment points and make the fees order easier to administer for operational staff and easier for users to understand.

20. The proposed changes to the fee structure are briefly outlined below and at Annex A:

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<sup>6</sup> Positive externalities arise from market transactions which result in a benefit to a third party. Often goods and services with positive externalities are under-consumed as the social optimal level of consumption lies above the private benefit of consumption. Subsidies are an effective means of encouraging greater consumption of a good or service towards its socially optimal level, by reducing the cost for individuals.

- a. Fee 2.1 and 2.2 have each been separately combined with Fee 2.5 as the steps are generally congruent and the separation does not serve any benefit. By combining these fees, the fee structure is simplified.
  - b. The fee for filing a reference to the Supreme Court under its devolution jurisdiction (2.3) has been increased to better reflect the operational cost of providing the service and allow the Supreme Court to recover more of those costs.
  - c. Fee 4.2 has been removed and Fee 4.1 uplifted to a higher proportion of the cost claimed. This is to stop the loss of income for work completed when cases settle prior to certification.
  - d. The devolved jurisdiction fees have been aligned to the main fee amount.
21. Secondly, under this option, fourteen fees would be increased in line with CPI inflation, backdated from April 2011 through to the end of the 2022/23 financial year<sup>7</sup>, giving an increase of 40%. The fee for PTA would be increased with CPI inflation from August 2011 to the end of the 2022/2023 financial year, by 39%.
22. CPI is used to uplift the fees as this provides a good measure of the general increase to prices. Fees are rounded down to the nearest £5.

## **D. Groups, Organisations and Sectors**

23. The options assessed in this IA will primarily affect users of the services where fees are changing. A list of all the main groups that would be affected is shown below:
- UKSC non-criminal users – those who use the services for which fees in Annex A are changed. Court users include individuals, companies, public bodies, charitable organisations, government departments, and devolved administrations.
  - UKSC – the final court of appeal for civil cases in the UK (which provides the services for which fees are charged).
  - Taxpayers – who subsidise UKSC, as overall UKSC income falls below its overall costs;
  - Legal Aid Agency – which covers the cost of court fees for those in receipt of legal aid.
  - Legal services providers – who provide services to users of UKSC;
  - Ministry of Justice (MoJ) – responsible, with the agreement of the Treasury, for prescribing by Order the fees payable to the UKSC.

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

24. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
25. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in England and Wales with the aim of understanding what the overall impact on society might be from the proposals under consideration. IAs place a strong focus on monetisation of costs and benefits. There are often, however, important impacts which cannot sensibly be monetised. These might be impacts on certain groups of society or data privacy impacts, both positive and negative. Impacts in this IA are therefore interpreted

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<sup>7</sup> CPI inflation for the year to March of each year is used.

broadly, to include both monetisable and non-monetisable costs and benefits, with due weight given to those that are not monetised.

26. The costs and benefits of each proposal are compared to Option 0, the counterfactual or “do nothing” scenario, where the UKSC fees structure is maintained, including fee levels. As the counterfactual is compared to itself, the costs and benefits are necessarily zero, as is its net present value (NPV).
27. In this instance, however, as UKSC fee increases simply serve to shift resources between UKSC and court users, the cost to UKSC of option 1 represents a net transfer to users who will now pay higher court fees. The NPV is therefore £0.
28. This IA assumes a 10-year appraisal period, a discount rate of 3.5%, a price base year of 2022/23 and Present Value (PV) base year of 2024/25. As detailed at paragraph 34, an Optimism Bias of 20% is applied. Total estimated income estimates are rounded to the nearest £10,000.

## Methodology

29. The impacts described in this IA are based on modelling and assumptions in relation to the inflating fees aspect of these proposed changes. These are described below. The risks associated with these assumptions are described in section F.
30. Fees have been inflated using CPI inflation, backdated from April 2011 (or August 2011 for PTA) through to the end of the 2022/23 financial year. Fees have been rounded down to the nearest £5, rather than rounded to the nearest £5, so the increase does not go above the inflation rate.
31. CPI is used to uplift the fees as this provides a good measure of the general increase to prices. The main reasons for doing so are:
  - a. The Lords Economic Affairs Select Committee published a report in 2019<sup>8</sup>, suggesting that government could be accused of ‘index shopping’ when not using CPI as the default measure of inflation. In particular, at paragraph 156, the report states “While the single general measure is being determined, the Government should switch to CPI for uprating purposes in all areas where it is not bound by contract to use RPI.”
  - b. CPI inflation data is published by the Office of National Statistics (ONS) and is widely accepted as a good indicator of the general increase in prices, ensuring transparent methodology of the rates used.
  - c. CPI is commonly used by Other Government Departments, such as Department for Work and Pensions to set benefit and state pension thresholds and is the inflation measure previously used by HMCTS when Court fees were last increased.
32. To calculate the impact on UKSC fee income, the change in fee has been multiplied by the expected volumes of users of the service for each fee that is to change, taking into account remissions. This has been calculated for the main fees and excludes analysis of the devolved jurisdiction fees and volumes, which are being aligned to the main fees as part of this reform. The volumes of such fee types are very low (in the single digits annually, for where data is available).

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<sup>8</sup> Available at <https://publications.parliament.uk/pa/ld201719/ldselect/ldeconaf/246/246.pdf>

## Volumes

33. The change in fee income from Option 1 has been assessed using average volumes for the fees that are being increased by inflation, for the period 2017/18 to 2021/22 (the latest date for which volumes by fee are available).
34. An optimism bias of 20% has been applied to volumes to account for the uncertainty in future volumes, both in terms of general fluctuations in volumes and possible negative demand response (see paragraphs 35-37). UKSC PTA and appeal volumes can fluctuate due to external drivers that are outside of the control of the court itself, such as changes in Government policy decisions or large delays in lower courts.

## Demand

35. It is difficult to determine exactly how much raising a particular fee will impact on demand for that specific court process. The existing research is based on HMCTS courts and is largely qualitative rather than quantitative. There is no such research on the UK Supreme Court.
36. The research on HMCTS which does exist demonstrates that several factors influence the decision to take a case to court, such as access to legal representation, the availability of alternatives like mediation, case-type and the perceived benefit of the outcome compared to the cost. For example, qualitative research carried out in 2022 explored the factors influencing decisions to bring cases to the civil and family courts amongst 36 civil and family court applicants.<sup>9</sup> The research found that emotional factors outweighed financial motivations in the decision to go to court amongst many participants. The key findings were broadly consistent with similar research carried out in 2013.<sup>10</sup>
37. However, insights from this research are likely not applicable to the UKSC. For the UKSC the decision to bring a case is more nuanced because the appeal must raise an issue on a point of law. Issues of mediation and case representation are less likely to be a factor, and the emotionally-driven litigant would have exhausted the court's jurisdiction at a lower court and unlikely to be accepted by the UKSC. Instead, cases are far more likely to reach the UKSC by the need to obtain clarity and certainty around the application of law, that may have wider implications for the public rather than limited to the appeal itself. Consequently, an increase in the UKSC fees by historic inflation is restoring the real value of the fees, to April 2023, and is unlikely to significantly influence an appellant's decision to pursue an appeal in the UKSC.
38. Other considerations likely to influence a decision to proceed to the UKSC are;
  - a. Likelihood of getting permission to appeal - the UKSC decides which cases it will hear. Of the 200 PTAs received in 2021/22, only 42 (21%) were granted permission to be heard.
  - b. Timescales - bringing a case to the Supreme Court is a lengthy process as it usually occurs after time has already been spent going through the lower courts to reach the stage to appeal to the UKSC.
  - c. Overall legal costs, which in cases brought to the UKSC, are likely to be higher than the cost of court fees.

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<sup>9</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1162298/factors-influencing-users-decisions-to-bring-cases-to-civil-and-family-courts.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162298/factors-influencing-users-decisions-to-bring-cases-to-civil-and-family-courts.pdf)

<sup>10</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/299804/role-of-court-fees-in-decisions-to-bring-cases-to-courts.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/299804/role-of-court-fees-in-decisions-to-bring-cases-to-courts.pdf)

39. The fee charged for filing an application for PTA was increased from £800 to £1,000 on the 5<sup>th</sup> August 2011.<sup>11</sup> As shown in Table 1, according to the UKSC Annual Reports,<sup>12</sup> the PTA applications for the financial year 2011/12 were 249, and these increased to 259 in 2012/13. The volumes then remained stable at levels between 209 to 234 PTAs per year for the next 8 years, reducing to 153 in 2022/23<sup>13</sup>. This does not seem to suggest that the 25% increase in price had an impact in terms of dampening demand. Considering that the court fee likely represents a small proportion of overall legal costs, this is not entirely surprising. Although these published figures also include criminal based PTA cases, which are not charged UKSC fees, internal management information provided by UKSC confirms they only accounted for 11% of PTA cases received on 2011/12 and 10% in 2012/13, confirming criminal cases were not driving the increase seen between these two years. In 2021/22 criminal-based PTA cases accounted for 3%.

**Table 1: Total number of Permission To Appeal (PTA) filings made to the UK Supreme Court**

2010/ 2011	2011/ 2012	2012/ 2013	2013/ 2014	2014/ 2015	2015/ 2016	2016/ 2017	2017/ 2018	2018/ 2019	2019/ 2020	2020/ 2021	2021/ 2022	2022/ 2023
228	249	259	229	231	230	209	229	234	232	217	211	153

*Figures include criminal PTA applications, which are exempt from paying UKSC fees.*

40. For the reasons highlighted in the paragraphs above, we do not expect the fee changes to lead to a fall in demand. However, as explained in paragraph 34, we have applied an optimism bias of 20% to the volumes to reflect the uncertainty of future demand, including arising from any changes in user behaviour.

### Remissions

41. As noted in Section A above the UKSC operates a fee remissions scheme, which is aligned with the HwF scheme used by HMCTS. This offers fee remissions for low-income litigants, those in receipt of certain benefits, and those who have a small amount of savings. Additionally, the Chief Executive of the Supreme Court holds the discretion to reduce or remit a fee where they are satisfied that there are exceptional circumstances which justify doing so, or where an application for permission to intervene in an appeal is filed by a charitable or not-for-profit organisation which seeks to make submissions in the public interest.

42. The Government recently consulted on reforming the HwF scheme for HMCTS remissions and UKSC remissions<sup>14</sup> and implemented the revised scheme on 27 November 2023. The primary change is to raise the income thresholds for determining eligibility. This IA has calculated the net income under Option 0 and Option 1 based on the remission rate expected under the revised UKSC remission scheme due to be implemented prior to the changes to UKSC fees being assessed.

43. For the purposes of this IA net income has been estimated using a remission rate of 5%. 3% of which is calculated using UKSC management information for remissions since January 2021 and gross fee income. The remission rate is then increased by a further two percentage points (to 5%) to account for the impacts of the revised scheme.

### Fee Income

<sup>11</sup> <https://www.legislation.gov.uk/uksi/2011/1737/contents/made>

<sup>12</sup> [https://www.supremecourt.uk/docs/annual\\_report\\_2011\\_12.pdf](https://www.supremecourt.uk/docs/annual_report_2011_12.pdf) and [https://www.supremecourt.uk/docs/ar\\_2010\\_11.pdf](https://www.supremecourt.uk/docs/ar_2010_11.pdf)

<sup>13</sup> Volumes are lower in 2022/23 due to a natural fluctuation in cases.

<sup>14</sup> [Revising the 'Help with Fees' remission scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/help-with-fees-remission-scheme)

44. The income estimates in this IA have been calculated using an average of volumes over the period 2017/18 to 2021/22, multiplying these by the increase in the relevant fee and then deducting a remission rate of 5%. All income estimates have been rounded to the nearest £10,000. An optimism bias is applied to account for the uncertainty in the future volumes for the fees considered. The analysis assumes an implementation date of April 2024.

45. Table 2 gives the nominal annual estimated income from the fees to be changed, both with and without a 20% optimism bias (the 'low' and 'high' estimate, respectively). The best estimate is assumed to be the mid-point between the low and high estimates. As fees do not keep track with inflation the annual average will fall over time in real terms when measured in 2022/23 prices. Income estimates are rounded to the nearest £10,000.

**Table 2: Annual nominal estimated net income from fees to be increased by inflation, £000s**

<i>Nominal Additional Income, £1,000</i>	2024 /25	2025 /26	2026 /27	2027 /28	2028 /29	2029 /30	2030 /31	2031 /32	2032 /33	2033 /34	Annual Average
High	£210	£210	£210	£210	£210	£210	£210	£210	£210	£210	£210
Low	£170	£170	£170	£170	£170	£170	£170	£170	£170	£170	£170
Best estimate	£190	£190	£190	£190	£190	£190	£190	£190	£190	£190	£190

*Based on 5-year average volumes; income is net of remissions; rounded to the nearest £10,000.*

46. Table 3 shows the additional benefit to UKSC after accounting for inflation, using the GDP deflator. The real, annual average benefit to UKSC is £0.15m-£0.19m, with a best estimate of £0.17m.

**Table 3: Real value of estimated net income from fees to be increased by inflation, £000s**

<i>Real Additional Income, £1,000</i>	2024 /25	2025/ 26	2026/ 27	2027/ 28	2028/ 29	2029/ 30	2030/ 31	2031/ 32	2032/ 33	2033/ 34	Annual Average
High	£200	£200	£200	£190	£190	£190	£190	£180	£180	£180	£190
Low	£160	£160	£160	£160	£150	£150	£150	£150	£140	£140	£150
Best estimate	£180	£180	£180	£180	£170	£170	£170	£160	£160	£160	£170

*Based on 5-year average volumes; income is net of remissions; rounded to the nearest £10,000.*

**Option 1 – To reform and simplify the existing UK Supreme Court fee structure and to uplift UKSC fees by inflation, backdated to April 2011 (or August 2011 for PTA)**

**Costs of Option 1**

Transitional costs

*UKSC*

47. UKSC is expected to incur costs from amendments to IT systems, staff guidance and publications for court users. There may also be costs related to UKSC staff having to

familiarise themselves with the new fee levels and structure. These are not expected to be substantial, with further assessments being undertaken to determine the process for handling the fee changes.

#### *UKSC users, providers of legal services*

48. There may be familiarisation and awareness costs incurred by individuals and legal services providers who use the court services where these fees are being changed. These have not been monetised but are expected to be minor.

#### Ongoing costs

##### *Users of UKSC services*

49. The proposed fee changes are assumed to be introduced in April 2024. As shown in table 2 above, under the best estimate we estimate that, as a group, UKSC appellants and respondents will see their costs increase by £170,000 per annum from 2024/25 (averaged over the 10 years of the appraisal period and in 2022/23 prices).

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

##### Transitional Benefits

50. No transitional benefits are expected.

##### Ongoing benefits

##### *UKSC and Taxpayers*

51. As a result of the overall fee changes, under the best estimate we estimate that UKSC will benefit by £170,000 per annum from 2024/25 (averaged over the 10 years of the appraisal period and in 2022/23 prices).

52. Reducing the complexity of the fees structure is likely to improve the UKSC's administrative efficiency as processes will be quicker and easier for staff to follow.

## **F. Risks and Sensitivity Analysis**

53. As the impacts described in this IA are based on certain assumptions, there are also some associated risks. These risks, and their potential impacts, are described below.

54. There is inherent uncertainty around the potential demand for UKSC services in the future. A reduction of 20% has been applied to the five-year average fee volumes to account for uncertainty in the future volume of, including demand for, the court services subject to the proposed fee changes. This has the effect of reducing the estimated fee income by c. £40,000 p.a. for each full year of the policy change (see Table 2).

55. The estimated income from inflating court fees is particularly sensitive to the volume of applicants and demand for court services. The estimates of fee income are based on a five-year average of volumes for the individual fees, but future volumes could be higher or lower than these. While for the reasons explained above, we do not believe that the proposed fee increases will impact volumes, a sensitivity analysis was carried out to demonstrate how the income would vary if fee volumes were 10% higher or lower than those being considered.

56. Table 4 and Table 5 below show the impact of the sensitivity analysis on the best estimate. Inflating the fees as set out in Annex A is expected to increase funding for UKSC under all the volume scenarios considered. In real values, average annual additional funding contribution varies between £100,000 over ten years in the case of volumes being 10 per cent down on the five-year average over the period 2017/18 to 2021/22, to £240,000 for the case where volumes are 10% above those levels. This is based on the best estimate scenario.

**Table 4: Sensitivity to changes in cases volumes, annual nominal best estimate income, £thousands**

Nominal Additional Income, £1,000	2024 /25	2025 /26	2026 /27	2027 /28	2028 /29	2029/ 30	2030 /31	2031 /32	2032 /33	2033 /34	Annual Average
10% reduction in volumes	£110	£110	£110	£110	£110	£110	£110	£110	£110	£110	£110
Best estimate	£190	£190	£190	£190	£190	£190	£190	£190	£190	£190	£190
10% increase in volumes	£270	£270	£270	£270	£270	£270	£270	£270	£270	£270	£270

*Based on 5-year average volumes; income is net of remissions; rounded to the nearest £10,000.*

**Table 5: Sensitivity to changes in cases volumes, real value best estimate income, £thousands**

Real Additional Income, £1,000	2024 /25	2025 /26	2026 /27	2027 /28	2028 /29	2029/ 30	2030 /31	2031 /32	2032 /33	2033 /34	Annual Average
10% reduction in volumes	£100	£100	£100	£100	£100	£100	£100	£90	£90	£90	£100
Best estimate	£180	£180	£180	£180	£170	£170	£170	£160	£160	£160	£170
10% increase in volumes	£260	£260	£250	£250	£250	£240	£240	£230	£230	£230	£240

*Based on 5-year average volumes; income is net of remissions; rounded to the nearest £10,000.*

## G. Wider Impacts

### Equality impacts

57. A separate equalities statement has been produced for the proposals assessed in this IA.

### Better Regulation

58. This measure is not classed as a regulatory provision under the Small Business Enterprise and Employment Act 2015.

### International Trade Impacts

59. There would be no impacts on international trade as a result of Option 1.

### Environment Impacts

60. There would be no impacts on the environment as a result of Option 1

## **H. Monitoring and Evaluation**

61. Fees will be regularly reviewed as part of the UKSC's internal ongoing monitoring process.

# Annex A – Current and Proposed Fees Order

## Existing and Proposed UK Supreme Court fee structure

Fee	Current fee (civil)	Current fee (devolution)	Proposed fee
<b>1 Application for permission to appeal</b>			
1.1 On filing an application for permission to appeal	£1,000	£400	<b>£1,390</b>
1.2 On filing notice of an objection to an application for permission to appeal	£160	£160	<b>£220</b>
<b>2 Appeals, etc</b>			
2.1 On filing notice under rule 18(1)(c) of the 2009 Rules of an intention to proceed with an appeal	£800	£400	<b>*£7,855</b>
2.2 On filing a notice of appeal	£1,600	£400	<b>**£8,975</b>
2.3 On filing a reference under the Supreme Court's devolution jurisdiction*	N/A	£200	<b>***£7,015</b>
<i>*No fee is payable where the reference is made by a court</i>			
2.4 On filing notice under rule 21 (1) of the 2009 Rules (acknowledgement by respondent)	£320	£160	<b>£445</b>
2.5 On filing a statement of relevant facts and issues and an appendix of essential documents	£4,820	£800	<b>Fee removed and combined with 2.1 – 2.3</b>
<b>3 Procedural applications</b>			
3.1 On filing an application for a decision of the registrar to be reviewed	£1,500	£200	<b>£2,095</b>
3.2 On filing an application for permission to intervene in an appeal	£800	£200	<b>£1,115</b>
3.3 On filing any other procedural application	£350	£200	<b>£485</b>
3.4 On filing notice of objection to a procedural application	£150	£150	<b>£205</b>
<b>4 Costs</b>			
4.1 On submitting a claim for costs	2.5% of sum claimed	2.5% of sum claimed	<b>4% of sum claimed</b>

<b>Fee</b>	<b>Current fee (civil)</b>	<b>Current fee (devolution)</b>	<b>Proposed fee</b>
4.2 On certification by the Registrar under rule 52 of assessed costs	2.5% of sum allowed	2.5% of sum allowed	<b>Fee removed and combined in part with 4.1</b>
<b>5 Copying</b>			
5.1 On a request for a copy of a document (other than where fee 5.2 or 5.3 applies) –			
(a) For ten pages or less	(a) £5	(a) £5	<b>(a) £5****</b>
(b) For each subsequent page	(b) 50p	(b) 50p	<b>(b) 50p****</b>
5.2 On a request for an electronic copy	£5	£5	<b>£5****</b>
5.3 On a request for a certified copy of a document	£20	£20	<b>£25</b>

\* Fee 2.1 has been calculated by combining fee 2.1 and 2.5 (£800 and £4,820) before applying the inflationary uplift.

\*\* Fee 2.2 has been calculated by combining fee 2.2 and 2.5 (£1,600 and £4,820) before applying the inflationary uplift.

\*\*\* Fee 2.3 has been increased to reflect the operation and administrative cost involved in a reference case. It has then been uplifted by CPI inflation.

\*\*\*\*These fees remain the same, due to rounding down of the inflated amount.