

<b>Title:</b>	<b>Impact Assessment (IA)</b>
<b>Central Funds reforms</b>	
<b>Lead department or agency:</b>	<b>IA No:</b> MoJ 088
Ministry of Justice (MoJ)	<b>Date:</b> 20/05/2011
<b>Other departments or agencies:</b>	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
	<b>Contact for enquiries:</b> David Carter 020 3334 4211

## Summary: Intervention and Options

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

Individuals who are found not guilty (or acquitted) in criminal cases and who have paid privately for their defence may have their expenses reimbursed, including legal costs, from central funds. The central funds budget is a Ministry of Justice budget. The problem under consideration is that central funds spending has exceeded its set budget, which cannot be extended because of the Government's fiscal deficit reduction objectives. Government intervention is required to maintain central funds within budget.

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

The main policy objective is to reduce central funds expenditure and reduce the allocated budget.

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

Option 0 – No change.

Option 1 – Restrict access to central funds only to; (i) acquitted defendants who, in the case of individuals, do not have access to legal aid, or to; (ii) acquitted defendants that are not companies (on the grounds that they might obtain insurance to cover their costs). In addition cap payments from central funds at the relevant legal aid remuneration rates as the Lord Chancellor considers appropriate.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 10/2013

**What is the basis for this review?** PIR. **If applicable, set sunset clause date:** Month/Year

**Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?**

Yes/No

**SELECT SIGNATORY Sign-off** For final proposal stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.*

Signed by the responsible Minister:

# Summary: Analysis and Evidence

# Policy Option 1

Description:

Price Base Year 0	PV Base Year 0	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £350m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	3	Optional
High	Optional		Optional
Best Estimate	0		£50m
			£400m(nominal)

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

Legal Aid Clients and Providers: An estimated loss of up to £50m in nominal cash from central funds payments. £10m of this is from companies being excluded from central funds on the basis that they might be able to buy insurance. £40m is from paying only legal aid remuneration rates. The burden would be shared between providers and clients depending on whether clients choose to pay their provider over and above legal aid rates.

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

Individual clients who are eligible for legal aid would no longer be eligible to receive costs from central funds or would receive costs capped at legal aid rates. If clients who currently pay privately take-up legal aid, then funding could shift from central funds to the Legal Services Commission (LSC).

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	3	Optional
High	Optional		Optional
Best Estimate	0		£50m
			£400m(nominal)

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

Central funds budget: An estimated saving of up to £50m in nominal cash terms, which accords to the costs to clients and providers. £10m associated with cases no longer reimbursing companies, which may be able to buy legal insurance, and £40m from reducing remuneration rates to legal aid rates.

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

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
Assume no behavioural changes, i.e. cases progress in the same way as now. Assume companies may be able to take out insurance to cover the risks of being exposed to costs in criminal cases. All costing figures in this Impact Assessment have been rounded. Figures do not take into account reductions in legal aid fees proposed in MoJ's recent consultation on legal aid reform, however these are expected to have a very small impact.		

Direct impact on business (Equivalent Annual) £m): Costs: NQ	Benefits: NQ	Net: NQ	In scope of OIQQ? No	Measure qualifies as NA
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# Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?	01/10/2012				
Which organisation(s) will enforce the policy?	Ministry of Justice				
What is the annual change in enforcement cost (£m)?	NQ				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	Yes				
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	Traded:		Non-traded:		
Does the proposal have an impact on competition?	Yes/No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: 100		Benefits: 100		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties<sup>1</sup></b> <u><a href="#">Statutory Equality Duties Impact Test guidance</a></u>	No	
<b>Economic impacts</b> Competition <u><a href="#">Competition Assessment Impact Test guidance</a></u> Small firms <u><a href="#">Small Firms Impact Test guidance</a></u>	No	10
	No	10
<b>Environmental impacts</b> Greenhouse gas assessment <u><a href="#">Greenhouse Gas Assessment Impact Test guidance</a></u> Wider environmental issues <u><a href="#">Wider Environmental Issues Impact Test guidance</a></u>	No	10
	No	10
<b>Social impacts</b> Health and well-being <u><a href="#">Health and Well-being Impact Test guidance</a></u> Human rights <u><a href="#">Human Rights Impact Test guidance</a></u> Justice system <u><a href="#">Justice Impact Test guidance</a></u> Rural proofing <u><a href="#">Rural Proofing Impact Test guidance</a></u>	No	11
	No	11
<b>Sustainable development</b> <u><a href="#">Sustainable Development Impact Test guidance</a></u>	No	11

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

1	<a href="http://www.justice.gov.uk/consultations/award-costs-central-funds.htm">http://www.justice.gov.uk/consultations/award-costs-central-funds.htm</a>
2	
3	
4	

+ Add another row

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>										
<b>Annual recurring cost</b>										
<b>Total annual costs</b>	0	30	40	40	40	40	40	40	40	30
<b>Transition benefits</b>										
<b>Annual recurring benefits</b>										
<b>Total annual benefits</b>	0	30	40	40	40	40	40	40	40	30

\* For non-monetised benefits please see summary pages and main evidence base section

# **Evidence Base (for summary sheets)**

## **1. Introduction**

1. The proposals discussed in this Impact Assessment form part of wider reform in MoJ covering legal aid and criminal justice.
2. Individuals who are not found guilty or acquitted in criminal cases, and who have paid privately for their defence costs, currently may claim reimbursement of their expenses, including legal costs, from central funds. The current system by which central funds are allocated exposes the Government to meet privately funded defence costs in a small number of high cost cases in which the cost can run into several millions of pounds. The MoJ has been overspending the central funds budget allocation throughout the years, and has driven an increasing central funds budget. The budget allocation was raised from £50 million in 2007-08 to £94 million in 2009-10, and the overspend is currently around £1million.
3. The current system of central funds payments also exposes the Government to significant fees in one-off high cost criminal cases against companies that are not eligible for legal aid, although criminal prosecutions against defendant companies are rare in the Crown Court. If these firms are acquitted, the payments from central funds can run into millions of pounds. For example, in one high profile case, had payment been restricted to legal aid rates, the cost would have been approximately £10 million rather than the actual cost of around £20 million.
4. This Impact Assessment proposes to reform the public compensation of privately funded defence for cases which are acquitted in England and Wales, and limiting the scope of this compensation to cases where there is no alternative option for funding, except through MoJ central funds.
5. The Government considers that reform is necessary in order to bring these cases in line with other publicly funded cases, and with wider government reform in the justice system aimed at controlling rising costs, to bring central funds costs within the available budget.

## **Economic rationale**

6. The conventional economic approach to Government intervention is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate, e.g. monopolies overcharging consumers, or if there are strong enough failures in existing government interventions, e.g. outdated regulations generating inefficiencies. In all cases the proposed intervention should avoid generating a further set of disproportionate costs and distortions. The Government may also intervene for reasons of equity or fairness and for redistributional reasons (e.g. reallocating resources from one group in society to another).
7. In this case the economic rationale relates to distributional reasons, in particular reducing the amount of spending on central funds. In effect this represents a financial transfer from the recipients of central funds to general taxpayers.
8. In addition the rationale for these reforms relates to wider macroeconomic objectives, in particular contributing to the Government's objective of reducing the size of the budget deficit.

## **Policy objectives and proposals**

9. Under the current legislation defendants found not guilty in both the Magistrates' and Crown Courts, and successful appellants in the Crown Court and Court of Appeal, are entitled to have their 'reasonable' legal costs and expenses paid for from MoJ central funds (a "defendant's costs order"), if these were paid privately, unless the court decides that an order should not be made.
10. The central funds budget has been overspent since 2004 despite the fact that the budget allocation has been increasing since then. The central funds budget increased from £45 million in 2004-05 to £94 million in 2009-10. The Government does not believe that higher remuneration should be payable from public funds compared to remuneration for legally aided cases, particularly where the recipient could have received legal aid. We therefore intend that the Lord Chancellor sets the criteria for the circumstances in which awards can be made, and the amount that can be awarded to use taxpayers' money more efficiently.

## Main affected groups

11. The following key groups are likely to be affected by the proposals:

- a. MoJ is responsible for managing this budget and is likely to be affected by this change through administrative changes;
- b. Clients receiving funding from central funds may be impacted if they are unwilling to take up legal advice through legal aid or insurance schemes, or if their chosen legal advisers are unwilling to receive remuneration at legal aid rates.
- c. Legal services providers that would be compensated through central funds may be affected if their clients choose to opt for legal aid rather than private legal advice, or if they refuse legal aid remuneration for cases where clients do not want to pay the difference between legal aid rates and private rates.

## Costs and Benefits

12. This Impact Assessment identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing these options. The costs and benefits of each option are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised. These might include how the proposal impacts differently on particular groups of society or changes in equity and fairness, either positive or negative.

13. The policy option outlined in this Impact Assessment is our preferred option and is considered in isolation against the 'do nothing' option. High court cases are estimated in relation to the average actual and projected spend between 2004-05 to 2010-11, and remaining cases are estimated in relation to actual and projected spend between 2008-09 to 2010-11.

14. This Impact Assessment considers the overall impact that the reform proposed here is implemented in a single stage.

### Option 0 – No change to the current system

#### Description

15. Central funds currently remunerate acquitted defendants for expenses incurred in defending criminal proceedings, including legal costs, where cases are paid privately.

16. Hourly rates for privately paying clients are significantly higher than those paid to solicitors and barristers under legal aid. For example, the Senior Courts Costs Office guideline hourly rate for a privately funded senior solicitor based in London ranges from £201 to £409 per hour. These rates cover a broad range of criminal work from the routine to the problematic and may be increased if a case is substantial or complex. While the rates quoted above provide an indication, we do not have any detailed information on private criminal defence rates since these are a matter for private negotiation between the solicitor and/or barrister and their client.

17. The equivalent legal aid hourly rates are, on the other hand, much lower. Until the introduction of the Litigator Graduated Fee Scheme (LGFS) in January 2008, a London-based senior solicitor acting in a relatively straightforward Crown Court case was paid the standard legal aid rate of £55.75 per hour; if the case was unusually complex, this could have increased to a maximum of £111.50. The LGFS fees were modelled on these hourly rates. A senior solicitor acting in the most serious and complex very high cost case is paid £152.50 per hour.

18. This is a do-nothing option included for comparative purposes. Its costs and benefits are zero, as is its Net Present Value (NPV), and it would mainly imply:

- a. Acquitted defendants will continue to receive unlimited compensation for their defence costs; and
- b. Corporate acquitted defendants will remain eligible to central funds reimbursements.

**Option 1: Restrict access to central funds to acquitted defendants who do not have access to legal aid or legal insurance, and cap central funds payments in all other cases for acquitted defendants to the relevant legal aid rates as the Lord Chancellor considers appropriate.**

#### Description

19. This proposal is to remove access to payments from central funds for certain categories of acquitted defendants, where alternative funding is available at less cost to the public purse. These are:
  - a. Crown Court defendants on the basis that legal aid is available to all. Some may have to make a contribution towards their legal aid costs, but this is refunded (with interest) in the event of an acquittal.
  - b. Defendants in criminal proceedings in the High Court or Court of Appeal apart from limited circumstances outside the scope of criminal legal aid.
  - c. Acquitted corporate defendants in all courts on the basis that a company can insure against the risk of criminal prosecution.
20. The proposal is also to limit the sums paid to other acquitted defendants from central funds in line with legal aid payments in order to reduce government expenditure. Rates would be capped at legal aid rates, and payable in cases where a defendant or appellant may have been excluded from legal aid as they were financially ineligible, i.e.
  - a. Acquitted defendants in the Magistrates' Courts (who had not been legally aided); and
  - b. Successful appellants in the Crown Court who had not been legally aided.

#### **Option 1: Costs**

21. The analysis of costs assumes that the reforms would generate no behavioural responses, i.e. that cases would progress in the same way as they do now, but that providers would receive different fees, or clients would have different providers, or clients would pay the difference between central fund reimbursements and private legal rates.
22. Figures presented in this section have been rounded. Figures below £10 million are rounded to the nearest million. Figures above £30 million are rounded to the nearest £10 million. Figures above £250 million are rounded to the nearest £50 million. Figures presented here are in nominal cash value, and not net present values, and do not take into account any interactions with MoJ's proposed legal aid reform changes.

#### ***Costs for Defendants***

23. In Magistrates' Courts proceedings, individual clients ineligible for legal aid and those who arrange their own representation privately would only receive reimbursement from central funds at the rates that legal aid cases would be remunerated. Any additional costs would have to be matched by the clients.
24. Individual clients who are eligible for legal aid may instead take up legal aid in future. In the Crown Court legal aid is available to all defendants, however some defendants may be required to make a contribution to the costs of their legal aid defence, but would normally have their contributions refunded in full if they were subsequently acquitted, unless the court decided that they should pay. In the Magistrates' Court legal aid is provided for free to those who are financially eligible, without contributions, subject to the interest of justice test. If such clients do not take-up legal aid, they will have to fund their cases privately.
25. There may be an increase in defendants self-representing in the Magistrates' Courts if they are ineligible for legal aid in the Magistrates' Courts and believe that they would not recover the full legal costs, in the event of being found not guilty. This risk is expected to be minimal as defendants currently choosing to pay privately have no guarantee that they will be found not guilty and, even if they are, that they would necessarily be awarded costs.

26. A fair proportion of claims from central funds in very high cost cases relate to companies. Company defendant's cost orders will become unavailable through this measure as in such cases, companies may be able to take out insurance against the costs of prosecution. If so, companies may incur insurance premium costs in future. In return some insurers will incur some legal costs out of the £10 million. Alternatively companies may choose to take the risk themselves, and therefore incur the full legal expenses, which is expected to be some proportion of the £10 million.
27. In essence if insurance is taken out this is assumed not to change the aggregate financial impacts on companies but instead to affect how those impacts are allocated and how the risks are managed. For example insurers might pay out up to £10 million in legal costs in total but this would be covered by insurance premium income. So the £10 million costs may ultimately still be paid by companies.
28. The total cost on individual defendants may be up to £40 million, and the cost on company defendants may be up to £10 million. However, it is not clear that these will be entirely incurred by defendants. Defendants may choose to take-up legal aid, or insurance, as illustrated above. Alternatively, defendants may still choose to instruct a private lawyer. In this case they may pay the same rates as previously, and incur the entire cost, or negotiate new rates with providers, in which case, the costs may be incurred by both defendants and providers.
29. Costs do not take account of interactions with MoJ's legal aid fee reform proposals. If legal aid fees are reduced, reimbursement for privately funded cases that are acquitted would be lower, raising costs to individual defendants or providers. Company defendants would not be affected by legal aid fee reforms. The impact however is expected to be very small.

#### ***Costs for legal services providers***

30. Legal services providers may be affected, depending on how clients' behaviour change. Assuming no behavioural change, where clients still choose to instruct private legal advisers and representation and pay them the same as before, providers will not incur any costs.
31. However, if clients choose to opt for legal aid, private legal service providers will incur the loss of revenue from such cases unless they have a legal aid contract, in which case they will still incur some loss in revenue which equates to the difference between private rates and legal aid rates.
32. Clients may still choose to instruct private legal services providers. However as clients will now have to contribute any difference between legal aid rates and private rates, they may negotiate rates with private providers that are lower than they would previously pay. In such cases providers may incur some loss of income.
33. Providers who are currently instructed by companies may in future be instructed by their insurance cover instead, or the insurer may choose who to instruct. It is not clear the extent to which this could happen and the impacts are not quantifiable.
34. The total cost on providers may be up to £50 million. However, it is not clear that these will be entirely incurred by providers. Providers may choose to accept legal aid rates for the same cases, in which case the costs would be incurred by providers. Alternatively, providers may negotiate new rates with defendants, in which case the costs may be incurred by both defendants and providers.
35. Costs do not include interactions with legal aid fee reform proposals. If legal aid fees are reduced, reimbursement for privately funded cases that are acquitted would be lower, raising costs to defendants or providers. Providers for company cases would not be affected by legal aid fee reforms. The overall impact is expected to be very small.

#### ***Costs for Legal Services Commission (LSC)***

36. Some costs may be transferred from central funds to the LSC if individual clients opt for legal aid instead of instructing private providers. In effect these increased costs for the legal aid fund would translate into an increased saving for central funds. The same remuneration would be received, as cases get transferred to the LSC, with no overall implication on MoJ savings.
37. If defendants choose to take up legal aid instead of instructing private providers, there may be some administrative costs for the LSC associated with a higher number of cases.

## ***HM Court and Tribunal Services (HMCTS)***

38. There would be no significant costs to HMCTS under the assumptions adopted. Cases are assumed to progress as before, with differences relating only to the legal costs incurred. This assumption also applies to cases where no legal costs are incurred as the defendant self-represents.
39. There may be an increase in defendants self-representing in the Magistrates' Courts if defendants are ineligible for legal aid in the Magistrates' Courts and believe that they would not recover the full legal costs, in the event of being found not guilty. This risk is likely to be minimal as defendants currently choosing to pay privately have no guarantee that they will be found not guilty and, even if they are, that they would necessarily be awarded costs.

### ***Offender management costs***

40. There are no anticipated additional offender management costs under this proposal given the assumptions which apply.

### **Option 1: Benefits**

41. The following analysis of benefits assumes that the reforms would generate no behavioural responses, i.e. that cases would progress in the same ways as they do now, but either providers would receive different fees, or clients choose different providers, or clients pay the difference between legal aid reimbursement and private legal rates.
42. Figures presented in this section have been rounded. Figures below £10 million are rounded to the nearest million. Figures above £30 million are rounded to the nearest £10 million. Figures over £250 million are rounded to the nearest £50 million. Figures presented here are in nominal values, and not net present values, and do not take into account any interactions with MoJ's proposed legal aid reforms.

### ***Central funds benefits***

43. The proposals are estimated to realise a saving of up to around £50m once they have fully taken effect. This saving for central funds accords with the loss of revenue incurred by legal services providers and/or clients.
44. Benefits do not reflect interactions with MoJ's legal aid fee reform proposals. If legal aid fees are reduced, reimbursement for privately funded cases that are acquitted would be lower, raising further savings to central funds. Central funds savings relating to companies would not be affected by legal aid fee reforms. This impact however is expected to be very small.

### ***Benefits for Defendants in Court***

45. There are no anticipated benefits for defendants under this proposal given the assumptions which apply.

### ***Benefits for legal services providers and clients***

46. There are no anticipated benefits for the providers or clients under this proposal given the assumptions which apply.

### ***Benefits for Legal Services Commission (LSC)***

47. There are no anticipated benefits for the LSC under this proposal given the assumptions which apply.

### ***Benefits HM Court and Tribunal Service (HMCTS)***

48. There are no anticipated benefits for HMCTS under this proposal given the assumptions which apply.

### ***Offender management benefits***

49. There are no anticipated benefits for offender management services under this proposal given the assumptions which apply.

## **Risks and Assumptions**

50. There is a risk that clients may switch from being funded via central funds to being funded via the legal aid budget. This may transfer the allocation of budgets between central funds and LSC, but would not change the overall savings reported here. It may also raise some LSC administrative costs, although these are expected to be minimal.
51. There is a risk that costs and benefits to HMCTS may differ in future. This may depend on whether cases will be shorter or longer in future, which in turn may depend upon whether legal services providers receive less income and whether defendants self-represent.
52. There is a risk that affected defendants in the Magistrates' Courts, who are ineligible for legal aid, may choose to self-represent if they believe that they will not recover their legal costs in full. This risk is likely to be minimal as when deciding whether or not to instruct lawyers privately, at present, there is no guarantee of being found not guilty, or of being awarded costs.
53. It is assumed that relevant insurance cover would be available for companies.
54. Defendants currently paying privately are aware they may be convicted and therefore take up the risk of paying their own bill if they are found guilty. In future, this risk changes as they may have to pay some of their bill even if they are not convicted. There may be a risk that in future these defendants behave differently and may choose to take-up legal aid if they are eligible. This would imply an increase in legal aid fund costs as new cases found to be guilty take-up legal aid.

## **Specific Impact Tests**

### **Competition Assessment**

55. The proposal does not directly or indirectly limit the number or range of providers. It does not limit the ability of providers to compete, or incentives to compete vigorously.

### **Small Firms Impact Test**

56. This measure should not impact on particular firms, such as affecting smaller firms more than larger ones, due to the small number of prosecutions involving companies.
57. We conducted research on the types of companies involved and our research shows that the companies prosecuted in the Crown Court in the last financial year were split half and half between small to medium-sized firms and large firms. This is based on data held on the companies at Companies House. We do not consider that this proposal will have a disproportionate effect on small firms.
58. Additionally, the vast majority of company prosecutions result in a conviction, with no resultant reimbursement of legal costs, and most savings resulting from company cases are typically related to very few high cost cases.
59. We have also considered whether it is reasonable to obtain legal expenses insurance, which is available to protect against such costs. We recognise that insurance companies may increase premiums to cover shortfalls if costs are not be recoverable, but given the relatively small costs involved in criminal proceedings involving companies, compared with civil proceedings, we consider that any increase should not be substantial for insurers.
60. Small firms which are legal services providers may be affected by these proposals if their income and/or levels of business is lower in future.

### **Carbon Assessment**

61. The proposal is not expected to lead to a change in the emission of Greenhouse Gases.

### **Other Environment**

62. The proposal is not expected to have any environmental impacts.

### **Health Impact Assessment**

63. The proposal is not expected to have any significant impacts on human health.

### **Human Rights**

64. The proposal is considered to be compliant with the Human Rights Act.

### **Justice Impact Test**

65. Impacts on the justice system are set out in the main body of this Impact Assessment

### **Rural proofing**

66. The proposal is not expected to have a disproportionate effect on people in rural areas.

### **Sustainable Development**

67. The proposal is not expected to have any impact on sustainable development.

### **Privacy Impact Test (an MoJ Specific Impact Test)**

68. The proposal is not expected to have any impact on privacy.

### **Equalities Impact Assessment (EIA)**

69. An EIA has been drafted and can be viewed on the Ministry of Justice website – <http://www.justice.gov.uk>.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review , or there could be a political commitment to review (PIR)];  It is intended to review the policy between three and five years after the implementation date.
<b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] To ascertain whether the policy has had the expected impact on the affected groups outlined in this Impact Assessment
<b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The intention is to review the impact of the proposal on all affected groups outlined in the Impact Assessment. This is likely to take the form of an Impact Evaluation. This will include reviewing the actual impact of the proposals on Central Funds, customers, providers, HMCS and offender management.
<b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured] All policies will be assessed against the baseline for central funds expenditure and volumes data which all costs and savings figures in this IA are based upon.
<b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] Whether the implementation of the policy proposed has the impacts outlined in the IA.
<b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] It is intended to make use of the data HMCS systems routinely collect. This will allow the impacts of the policy to be assessed at the appropriate date.
<b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here] N/A

Add annexes here.