

Title: Criminal Courts Charge IA No: MJ006/2015 Lead department or agency: Ministry of Justice (MOJ) Other departments or agencies:	Impact Assessment (IA)	
	Date: 23/03/2015	
	Stage: Final	
	Source of intervention: Domestic	
	Type of measure: Secondary Legislation	
Contact for enquiries: general.queries@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 (EANCB on 2009 prices)	In scope of One-In, Two-Out? Measure qualifies as
£400-550m	£0	£0	No NA

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

The Criminal Justice System is currently undergoing fundamental reform. As part of this reform, the Government is looking at new ways to fund the Criminal Justice System and reduce the burden on the taxpayer in England and Wales. Rather than this service being entirely funded by tax payers, it is felt that those who break the law and are dealt with by a criminal court should contribute towards its costs. This policy aims to reduce the burden on those taxpayers who do not break the law.

What are the policy objectives and the intended effects?

The objectives of this policy are:

- To recover some of the cost of the criminal courts from offenders to fund courts within the reformed CJS, making offenders face the cost they impose on the taxpayer in England and Wales.
- To achieve high levels of payment of the charge.
- To avoid causing hardship by giving offenders the opportunity to pay costs at a rate they can afford.
- To promote efficiency and equity by ensuring that more of the costs of the Criminal Justice System fall to those who use it.

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

The following options have been considered:

Option 0: Do Nothing. Continue to fund the criminal courts via taxpayers.

Option 1: Recover some of the cost of criminal courts from offenders.

This option looks to recover some of the cost of criminal courts from offenders, including from their current and future income.

The preferred option is Option 1.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: Review will begin April 2018					
Does implementation go beyond minimum EU requirements?				N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro No	< 20 No	Small No	Medium No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)				Traded: N/A	Non-traded: N/A

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) that the benefits justify the costs.

Signed by the responsible Minister:  Shailesh Vara Date: 02.07.2015

Summary: Analysis & Evidence

Policy Option 1

Description: Recover the cost of criminal courts from offenders

FULL ECONOMIC ASSESSMENT

Price Base Year 2014/15	PV Base Year 14/15	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £400	High: £550	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	5	Optional
High	Optional	25	Optional
Best Estimate	0.8		

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

HMCTS will incur implementation costs associated with IT changes and staff training
 HMCTS will incur costs from enforcing the criminal courts charge. These have been modelled at £0 and £20m per year.
 There may be some additional prison places required as a result of additional committals to prison arising from the policy. This has been estimated at approximately £5m per year in steady state.
 DWP will incur some administrative costs associated with processing additional deductions from benefit. These have been estimated at approximately £1.5m per year.

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

There may be some cost to the police and HMCTS associated with executing enforcement warrants and hearings when offenders have not paid the criminal courts charge. We expect these costs to be small.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0	95	

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

HMCTS is estimated to receive approximately £95m per annum in steady state as a result of the policy.

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

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Cash inflow forecasts are based on adjusted, current fine payment rates. Revenue forecasts may be significantly higher or lower if current fine payment rates are not a reasonable proxy for court charge payment rates. HMCTS does not plan to make additional resources available to enforce the courts charge, as such there is a risk that work on enforcing other court impositions will be displaced and collection rates may fall. Estimates are based on current offender volumes and charge levels. Offender volumes have fallen in recent years and if this trend continues, the estimates presented here could be too high.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs:	Benefits:	Net: 0	No	NA

Evidence Base (for summary sheets)

Introduction

1. The Criminal Justice System is currently undergoing fundamental reform. As part of this reform the Government is looking at new ways to fund the criminal courts and reduce the burden on the taxpayer in England and Wales. Rather than being entirely funded by taxpayers, this Government believes that those who break the law and are dealt with by a criminal court should contribute towards its costs.
2. The Criminal Courts Charge (CCC) Impact Assessment (IA) was published in February 2014. This set out the policy options and rationale, to coincide with the introduction of the primary legislation. An addendum to the IA was published in July 2014, which provided draft charge levels and confirmed that the specified period, in terms of the time that must have passed before the CCC can be written off, will be set at two years. The addendum also provided updated estimates of the expected revenue, based on the draft charge levels.
3. Since then further work has been undertaken to finalise the charge levels, using more up to date data and following further exploration at what levels the charges should be set. The remaining policy questions on the application of interest to repayment of the charge and any exemptions to the charge have also been settled.
4. This final stage Impact Assessment provides information on these remaining points and the updated revenue estimates. The IA is being published to accompany the laying of the secondary legislation in which the actual charge levels will be set out. The legislation will also define the specified period and any exemptions from the charge.

Rationale for Intervention

5. The conventional economic approach to Government intervention to resolve a problem are 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 there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). The proposed new interventions should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).
6. The primary purpose of the proposed intervention is to recover part of the costs of the criminal courts from offenders who break the law and are convicted in a criminal court. This will have the effect of reducing the burden on all taxpayers and ensuring convicted offenders contribute to the costs of the criminal courts. The economic rationale for this policy therefore predominately relates to efficiency arguments. Offenders impose costs on the UK taxpayer and therefore imposing this cost on the offenders themselves reduces the costs to non-offending taxpayers.

Policy objectives

7. The objectives for this policy are as follows:

- To recover some of the cost of the criminal courts from offenders to fund courts within the reformed Criminal Justice System, making offenders face the cost they impose on the taxpayer in England and Wales.
- To achieve high levels of payment of this charge.
- To avoid causing hardship by giving offenders the opportunity to apply to pay costs at a rate they can afford.
- To promote efficiency and equity by ensuring that more of the costs of the CJS fall to those who use it.
- To provide an incentive not to offend, by providing a power for courts to cancel the charge.

The CCC is not intended to be a punishment, but a way of making sure that those who break the law and take up court time are required to contribute towards the resulting costs.

Policy Options considered

Option 0: Do Nothing

8. By doing nothing, no additional revenue would be brought in to fund the Criminal Justice System and the cost of criminal courts will continue to be funded by the taxpayer.

Option 1: Recover the cost of criminal courts from offenders

9. This option looks to recover some of the cost of criminal courts from convicted offenders' incomes, including their future earnings.

The Criminal Courts Charge

10. The 'charge' refers to the amount an offender will be required to pay towards criminal court costs. The charge will only be imposed on adult offenders who have been convicted by the court of an offence, for unsuccessful appeals and certain post-conviction hearings. Those who are found not guilty will not have the CCC imposed. Where a defendant is acquitted on appeal, the charge will be withdrawn and any payments the defendant has made towards the charge will be returned. The Lord Chancellor has the power to set the charge levels by secondary legislation.

11. The provisions in the Criminal Justice and Courts Act inserts s21C(2) into the Prosecution of Offences Act 1985 which specifies that, in setting the charge levels, the Lord Chancellor must ensure that the amount imposed 'does not exceed the relevant court costs reasonably attributable to a case of that class'. Relevant factors include the type of offence (summary, either way or indictable only), the court at which the case is heard (magistrates' or Crown) and the plea (guilty or not guilty). The costing work underpinning the charge levels has been updated with 2013/14 volumes and the charge levels have been updated accordingly. Additional categories have also been added to ensure that the full scope of circumstances, where the charge is applicable under the primary legislation, have been covered. The final charges are set lower than the estimated full cost of proceedings. Further information on the costing work underpinning the charges can be found in Annex A.

Table 1: Charge Levels

Type of band		Charge
Magistrates' court	Summary offence guilty plea	£150
	Either way guilty plea	£180
	Summary offence trial	£520
	Either way trial	£1000
Crown Court	Indictable guilty plea	£900
	Either way or indictable only trial	£1,200

Breaches and appeals

Type of hearing		Charge
Mags' court	Breach hearings	£100
Crown Court	Appeal against conviction and/ or sentence	£150
	Breach hearing	£150
Court of Appeal	Application for leave to appeal	£150
	Appeal against conviction	£200
	Appeal against sentence	£200

Interest

12. The primary legislation provides the power to apply interest to the CCC insofar as it remains unpaid. The rationale for this was to make sure that an offender pays back the real-term value of their unpaid CCC.

13. Interest will not be charged for an initial period to allow for the necessary IT changes to take place; it is expected that the provision to charge interest will be commenced at a later date. For the purposes of the modelling we have assumed that interest is charged from implementation at the rate of inflation (as measured by the Consumer Price Index). Given the current low rates of CPI not charging interest is unlikely to make a substantial difference to the estimates presented in this Impact Assessment.

Exemptions

14. The primary legislation allows for offenders who were under 18 at the time of committing the offence to be exempt. As drafted, it also allows for further exemptions to the CCC to be made in secondary legislation. The policy rationale for making further exemptions is that the justice system allows for a range of disposals that – in one way or another – allow the finding of facts without an adverse impact on the offender (or with a supportive, not punitive, impact) and in those cases the recipient of those discharges should not be disadvantaged by the imposition of the CCC.

15. Accordingly, the Government has decided to exempt those who receive a disposal under the Mental Health Act 1983 and those who receive an absolute discharge, and will be effected through the secondary legislation. The impact is likely to be small here: there were less than 1,000 adult offenders sentenced with Restriction and Hospital orders in 2013; and, total sentences for absolute discharge in 2014 was approximately 6,000 (out of one million adults sentenced). Given the small numbers involved, offenders sentenced under

the Mental Health Act have not been removed from the modelling and therefore the estimates presented in this Impact Assessment include these offenders. This is unlikely to make a significant difference to the estimates presented here.

Confirmation of the specified period

16. The policy includes a power for the court to cancel outstanding courts charge debt after a specified period, provided that either (i) during the specified period, the offender has not been convicted of a further criminal offence, and only where they have taken reasonable steps to comply with payment terms for any financial impositions imposed by the court, having regard to their personal circumstances, or (ii) the court is otherwise satisfied collection and enforcement of the courts charge is impracticable. This element of the policy is referred to as the 'cap'.
17. The Government has considered what time period would be appropriate in this context and has confirmed that the cap period for offenders will be two years from the point of conviction or, where applicable, release from prison.

Enforcing the Criminal Courts Charge

18. The charge will be recovered using a similar range of enforcement options as exist for fines and other payments ordered by the court. A procurement process is underway to contract out HMCTS compliance and enforcement activity to an external provider under the HMCTS Compliance and Enforcement Project. This project aims to increase efficiency and reduce the overall cost of HMCTS enforcement.
19. It will be possible to immediately recover the charge from offenders who are able to pay when the charge is ordered. However, where an offender does not have sufficient means to pay the charge at the point it is imposed, they will be able to make payments over a period of time. The rate at which they are expected to pay will be the same as for paying a fine and other financial impositions, based on the offender's income. If an offender's financial circumstances subsequently change, HMCTS will be able to use information about the offender's means to amend the rate of payment of the charge where appropriate.
20. Fines officers already have the power in certain circumstances to vary an offender's payment rate prior to that offender having defaulted on his or her payments. Alongside the criminal courts charging proposals, this power will be extended to enable fines officers to vary repayment rates after the point of default. Fines officers will also be able to increase an offender's payment rate if their financial circumstances allow, at any time, with the consent of the offender. These extensions will provide greater flexibility to enable an offender who is willing to repay to do so at a rate he or she can afford. Specifically the ability to vary after default will allow an offender to continue to repay at a lower rate, if appropriate, rather than his or her case being automatically escalated to warrant of control stage, for example.
21. HMCTS may look to charge individual offenders for additional costs of enforcement ('collection costs') in the future. For the purposes of this analysis, we have assumed that the cost of enforcement falls to MoJ rather than offenders.
22. In the future it may be possible to improve enforcement of the charge (and other types of financial imposition) through making use of data sharing powers provided under the Crime and Courts Act 2013. Increased data sharing between HMCTS and HMRC may enable

HMCTS to identify whether an offender is working, how much an offender is earning, and if/when there are any changes to their income.

23. Payment of the charge will start once other financial impositions have been paid off. For those offenders sentenced to imprisonment, the offender will remain liable to pay the charge on release from prison.

Groups Affected

Main Affected Groups:

24. The policy involves recovering the costs of criminal courts from convicted offenders. Therefore a range of criminal justice agencies as well as related enforcement organisations will be affected.

25. The main groups affected by this proposal are:

- Her Majesty's Courts and Tribunals Service (HMCTS)
- Her Majesty's Revenue and Customs (HMRC)
- National Offender Management Service (NOMS)/ Her Majesty's Prison Service (HMPS)
- Department for Work and Pensions (DWP)
- Home Office/Police
- Wider society
- Offenders

Cost and Benefits

Base Case/Option 0

26. The base case is the "do nothing" option, not making offenders contribute towards the cost of criminal courts. This means that as this option can only be compared with itself, the costs and benefits will be zero, as is the option's Net Present Value.

Option 1: Recover the cost of criminal courts from offenders

Costs of Option 1

Costs to HMCTS

Enforcement

27. We have carried further work in to the expected costs of enforcing this policy. Approximately £0.7m will be required in 2014/15 to be spent on implementation. A further £0.1m will be required for implementation in 2015/16.

28. The enforcement of current financial impositions cost HMCTS £50.6m¹ in 2013/14. HMCTS had cash collection levels of £290m in 2013/14².

¹ This figure was provided by HMCTS Enforcement and is based on their current staff costs.

29. Once the CCC comes into force, there are no current plans to provide additional enforcement resource. The operational expectation is that the CCC will not have a substantial impact on the volume of cases to be enforced, as virtually all offenders will already be paying the Victim Surcharge at the very least.
30. There is limited information about the unit costs of enforcement. It is anticipated that any additional workload will be absorbed by existing staff and therefore there will be no additional financial cost associated with enforcing the CCC. There will be an economic cost associated with undertaking this work, as other work will be displaced. Because of the limited information available on costs and drivers of workload in enforcement we have not been able to estimate the extent of the additional workload and the displacement. Therefore we are unable to estimate the economic cost. However, as the current cost of enforcement is approximately £50m per year and no additional resources will be made available to enforce the CCC, we know that the economic cost of enforcing the CCC must be up to £50m per year.
31. Given the significant change in value the CCC might add to payments made by offenders, we do expect there to be some increase in enforcement action required; e.g. the increase in the amount of the financial imposition may mean that offenders who might have paid without enforcement action before, may now request payment by instalment. Increasing the value of the financial imposition might also increase the duration and/ or complexity of enforcement which could increase workload. An increased enforcement work load with no additional resource could reduce HMCTS overall collection rates. This is highlighted as a risk as we are unable to quantify the impact. Sensitivity analysis concerning this risk is presented on page 16 of this IA.
32. As discussed in the original IA, HMCTS have commenced a procurement process to identify an external provider for the future delivery of compliance and enforcement activity from criminal financial impositions. This is expected to improve efficiency of the collection of financial impositions as well as reduce the cost of the current service.
33. For the purposes of this IA, we have assumed that the enforcement functions will be performed by HMCTS in the immediate term, although they may later be delegated to an external provider.
34. The additional powers for fines officers to vary repayment rates for offenders are not expected to lead to any significant additional administration costs. In practice, fines officers are already involved in variation of payment rates prior to default. These extended powers are simply providing fines officers with additional options for enforcing debts against offenders they are already working with.
35. There may be some additional costs to HMCTS associated with hearings for offenders who have not paid the charge. We expect these costs to be minor.

Debt Accrual

36. Additional debt is expected to be owed to HMCTS after the introduction of the CCC. It is likely that much of the CCC imposed will not be paid off straight away and some will not be paid at all; there will be an increase in the accrual of debt within the first few years of the policy. This is due to a delay between the charge being imposed, cash flows being realised and debt being written off and cancelled.

² <https://www.gov.uk/government/publications/hm-courts-and-tribunals-service-annual-report-and-accounts-2013-to-2014> (pg 8).

37. The level of debt accruing depends on a number of factors including the level of charge issued and amounts paid. The Act includes powers for the court to cancel outstanding charges in certain circumstances. The policy has been designed to create an additional incentive not to reoffend by restricting the courts power to remit to a period in excess of 2 years since last conviction or release from prison. When offenders have desisted from offending and made regular payments of the charge for two years, their debt will be considered for cancellation. Courts also have the power to cancel the charge after a specified period of time if it is unenforceable. Without any cancellation, modelling work estimates there would be an increase in debt estimated to be around £1.2bn by 2020/21³.
38. The provision to cancel the charge will contribute towards HMCTS' management of this risk, as well as incentivising offenders not to reoffend.

Costs to Her Majesty's Prison Service (HMPS)/National Offender Management Service (NOMS)

39. Offenders who, for an imprisonable offence, have sufficient means to pay the amount owed forthwith, but do not do so, or, for other offences, wilfully refuse or culpably neglect to pay the charge where other enforcement methods are inappropriate or have been unsuccessful, are liable to the sanction of committal to prison in default. This may lead to costs for HMPS/NOMS in terms of accommodating the offenders. However, as this sanction will only be used as a last course of action after all other means of pursuing payment have been exhausted, it is not expected that this cost would be substantial. It is estimated that the potential increase in prison occupancy resulting from this sanction could lead to a cost of around £5m per annum⁴ in steady state (although the actual costs are dependent on capacity). In the first year we have assumed that no additional prison places will be required and in the second year that half the steady-state amount of places will be required. This is to account for the time from committing the offence to sentencing and then for all other enforcement actions to be taken before a prison sentence for default is imposed.

Costs to the Home Office/Police

40. This policy has the potential to impact on the police, however the impact is expected to be small. The police are currently only involved in executing enforcement warrants when offenders are assessed as high risk, although in some areas the police will be more heavily involved under local arrangements with courts. There is the potential that if this work remains with the police that there could be a small increase in the number of warrants they are executing if there are increased levels of default in relation to the charge. It has not been possible to quantify this impact but it is expected to be minimal.
41. We have not assumed any changes in reoffending rates. The policy has been explicitly designed to create an additional incentive not to reoffend by restricting the courts power to remit to a period in excess of 2 years since last conviction or release from prison.

Costs to DWP and HMRC

42. This policy is expected to have some impact on HMRC and DWP. The current enforcement process for existing financial impositions, including compensation and fines,

³ See Annex C for further details on debt build up.

⁴ This estimate is based on an increase of between 100 and 250 prison places and has been rounded to the nearest £5m. The cost of additional prison places is also dependent on the existing prison population, as if there is spare capacity in terms of prison places then the marginal cost of accommodating more offenders will be low due to existing large fixed costs and low variable costs. Conversely, if the current prison population is running at or over capacity then marginal costs may be significantly higher as contingency measures will have to be found to ensure that offenders who refuse to contribute towards their charge can be placed in custody.

requires some interaction between the enforcement function and other government departments that are responsible for collecting debt from offenders.

43. Following existing practices, HMCTS will be able to make an order for a deduction from an offender’s benefits to pay towards the CCC. We expect the costs to DWP of making additional applications for deductions from benefits to be up to approximately £1.5m per annum in steady state.

Costs to employers

44. Following existing practices, HMCTS will be able to make an attachment of earnings order for a deduction from an offender’s wages to pay towards the CCC. Employers are entitled to make an additional deduction from the offenders’ wages of up to £1 per pay period to cover the administrative costs associated with processing these payments. In some cases it is possible that the employer’s actual administrative costs will exceed the amount they are allowed to collect. We have not quantified this impact.

Benefits of Option 1

45. The cost of criminal courts represents a burden on those taxpayers in England and Wales who have no interaction with the Criminal Justice System. The imposition of a charge for offenders to contribute to the cost of criminal courts will mean that some of the costs are borne by those who are convicted of criminal offences⁵.

46. In the previous IA and addendum two approaches were used to estimate the potential cash inflow that could be realised from the imposition of a criminal courts charge to recover court costs. One approach (fines-based model) used adjustments of data on fine impositions and amounts paid, while the other approach (income-based model) was based on data on offender means. We consider the estimates derived from the fines-based model to be a more useful predictor of likely future revenues as they allow for wilful non-payment. As such we have used only this model to assess the policy in this Impact Assessment. Further details on the fines-based model can be found in Annex B.

Benefits to HMCTS

47. The tables below summarise the total cash inflow estimates.

Table 2: Estimated gross cash inflows from the court charge

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0	£5m	£65m	£90m	£90m	£95m	£95m	£95m	£95m	£95m

Figures are rounded to the nearest £5 million and are in real terms. They include a 20% adjustment for optimism bias.

48. The table above show that based on the fines-based model estimated cash inflow from the criminal courts charge policy grows to around £95m per annum by 2020/21. See Annex B for further details of the modelling.

⁵ A zero weighting is given to costs or benefits directly accruing to offenders.

49. The fines-based model profiles payments over 18 months⁶, as a result it is not possible to accurately model the impact of the two year cap in this model. However, because we have assumed, for modelling purposes, that payments stop after 18 months anyway (after allowing for delays to pay of other impositions and for those offenders who receive custodial sentences) adjusting cash inflow estimates to take account of the cap would have very small impact on the figures presented here. Additionally, Magistrates will have the power to write-off the charge under certain circumstances after a specified period of time. Due to the uncertainty around how often this power will be used, we have not included this in our modelling.

50. Where an individual is summoned to attend a hearing in the criminal courts, they are asked to provide information about their means. This can enable the court to set an appropriate payment rate for the charge based on the offender's income. It is possible that there may be a stronger incentive to ensure accurate completion of means forms or use alternative means assessments, as the total financial imposition for those offenders subject to the charge will now be higher. This may have the benefit of increasing recovery from other forms of financial imposition as well as the charge.

Guilty pleas

51. The charge levels for the cost of criminal courts are lower for those offenders who plead guilty compared to those who opt for a trial. This reflects the lower costs of those cases.

Reoffending

52. The imposition of a criminal courts charge in addition to an offender's existing sentence could possibly act as a factor in deterring offenders from committing further offences in the future. However, this potential benefit is highly uncertain and the impact is not possible to quantify as there is limited evidence available on the scale of any such deterrent effect.

Benefits to enforcement

53. If HMCTS continues to make use of improved data sharing capabilities with HMRC, it could be expected to lead to increased levels of recovery of the criminal courts charge. If these data sharing capabilities are maintained, they will continue to be used for the collection of all existing financial impositions as well as the criminal courts charge.

Net Impact of Option 1

54. As explained above we cannot estimate the economic cost of enforcing the courts charge. No additional resources are available to enforce the courts charge so we expect that the financial cost to HMCTS will be zero (after implementation costs). The tables below summarise the net cash income (i.e. cash income less costs) in real terms under two scenarios: Scenario 1, where the economic costs of enforcement are assumed to be zero and Scenario 2, where the economic costs are assumed to be £20m pa. In both scenarios the implementation costs have been included as described above.

⁶ Data on fine impositions and amounts paid is published over an 18 month period and the model assumes that this is the full extent of payment (although the model does assume additional delays before the 18 month payment period begins for offenders to pay off existing financial impositions first and for those who receive custodial sentences to be released).

Table 3: Estimated net cash impact from the court charge

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
Scenario 1	£0m	£5m	£65m	£85m						
Scenario 2	-£20m	-£15m	£45m	£65m						

Figures are rounded to the nearest £5 million and are in real terms. They include a 20% adjustment to revenue figures for optimism bias.

55. In steady state we estimated that the net cash impact will be between £65 and £85m per year.

56. The 10 year Net Present Value (NPV) estimates of this policy, in 2014/15 prices, derived from scenario 1 is £550m and £400m from scenario 2⁷.

Assumptions/Risks

57. For the analysis of the impact to the criminal justice system of recovering criminal court costs from convicted offenders, a number of assumptions were made, which come with associated risks.

Assumption	Risk
A commencement date of 1st April 2015 is assumed for the purposes of modelling this policy – although we expect to commence the order on 13 th April 2015. Any offenders committing offences before the policy implementation date are not charged. Average offence to completion times have been used to determine those offenders who would have committed the offence before the policy commencement date. A 5 month average lag is assumed based on 2014 Q2 figures ⁸ . This period is applied to all those paying the criminal court charge as there would always be this delay between the offence being committed and a sentence being given and therefore the criminal courts charge being imposed.	
Where summary offences may be diverted to the Single Justice Procedure (SJP), these cases will attract the lowest charge level (summary offence guilty plea). This has not been reflected in the cash flow estimates because it is not yet clear which cases will be replaced by the SJP so the impact cannot be accurately modelled. Furthermore the SJP will be subject to a phased implementation and will not initially be available nationwide.	The expected level of income from the policy will be highly dependent on the levels of charges for different offender groups.
It is assumed that offenders in the years following the implementation year will be the same as those in the implementation year in terms of volumes and the mix with respect to pleas, offence types, court venues and sentencing disposals. It is possible that the annual amounts paid by new cohorts may vary if they have differing characteristics, particularly volumes, to those in the implementation year. The	Changes in offender characteristics could have a large effect on the expected impacts of the policy. In recent years, criminal court caseload volumes have been falling ¹⁰ . Were this change to continue, the expected cash inflow from this policy would decrease. Similarly, changes in the case mix would also affect total costs charged and cash inflows collected.

⁷ NPV estimates are rounded to the nearest £50m

⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384443/cs-q2-2014-main-tables.xls#3.12!A1

<p>modelling assumes that caseload will remain at the level of the most recent published numbers⁹.</p>	
<p>The modelling assumes that the level of charges and the charges to be paid will be uprated by inflation each year.</p>	<p>If the cost of the courts changes at a rate other than inflation, for example following increased efficiencies, this would affect the level of income from the policy.</p> <p>If the costs of running courts decreases, the charges would need to decrease in line with this. However, as we will only ever recover a portion of costs, there will still be a net benefit to Government from reducing the costs of courts.</p>
<p>It is assumed that the payment of the criminal courts charge will be paid after compensation orders, victims surcharge, prosecution costs and fines. This means that the offender would need to pay off each of these penalties before beginning to pay off the criminal courts charge. For offenders convicted a second time, this means that they would have to have paid off the other financial impositions for both offences followed by the criminal courts charge for the first (if not already paid off) and then the second offence. The modelling incorporates payment delays in order to account for these prior payments.</p>	
<p>It is assumed that if a person is convicted of multiple offences at one time then only one charge will be applied. This charge will be commensurate with the highest charge appropriate.</p>	

Additional Risks

58. Recovering criminal court costs through charging offenders may also pose the following risks:

59. Effects on sentencing behaviour/financial impositions:

- The CCC is not a punishment or penalty and it is clear in the legislation that those sentencing should not take the charge into account. To ensure Sentencers do not seek to take the charge into account in mitigation, guidelines will make clear that the charge can not be a mitigating factor and therefore should not impact on the amount of financial penalties ordered and the associated cash flows. The CCC will be paid after compensation orders, victims surcharge, prosecution costs and fines, therefore limiting any potential effects.

60. Changes in offender behaviour. This includes more defendants pleading guilty, not opting to be tried in the Crown Court, accepting cautions, or paying fixed penalty notices (FPNs).

⁹ There were a total of 1,116,347 adults sentenced in the 12 months to March 2014 (table Q5.7) (This will include some offenders acquitted on appeal) [https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/343330/sentencing-tables.xls#Table Q5.1!A1](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/343330/sentencing-tables.xls#Table%20Q5.1%21A1)

¹⁰ Court statistics (quarterly) April – June 2014, Table 3.2 and 3.3

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384443/cs-q2-2014-main-tables.xls#3.1!A1

- We have considered whether there is a risk that an offender may feel that they have reduced choice in whether to plead guilty or go to trial or whether to opt for trial in the Crown Court, where they have the option – decisions here may result in a higher criminal courts charge. The policy will not impose a charge on anyone who is found not guilty. Additionally, if an offender is found guilty and charged, the rate at which they pay the charge can be adjusted according to their income. This should act as a mitigating factor by ensuring that offenders would not be expected to pay the charge at a rate which is beyond their means.
- We have also considered whether offenders may be incentivised to accept cautions or to pay FPNs rather than opting for a trial and having to pay the charge. However as before, the policy will not impose a charge on anyone who is found not guilty and the offender will have an opportunity to pay at an affordable rate.

61. Offenders gaining legitimate employment:

- We have considered whether offenders who would have undertaken legitimate employment may instead undertake non-legitimate employment or in the case of the self-employed, under-report their legitimate income as a result of the charge, which could reduce cash flows from the charge and taxation. The amount taken from those in employment will be tiered to ensure there are not potential disincentives to work. Also, offenders will be expected to pay the criminal courts charge if they are in receipt of benefits as well as if they are in employment. Improved data sharing with HMRC may provide data on offenders' incomes which could mitigate the risk of underreporting income from legitimate employment when assessing offender means. Additionally, HMRC are expected to continue to use existing measures to identify and prevent non-legitimate employment.

62. Reoffending

- The policy has been designed to create an additional incentive not to reoffend by including a limit on the period during which an offender will be expected to make payments towards the criminal courts charge. The charge can be written off after two years if that offender has both not reoffended during that period and has made best efforts to comply with the payment terms which have been imposed, given their circumstances. As with any imposition, there are potential ways in which this policy could affect levels of reoffending in either direction. The imposition of a criminal courts charge in addition to other fines imposed on offenders could reduce offenders' net incomes and thereby provide an upward pressure. However, this is unlikely to drive the overall trend and it is highly uncertain whether this pressure would materialise. There may also be possible further secondary effects of debt on offenders as a result of the charge being issued (e.g. risks to family breakdown) which may be then linked to reoffending. However, as it will be possible for the criminal courts charge to be repaid at a rate that the offender could afford, this is mitigation for the risk. Additionally, the additional charge could act as a deterrent.

63. Labour market and wider economic context

- The model used to assess the policy uses current fine impositions and amounts paid adjusted by a variety of assumptions. The model implicitly assumes that offenders' ability to pay financial impositions in the future is similar to that of today. Changes in the labour market and wider economic context could change cash flows from the CCC.

- As set out above, we have considered whether offenders who would have undertaken legitimate employment may instead undertake non-legitimate employment or in the case of the self-employed, under-report their legitimate income as a result of the charge, which could reduce cash flows from the charge and taxation. The amount taken from those in employment will be tiered to reduce potential disincentives to work, which should mitigate these risks. Improved data sharing with HMRC may provide data on offenders' incomes which could mitigate the risk of underreporting income from legitimate employment when assessing offender means. Additionally, HMRC would be expected to continue to use existing measures to identify and prevent non-legitimate employment.

64. Legal Aid Crown Court Means Test (CCMT)

- Under the CCMT scheme, defendants may be required to pay a contribution to their legal aid costs from income, and then, if convicted, from their capital assets. So, an offender convicted at the Crown Court could become liable to a Capital Contribution Order under CCMT at the same time as facing the criminal court charge. There is also the possibility that enforcement action may be pending against the offender for non-payment of an income contribution order. As the CCC is a priority charge and any enforcement of an income contribution order would occur after the CCC has been paid, it could have an impact on CCMT income.

65. Writing off the debt

- This policy presents a risk that there will be an accrual of debt from unpaid charges for HMCTS. In order to mitigate the risk of accruing debt at a level that is not possible to recover, there will be mechanisms in place to impair, write-off and cancel the debt where appropriate. This includes the power in the Act for the courts to remit the charge where they are satisfied that collection and enforcement of the charge is impracticable, or where the offender has made reasonable steps to pay and has not reoffended, as mentioned above. This will contribute to HMCTS' management of the overall debt risk and ensure that offenders are not disproportionately burdened with debt in relation to the crime they have committed.

66. HMCTS volume and cost interaction

- This analysis has not modelled the potential effects of the interaction between offender volumes and costs in the courts. The analysis has assumed that volumes into courts and the case mix are unchanged over time and has assumed that costs for each band are unchanged in real terms over time. In reality there are a number of factors including future policy changes that will affect either of these variables and the interaction of the two over time is complex.
- Policy changes may affect either or both of these variables. If the courts become more efficient the charges would need to reflect this. This would in turn reduce the amount charged and cash receipts from the criminal courts charge.
- Additionally, the effect of the extent to which cash revenues outweigh the costs of implementation and enforcement will be in part dependant on the extent to which efficiency savings can be made in the criminal courts can be matched by reductions in enforcement costs.

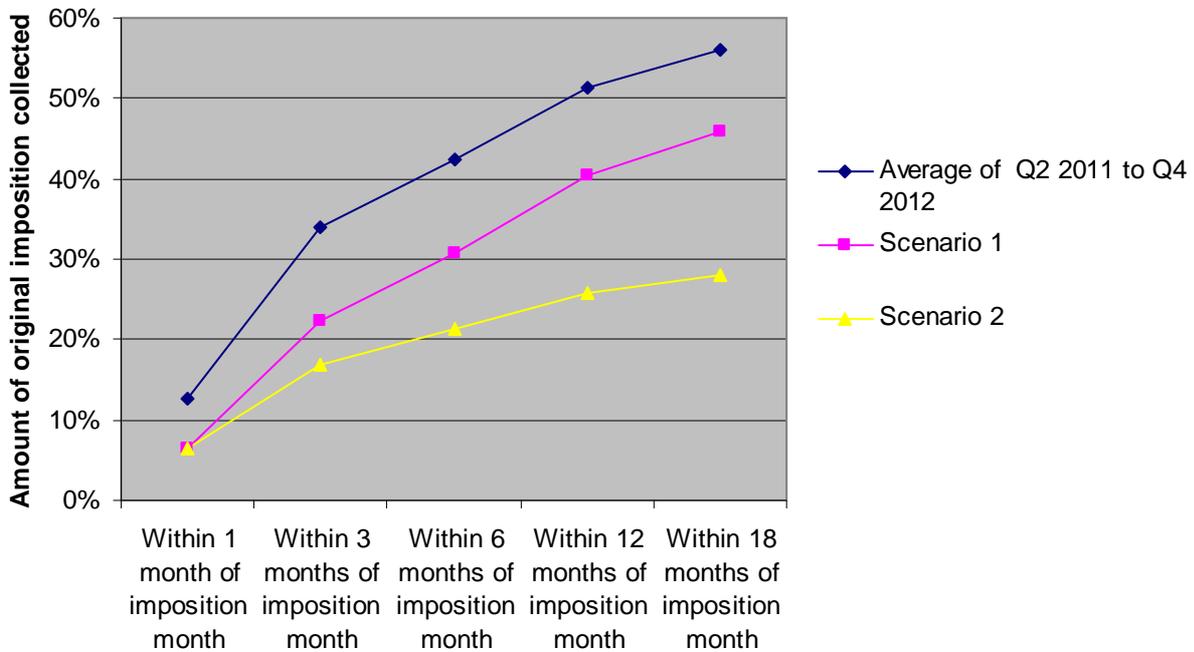
67. This analysis has not modelled any potential impacts of the recent reforms to the rules around enforcement agent fees introduced by the Government in response the 'Transforming Bailiff Action' consultation.

Sensitivity Tests

Collection of other court-ordered impositions

68. As mentioned above there is a risk that the additional debt to be collected as a result of the CCC will lead to fewer resources being available to enforce other court-ordered impositions (e.g. fines) and that collection rates for these impositions may fall. Additionally, it is possible that some offenders may now pay in a longer time-scale or take additional actions to avoid paying their debt all together because, with the imposition, of the CCC their total debt has become bigger. It is not possible to predict the likely scale of this impact. For illustrative purposes, we have modelled two scenarios: Scenario 1 where the payment rate in month 1 is half the historical average and the payments rates in months 3,6,12 and 18 increase 50% faster than the historical average and scenario 2 where the payment rate in month 1 is half the historical average and the payment rates in months 3,6,12 and 18 increase at the same rate as the historical average. These scenarios are shown on the graph below.

Collection Rates of Other Court-Ordered Impositions



69. On average between quarter 2 2011 and quarter 4 2012 HMCTS collected 56% of the amount imposed each quarter within the 18 months from the ordered being imposed (approximately £100m was imposed each quarter on average and £56m was collected within 18 months). Under Scenario 1 the collection rate over 18 months would fall to 46% and under scenario 2 this would fall to 28%. This would result in collections being £10m less under scenario 1 and £28m less under scenario 2 over the 18 months from impositions.

Collection of the Criminal Courts Charge

70. The expected revenues from the fines-based model presented above are modelled on current fine collections rates (see annex B for further details). As there will be no additional resources made available to enforce the CCC, it is possible that these collection rates will not be achieved. Collection rates are affected by many factors and it is not possible to

predict the potential scale of this risk. For illustrative purposes, if the payment rates of the CCC were 10 % lower than expected then the estimated cash inflows would be as shown in table 4a below. If the payment rates of CCC were 20% lower than expected then the estimated cash inflows would be as shown in table 4b below.

Table 4a: Estimated gross cash Inflow from CCC if payment rates were 10% lower than expected

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0	£5m	£60m	£80m	£85m	£85m	£85m	£85m	£85m	£85m

Figures are rounded to the nearest £5 million and are in real terms.

Table 4b: Estimated gross cash Inflow from CCC if payment rates were 20% lower than expected

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0	£5m	£55m	£70m	£75m	£75m	£75m	£75m	£75m	£75m

Figures are rounded to the nearest £5 million and are in real terms.

71. It is also possible that the collection rates presented here are too low. For illustrative purposes, if the payment rates of the CCC were 10 % higher than expected then the estimated cash inflows would be as shown in table 4c below. If the payment rates of CCC were 20% higher than expected then the estimated cash inflows would be as shown in table 4d below.

Table 4c: Estimated gross cash Inflow from CCC if payment rates were 10% higher than expected

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0	£5m	£75m	£100m						

Figures are in real terms and are rounded to the nearest £5m

Table 4d: Estimated gross cash Inflow from CCC if payment rates were 20% higher than expected

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0	£5m	£80m	£110m						

Figures are in real terms and are rounded to the nearest £5m

Offender Volumes

72. The volume of offenders is assumed to be constant in the model and is based on the most recently published figures. However, offender volumes have fallen in recent years and it is possible that this trend will continue. If the volume of offenders was lower than expected then revenue would also be lower than expected. We have not attempted to estimate future volumes of offenders but for illustrative purposes, if the volume of offenders was 10% lower than expected then estimated cash inflows would be as shown in table 5a below, if volumes were 20% lower they would be as shown in table 5b below. These estimates assume that charge levels remain unchanged.

Table 5a: Estimated gross cash Inflow from CCC if offenders volumes were 10% lower than expected

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0	£5m	£60m	£80m	£85m	£85m	£85m	£85m	£85m	£85m

Figures are in real terms and are rounded to the nearest £5m

Table 5b: Estimated gross cash Inflow from CCC if offenders volumes were 20% lower than expected

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0	£5m	£55m	£70m	£75m	£75m	£75m	£75m	£75m	£75m

Figures are in real terms and are rounded to the nearest £5m

73. It is also possible that offender volumes may increase in the future. For illustrative purposes, if the volume of offenders was 10% higher than expected then estimated cash inflows would be as shown in table 5c below, if volumes were 20% higher they would be as shown in table 5d below. These estimates assume that charge levels remain unchanged.

Table 5c: Estimated gross cash Inflow from CCC if offenders volumes were 10% higher than expected

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0	£5m	£75m	£100m						

Figures are in real terms and are rounded to the nearest £5m

Table 5d: Estimated gross cash Inflow from CCC if offenders volumes were 20% higher than expected

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0	£5m	£80m	£110m						

Figures are in real terms and are rounded to the nearest £5m

Annex A – Methodology for Costings Model

1. The Government considers that convicted adult offenders who use our criminal courts should pay towards the cost of running them. This paper sets out a high level summary of how the costs of the different proceedings that will be charged for under the proposed criminal charging regime are calculated. Criminal Courts Charges are generally set lower than the full cost of proceeding. Criminal Courts Charging legislation sets out that charges cannot be set above the cost reasonably attributable to the proceedings being charged.

Overall costs of the criminal courts

2. Criminal courts form one part of the wider remit of HM Courts and Tribunals Service. The first step of estimating the costs of criminal proceedings is to estimate the costs of criminal courts overall. In line with managing public money guidance, the overall court cost is calculated to include the direct costs incurred at the front line by the criminal courts, and also a share of indirect costs such as buildings, IT or headquarters and regional teams. The majority of court resources are not used solely for criminal business. For example Magistrates Courts are predominantly used for criminal business, but can also be used for civil and family business. The overall cost of criminal proceedings within the Magistrates' Court has to be estimated. This is done based on the amount of time spent on different types of proceedings within Magistrates' Courts.

Estimating cost of proceedings

3. Once the overall cost of criminal courts such as criminal Magistrates' Courts and Crown Courts have been established, we look at different types of costs within those courts separately.

Table A1: Magistrates Court Criminal Costs 2013/14

Staff costs – wages and salaries	36%
Estates	36%
IT	10%
Headquarters and Support Costs	5%
Judicial salaries	5%
Other	8%

4. Front line staff and judicial salaries can be attributed to proceedings based on estimates of the time taken up by those proceedings, and different timings are used for different staff types. For example administrative staff time will be spent creating case files, listing cases for hearing or dealing with general enquiries, so estimates of

the time spent on those tasks are used to allocate administrative staff costs to proceedings. Legal Advisors, who advise voluntary lay Magistrates on points of law, will be present at hearings themselves, and will spend time outside those hearings on paperwork or planning tasks, and so estimates of the time spent on those activities are used to allocate Legal Advisor costs.

5. Other costs like estates costs, IT costs and headquarters are not so straightforward. The costs of IT contracts are often fixed, as are estates costs which are driven not only by the requirements for space for hearings or administrative staff to work, but also by requirements to have courts located across England and Wales so that they are accessible to all who may be involved with a case. It has therefore been decided that the approach to allocating these indirect costs should be aligned with the approach adopted in civil and family courts where fees are charged. The indirect costs of the criminal Magistrates' Courts have been divided up between all proceedings that are dealt with in the Magistrates' Court, and the indirect costs of the Crown Court have been divided up between all proceedings that are dealt with in the Crown Court.

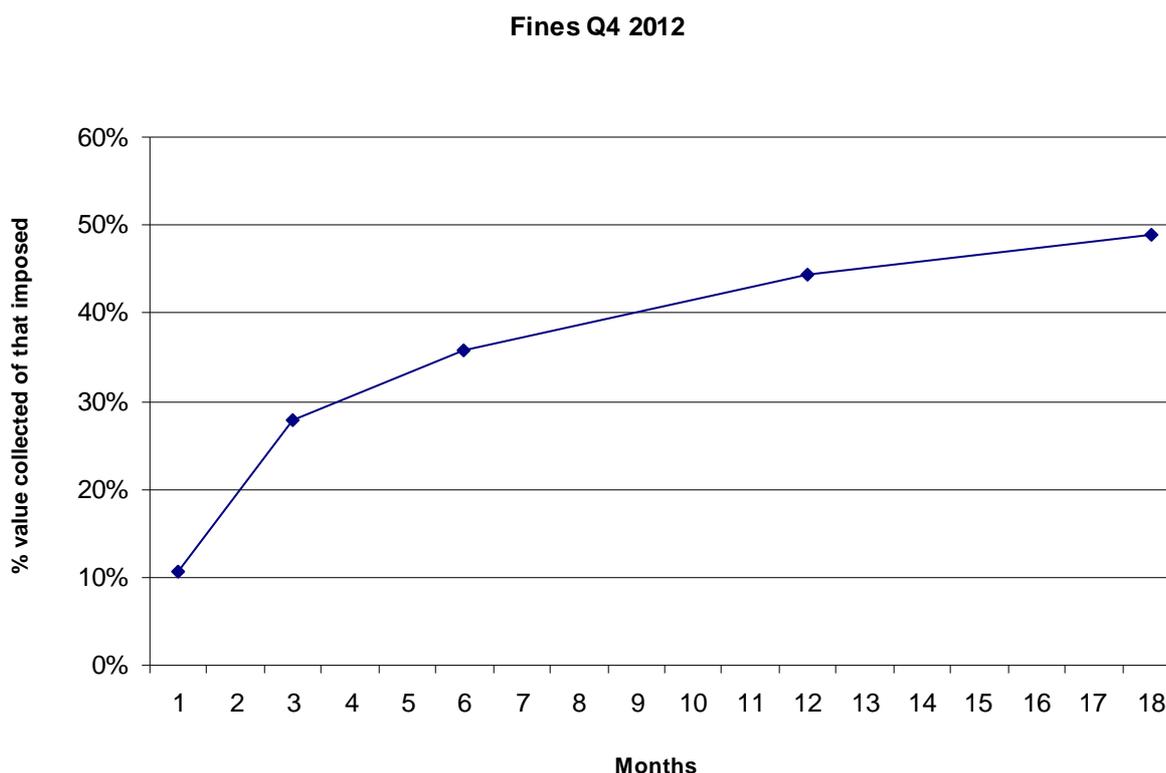
Annex B – Methodology for Fines-Based Model

1. The fines-based model estimates the potential cash inflows that this policy may generate using data on current fine impositions and amounts paid. This annex sets out the detail and methodology for estimating this.
2. The analysis is conducted by disposal type. These disposal types are fines, custodial sentences of less than 12 months, custodial sentences of 12 months to 4 years, determinate custodial sentences of greater than 4 years, suspended sentences, community sentences and a final disposal type covering those receiving absolute discharges, conditional discharges and otherwise dealt with.

Basis of the modelling

Fine impositions and amounts paid

3. The model uses as its basis data on fine impositions and amounts paid. Fine impositions and amounts paid are measured by value over various time increments. These have been calculated since Q4 2012¹¹.
4. The graph below shows the percentage of the amount imposed that was collected of those fines imposed in Q4 2012 over an 18 month period.



5. Data on fine impositions and amounts paid is only published over an 18 month period and the model assumes that this is the full extent of payment (although the model does assume additional delays before the 18 month payment period begins for offenders to pay off existing financial impositions first and for those who receive

¹¹Court Statistics Quarterly Q2 2014 Table A2

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384443/cs-q2-2014-main-tables.xls#A.2!A1

custodial sentences to be released). However, while payment appears to be tapering at the 18 month point, in practice there will be some payment beyond this period.

Adjusting data on fine impositions and amounts paid

6. The cohort of offenders receiving the criminal courts charge will be different to those currently receiving fines and the level of the charge will be on top of any other financial penalties the offender faces. Therefore a number of assumptions have been made to alter the amount of charge impositions that would be paid in an attempt to be representative of the new offender cohorts who will be charged for criminal court costs.
7. It is anticipated that the amounts of charges paid would be affected by re-offending in two ways:
 - The first is that by imposing more than one charge on an offender is likely to reduce their ability to pay both charges as a whole, as the total amount to be paid would be greater.
 - Secondly, the payment of the criminal courts charge will be collected after compensation, Victim Surcharge, prosecution costs and fines. This means that if an offender re-offends before paying their criminal courts charge, any compensation, Victim Surcharge, prosecution costs or fines ordered for the second offence would be paid before the criminal courts charge for the first offence. The increase in the total amount of financial impositions combined the fact that the criminal courts charge will be collected after other financial impositions means that re-offending is likely to reduce the ability for offenders to pay court cost charges.
8. Given this, the fine amounts paid are therefore adjusted to try to take account of the different level of re-offending rates between offenders receiving different disposals. The one year average number of re-offences per offender (the frequency rate) for 2011 is used as a proxy to do this. These are calculated relative to the re-offending rate for fines.
9. Additionally, the imposition of the criminal courts charge in addition to any compensation, Victim Surcharge, prosecution costs or fines would increase the average level of financial impositions on an offender. This is likely to reduce the offender's ability to pay the total sum they are ordered to pay. In order to account for this, the proportion of increase is calculated by estimating current and future average financial imposition levels for offenders receiving each disposal type. The observed change in the amount of Victim Surcharge paid before and after the recent increase in Victim Surcharge¹² is then used to estimate the possible reduction in the amounts paid following the increase in average financial impositions.

Estimated profile of cash inflow collection

10. To profile the potential cash inflows:
 - 1 April 2015 commencement date is assumed. The model profiles payments on a monthly basis and therefore on whole months can be modelled. The order will actually commence on 13 April 2015.

¹² The 3 month victim surcharge payment rate fell by 19% between Q2 2012 and q2 2013.

(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/267407/csq-q3-2013-main-tables.xls)

All offences committed after October 2012 were subject to an increased level of victims surcharge. As well as increasing the level of surcharge received it was also expanded to a wider group of offenders. Both of these factors may affect payment rates. It is not possible to disentangle the effect of the increased level and expanded group on victims surcharge from any other factors affecting the level of payment. However, the observed difference has been used a proxy to estimate the potential impact.

- Only offences committed after the commencement date would be eligible, so a delay to take account of the time between the offence being committed and completion of the case has been included. The mean number of days from offence to completion has therefore been added to the commencement date to estimate the time at which payment begins, this was 159 days for all cases in Q3 2013¹³. This has been rounded to 5 months.
11. Therefore based on these assumptions, the start date modelled for cash inflow collection would be October 2015 for those who do not receive custodial sentences. For those that do receive custodial sentences, an additional delay before payment starts is calculated, based on an assumed release date, for the purpose of the model, of 50% of the weighted average sentence¹⁴.
 12. An additional delay has been added to account for the time taken to pay other financial impositions. Calculation of the period of time taken for payment of other financial impositions has been estimated by calculating the mean level of financial impositions (compensation, Victim Surcharge, fines and estimated prosecutor costs) for each disposal type, based on 2013 data¹⁵. These delays shift the estimated charges paid curves to the right by the number of months of lags.

Modelling

13. The inputs and assumptions explained above are used to form a methodology which profiles a monthly inflow of offenders for each disposal type. It is assumed that there is no seasonality so monthly inflows represent a twelfth of the annual volume. The delays described above are applied to each monthly cohort and cash inflow is calculated using the adjusted data on fine impositions and amounts paid as explained above.
14. The model has been modified since the 2014 Impact Assessment to allow for charges for appeals and breaches.

Assumptions

Inflation/interest

15. The modelling assumes that charge levels and offenders outstanding debts increase with inflation. The Lord Chancellor will have the power to make regulations to require offenders to pay interest at the rate of inflation on unpaid charges. For operational reasons it will not be possible to charge interest when the policy is implemented as changes to computer systems are required. It is expected that the provision to charge interest will be commenced at a later date. For modelling purposes we have assumed that interest is charged from implementation.

Optimism bias

16. This is the systematic tendency for appraisals to be overly optimistic about the magnitude of a project's net benefits. The simplest way to limit this 'optimism bias' in economic appraisals is to increase the estimated costs and/or decrease the estimated benefits by a certain proportion.

¹³ Excludes breaches and cases with an offence to completion time greater than 10 years. Statistics are sourced from the CREST linked court data and included around 95% of completed cases. Only one offence is counted for each defendant in the case. If two or more cases complete on the same day, the case with the longest duration is included.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/267407/csq-q3-2013-main-tables.xls#3.8!A1

¹⁴ Data on sentence length is obtained from the following source:

Table Q5.6 - Persons sentenced to immediate custody at all courts by length of sentence and average custodial sentence length(1), 12 months ending June 2003 to 12 months ending June 2013

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/260137/sentencing-tables-0613.xls

. Note that a sentence of '4 years plus' assumes a maximum sentence of 15 years.

¹⁵ Table A5.16 & 5.17 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/311459/5-sentencing-tables.xls

These are then converted into months of average delay by applying a month of delay for each £50 in value.

17. An optimism bias of 20% has therefore been applied to cash inflow estimates due to the large number of assumptions within the model and limitations of data available.

Enforcement

18. The model does not estimate costs of enforcement. This has to be estimated outside of the model.

Offender volumes

19. Offender volumes are assumed to be constant. Annual adult sentencing volumes have fallen by 300,000¹⁶ in the 10 years since 2004. If volumes continue to fall, revenues will be affected directly by the lower volume of charges. Revenues may also be affected indirectly as falling volumes would impact on the estimates of the average cost of a case and could therefore affect the level of the charges.

Composition of offences

20. The composition of cases (Summary / Indictable / Either way) and sentence types is assumed not to change significantly from the present situation.

Charges are held constant

21. Charges are based on the HMCTS timings data and include fixed costs. If offender volumes fall then cost per offender will rise in the short run so charges would increase. Conversely, if fixed costs fall the cost per offender could fall and charges should also fall.

22. Cash flow estimates do not include a category for Single Justice Procedure (SJP) cases.

Other financial impositions

23. The levels of related financial impositions (e.g. fines) are assumed to impact on the repayment rates for the criminal courts charge. Any changes to these impositions may impact on payment rates.

HMCTS collection rates

24. We have not included any reduction in collection rates for fines or other impositions in our estimates of costs, although it is noted that this is a key risk. Sensitivity analysis is conducted on this risk in the Impact Assessment.

¹⁶ Criminal Justice Quarterly, Table Q5.7: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/343330/sentencing-tables.xls#Table Q5.7!A1

Annex C – Debt accrual

1. It is expected that this policy would lead to additional debts being accrued by HMCTS. As it is likely that much of the debt will not be paid off straight away and some debt will not be paid at all, there will be an increase in the accrual of debt within the first few years of the policy as there will be a delay between the charge being imposed, cash flows being realised and debt being written off and cancelled.
2. The table below shows how the level of debt may build up by 2019/20, based on estimated level of impositions and cash income and assuming no write off or cancellation

Table C1: Estimated debt accrual (rounded to the nearest £100m) without any write off/cancellation in real terms

2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
£0m	£200m	£400m	£600m	£800m	£1000m	£1200m	£1400m	£1600m	£1800m

Estimates are in real terms.

3. Based on this modelling, it is therefore estimated that the increase in debt as a result of the policy would be around £1.8bn by 2023/24 without any cancellation.
4. These estimates may be affected by a range of factors. In particular, they do not reflect a number of aspects of the Bill which in practice are expected to limit the level of debt accrued. The Bill includes powers for the court to cancel outstanding charges in certain circumstances.
5. When offenders have desisted from offending and made regular payments of the charge for a certain amount of time, their debt may be cancelled by the Court. Courts will also have the power to cancel the charge after a specified period of time if it is unenforceable.