

Consultation Response



Response by StepChange Debt Charity to the Ministry of Justice consultation on Reform of Court Fees and Further Proposals for consultation

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We are an independent charity dedicated to overcoming problem debt. Our advice and solutions are effective, tailored and importantly, free. Foundation for Credit Counselling. 123 Albion Street, Leeds, LS2 8ER. Company No 2757055. Charity No 1016630. www.stepchange.org

Introduction

StepChange Debt Charity is the largest specialist provider of free, independent debt advice operating across the UK. In 2014 over 23,000 people who were advised by the Charity had at least one County Court Judgment (CCJ). Often these clients have multiple CCJs. Over 44,000 clients have been contacted by a bailiff. Almost 43,000 clients have rent arrears and 21,880 have mortgage arrears, both these groups are in danger of facing Court action that could ultimately result in repossession.

This response addresses the following consultation questions.

Question 1: Do you agree with the proposal to raise the fee for a possession claim by £75? Please give reasons.

Question 2: Do you agree with the proposal to increase the fee for a general application in civil proceedings from:

- **£50 to £100 for an application without notice or by consent**
- **£155 to £255 for an application on notice which is contested**

Subject to an exemption for:

- **Applications to vary or extend an injunction for protection from harassment or violence**
- **Applications for a payment to be made from funds held in court**
- **Applications made in proceedings brought under the Insolvency Act 1986**

StepChange Debt Charity strongly disagrees with the proposals to increase the fees for a possession claim and to increase the fees for a general application in civil proceedings. Doing so would:

- Reduce access to justice for individuals in problem debt seeking to vary or set-aside a CCJ, suspend enforcement or suspend a warrant of possession
- Force individuals in problem debt to take out short-term, high-cost credit, such as a payday loan, to suspend enforcement or suspend a warrant of possession. Surveys with our clients show that 13.9% of our clients who are threatened with enforcement action by creditors have turned to further credit in order to avoid further action¹.
- Potentially increase the number of Court actions by mortgage lenders and landlords that could result in increased mortgage repossessions and landlord possessions across the UK.
- Those with rent arrears would see the Court fee for possession increase from £280 to £355. These costs are likely to be passed directly to the borrower. For

¹ Based on a survey of 799 StepChange Debt Charity clients in July 2014

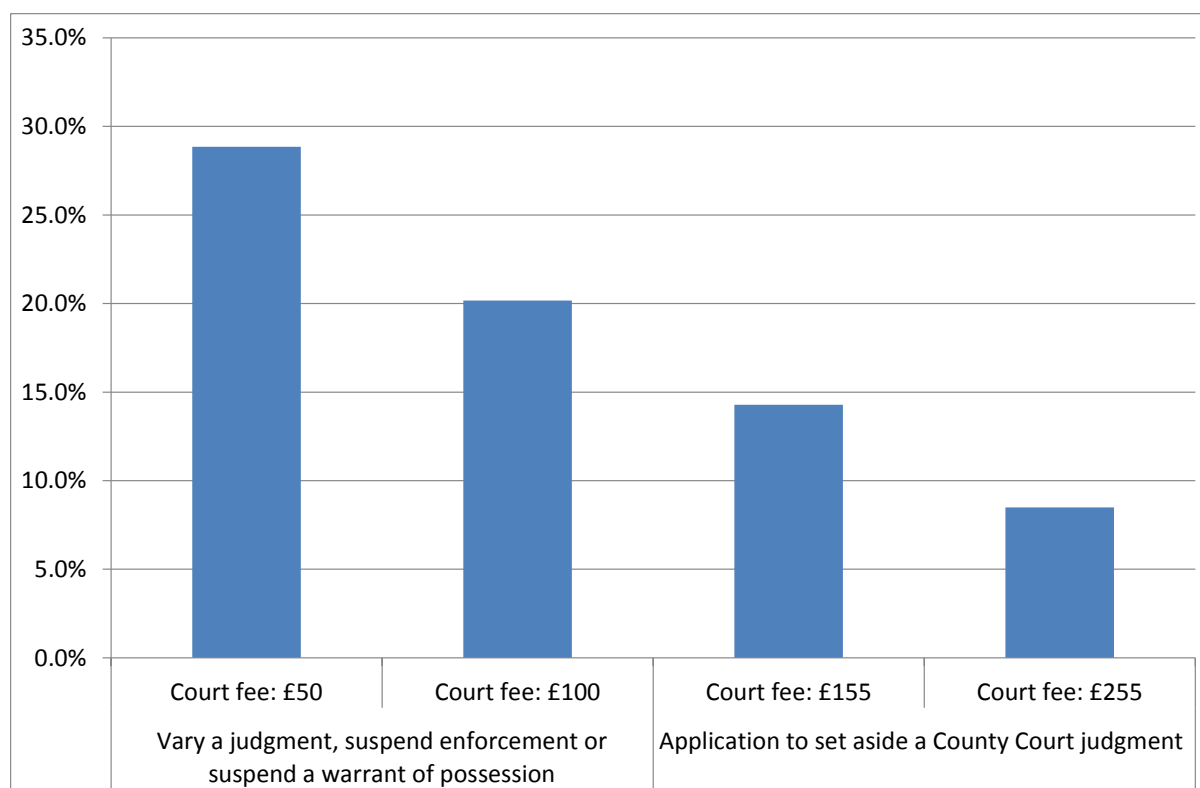
social housing tenants, that could easily increase the total arrears owed by 50% (assuming claim started at 8 weeks of arrears).

Our clients already have great difficulty in finding the money to vary or set aside CCJs. For these clients the huge increases in Court fees proposed (by 100% and 64.5% respectively) will make it even more difficult for them to access justice.

We estimate that, before taking into account fee remission (**Figure 1**):

- Currently only 28.8% of our clients with a CCJ² would be able to find the money³ to vary a judgment, suspend enforcement or suspend a warrant of possession (£50)
 - If the fees are increased from £50 to £100, this would reduce – so that only 20.1% of these clients would be able to find the money to vary a judgment, suspend enforcement or suspend a warrant of possession
- Currently only 14.3% of our clients with a CCJ would be able to find the money to apply to set-aside a CCJ or suspend a possession order (£155)
 - If the fees are increased from £155 to £255, only 8.5% of these clients would be able to find the money to apply to set-aside a CCJ

Figure 1: Proportion of clients able to afford court fees – pre- and post-proposed court fee changes (clients with a CCJ)



² Used here as a proxy for those most likely to be affected by this policy change

³ Based on the monthly amount left over after a StepChange Debt Charity advice session ('post-advice surplus')

We estimate that a significant percentage of these clients would not receive fee-remission and therefore would be liable to having to pay the unaffordable new fees. On the basis of income, an initial snapshot analysis of our clients estimates that between 36.4% and 55.5% may not be eligible for full or partial fee remission⁴.

Table 1: Estimated proportion of StepChange Debt Charity clients not eligible for fee-remission on the basis of income

	Single	Couple
No children	41.9%	55.5%
Children	36.4%	52.4%

We have further analysed the financial position of our clients who have a CCJ to illustrate this problem. These clients:

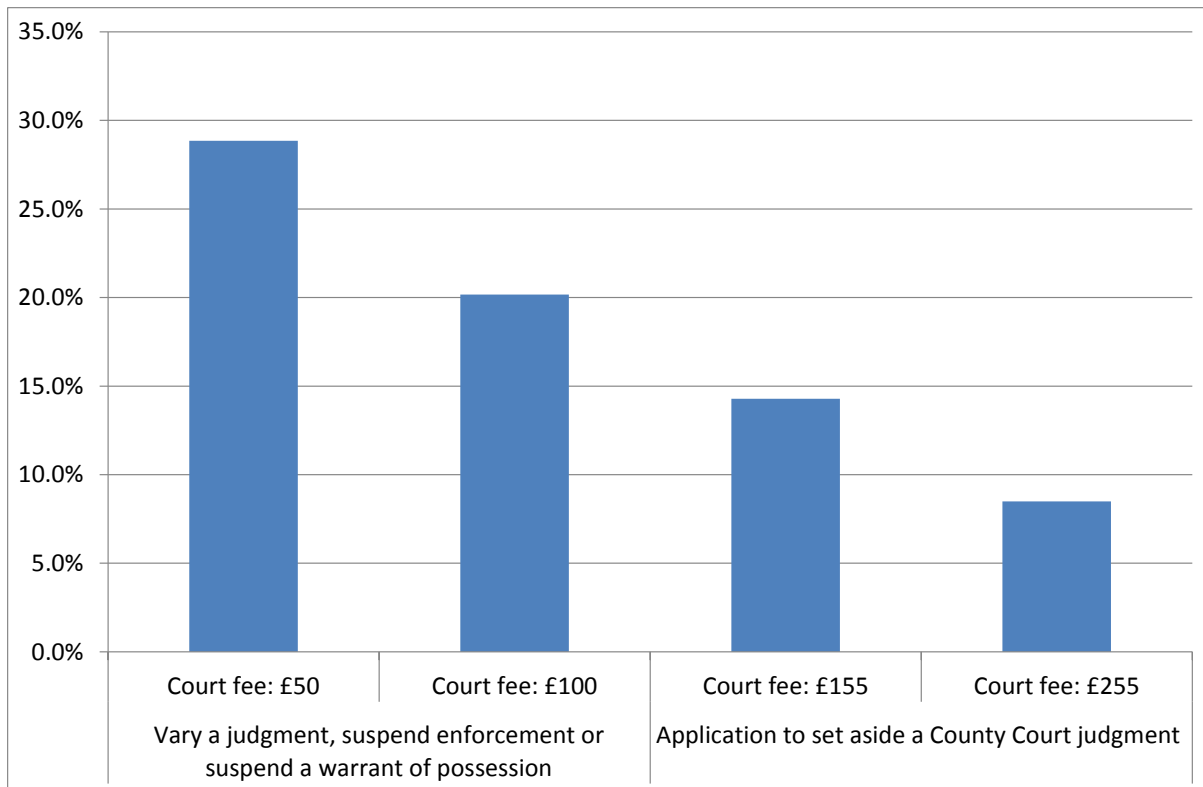
- Have an average unsecured debt of £15,949.
- 21% are single parents.
- 21.5% have electricity arrears.
- 21% have gas arrears.

However, it is not just our clients who will be affected. Across the UK, 8.8 million people are currently in problem debt⁵. If we look at Figure 2, we can see that people without a CCJ but struggling with their finances are also unlikely in many cases to have sufficient surplus to pay higher Court fees should they need to.

Figure 2: Proportion of clients able to afford court fees – pre- and post-proposed court fee changes (clients without a CCJ)

⁴ Estimate based on analysis of StepChange Debt Charity net income according to family type (children not analysed according to number in house). We realise that this estimate could be provided with more precision, and are happy to discuss this further with the Ministry of Justice

⁵ Money Advice Service (2013), *Indebted lives: The complexity of life in debt*



The government should be concerned by this, as the ability to set aside, or vary, CCJs, suspend enforcement or suspend a warrant of possession, allows hard pressed families to manage their financial situation in a way that gives them the best chance to recover economically.

Problem debt already results in an £8.3bn social cost to the UK. In particular, our analysis has estimated the current external costs of people losing their homes or being evicted because of debt to be £2.8 billion; debt related mental health problems cost £960 million⁶. A survey of the charity's clients found that 47% of respondents said they had visited their GP as a result of mental or physical health problems caused by their debts. A further 6% said they had visited hospital and 5% had visited Accident and Emergency⁷.

In 2014, there were 700,000 consumer CCJs in the UK worth £1.6bn. In the same year, there were 21,000 repossessions of mortgage property and in 2013 there were 170,453 landlord possession claims in 2013. If these Court fee increases go ahead, the number of people facing these actions who may not be able to avoid facing the eventual loss of home or income is liable for an increase, resulting in a high long-term cost to the UK government. The existing £8.3bn cost could significantly increase.

⁶ StepChange Debt Charity (2014), The £8.3 billion challenge: the social cost of problem debt in the UK

⁷ Results based on survey of 1,692 StepChange Debt Charity clients conducted December 2014