

CONSULTATION PAPER

PROPOSED FEE STRUCTURE FOR COURT FUNDS OFFICE

JUNE 2015

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EXECUTIVE SUMMARY

The purpose of this consultation is to seek your views on the introduction of a different method of recovering the costs associated with administering the Court Funds Office (CFO).

The Court Funds Office (CFO) is a business unit of the Northern Ireland Courts and Tribunals Service (NICTS) which provides a banking and investment type service to approximately 13,000 people whose funds are under the control of the Court.

In summary, the CFO administers and manages funds brought under the control of the civil courts in Northern Ireland from three main sources:

- compensation payments awarded to children (Minors) as a result of civil legal action. Such funds are held until the child reaches the legal age of majority, 18 years of age;
- assets belonging to people who lack the capacity to manage their own financial affairs. Such individuals are known as 'Patients'; and
- money held in court pending settlement of a civil court action; bail money held by the courts; or where the Court of Judicature acts as a receiver of last resort for assets of individuals, partnerships or companies. This third category of business is excluded from the proposed fee structure, and the figures included in this document.

In seeking your views our objective is to change the way in which the costs associated with administering the CFO are recouped. In essence we would wish to introduce a new method of cost recovery that is fair, equitable, transparent, easily understood and can be applied without administrative burden.

Why is Change Necessary?

It has been our practice, provided there is sufficient surplus after interest is paid to CFO clients, to meet the costs associated with the administration of the CFO from the interest earned on cash deposits held with the Debt Management Office (DMO). The DMO is an agency of HM Treasury and NICTS is required by legislation to hold cash deposits that are not required on a daily basis in the DMO.

In explaining this method of recoument NICTS would wish to highlight two issues for your consideration.

Firstly, in the context of low interest rates it is not possible to generate a sufficient surplus from which to meet the administrative costs. Consequently, in the setting of historically low interest rates over the past few years, NICTS has been required to meet these costs from within its budget allocation. In practice this means that costs have been met by the taxpayer rather than those who use the services of the CFO.

Secondly, when interest rates are high enough, each client makes the same percentage contribution from their cash holdings towards the running costs of CFO. This results in some clients paying more than others. For example if each client contributes 1% of their cash held in DMO to the running costs of CFO, a client that holds £300,000 in cash would contribute £3,000, while a client who held £50,000 in cash would contribute £500. In practice this means that fees are charged without any assessment of the administrative work required to manage the client's case.

These issues were highlighted in a Report published in July 2014 by the Northern Ireland Audit Office (NIAO) entitled "Managing and Protecting Funds Held in Court." The Report made a series of recommendations, one of which indicated that NICTS "*should examine the current arrangements for recovering the CFO's costs to ensure that they are fair and equitable.*" Following consideration of this Report by the Public Accounts Committee (PAC), the PAC issued a Report on 13 May 2015 in which the Committee recommended "*that the CFO establishes fair and equitable arrangements for recovering its costs from clients.*"

It is clear from these reports that the current process for recovering costs associated with administering the CFO is inequitable, inappropriate and is placing a burden on decreasing NICTS resources at a time when the NICTS funding allocation is significantly reducing.

Consequently, the proposals outlined in this document have been developed to address the concerns raised with us and to ensure that those who use the services

of the CFO meet the cost of providing the service in line with general government policy on fee charging. Government policy is set out in guidance issued by DFP (NI) entitled Managing Public Money NI (MPMNI). This guidance indicates that in providing the type of service that is provided by the CFO *“it is the norm to charge at full cost.”*

In the sections that follow this Executive Summary, NICTS seeks to explain in more detail why we believe change is necessary. In doing so we will provide:

- **An overview of Court Funds Office.** In this section we will describe the services provided to CFO clients; detail the cost of operating CFO; explain the types of funds held by the CFO; and outline the governance arrangements currently in place.
- **Information about the current arrangements for recovering costs.** In this section we will outline the current mechanism for recovering costs and explain why a new model is required.
- **An explanation of the approaches taken in other jurisdictions.** In this section we will provide a synopsis of the funding mechanisms in England and Wales; Scotland; and Republic of Ireland.
- **A series of options for a new charging model.** In this section we will provide details of how CFO is reducing costs and the suggested options for a new charging model.

At the end of the document you will be asked to consider a number of questions in relation to the proposed fee structure. It is important that we receive the views of our clients and the wider public as we seek to shape our policy in this sensitive area.

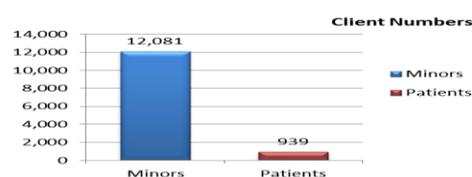
1. OVERVIEW OF COURT FUNDS OFFICE

The role the Court Funds Office

1.1 The purpose of the CFO is to provide a banking and investment type service for the civil courts in Northern Ireland. The legislation governing the work of the CFO is set out in the Judicature (Northern Ireland) Act 1978, the Administration of Justice Act 1982 and Court Funds Rules (Northern Ireland) 1979, as updated. In practice the CFO provides administrative support to the judiciary in their management of all funds held in Court. Although the legislation referred to above requires that all such funds are held in the name of the Accountant General for the Court of Judicature, decisions in relation to the investment of these funds are made by the Judiciary. The Accountant General is a position currently occupied by the Chief Executive of NICTS. The primary obligation placed on the Accountant General is to **protect the funds held within the CFO.**

1.2 The work of the CFO is both complex and sensitive. CFO staff members are interacting with the judiciary, our stockbroker and most importantly many of the most vulnerable people in our society and their representatives.

1.3 At 30 April 2015, the CFO had a client base of approximately 13,000 individuals, comprising 12,081 (93%) Minors and 939 (7%) Patients and responsibility for the administration of funds totalling £291m.



1.4 The cost of operating the CFO for our main clients, Patients and Minors, is circa £1.1m per year. This includes staff costs, administration, accommodation and other overheads. The work of CFO is split into two elements: an administrative function and advisory function carried out by a contracted stockbroker. It is important to note that the purpose of this consultation document is to seek views on how NICTS should recover **administrative costs**, not stockbroker fees. Stockbroker fees are already covered by those clients who directly benefit from the services provided by the stockbroker.

1.5 In the context of modernisation, NICTS is committed to delivering efficiencies that will reduce the administrative cost of operating the CFO by 20% from April 2016. The efficiencies are being delivered through investment in a new IT system and the introduction of more effective and efficient working practices. Consequently, the objective of the funding options outlined in this paper is to allow NICTS, from April 2016, to recover anticipated annual running costs of approximately £880,000. NICTS is committed to ensuring that costs to clients are kept to a minimum and will review annually the implementation of any new cost recovery model following this consultation.

Services delivered by CFO

1.6 In practice the CFO administers and manages funds brought under the control of the civil courts in Northern Ireland from three main sources:

- **Compensation payments awarded to children (Minors) as a result of civil legal action.** Where an award of damages is made to a person under the legal age of majority, 18 years of age, the court will order the funds to be held in court until the minor's 18th birthday. These funds are managed on the minor's behalf by the CFO;
- **Funds held for people unable to manage their own finances,** known as '**Patients**'. In such cases, the CFO acts under the direction of the Master (Care and Protection), a judicial officer of the Court. The Master (Care and Protection) can delegate responsibility for the management of a person's property and affairs. This includes everything a person could do if he or she was well enough to administer his or her property and affairs for their own benefit, or the benefit of his or her family or dependents. The Master is assisted in these responsibilities by the Office of Care and Protection (OCP). Where a patient benefits from safeguarding by the OCP, they are subject to [OCP Fees](#) as set out in the Supreme Court Fees (Amendment) Order (Northern Ireland) 2007.
- **Unclaimed money and litigation** - money held in court pending settlement of a civil court action; bail money held by the courts; or where the Court of Judicature acts as a receiver of last resort for assets of individuals, partnerships or companies. This third category of business is excluded from

the proposed fee structure and the figures included in this document, as little work is required by CFO staff

What administrative service is provided to clients?

1.7 The services provided directly to clients by the CFO include the provision of a counter service; the processing of payments, for example living expenses, the administration of investments, the management of the stockbroker and the provision of regular case reviews. We also provide clients with an annual statement on their fund and publish an annual report and accounts for the total funds held by CFO.

How are funds managed by CFO?

1.8 The total amount held on behalf of each client is referred to as the client's individual fund. On receipt of an order or award from the Court, the CFO makes an initial assessment of how the fund should be managed. The aim of this assessment is to ensure that clients are provided with an investment service that is appropriate to their individual needs. In summary the assessment considers the size of the fund, the length of time the fund is likely to remain in court and the needs and circumstances of the client, for example cost of health care or educational needs.

1.9 As part of the assessment, the guardian or controller will be requested to provide information in order to ensure that all the needs have been considered. Once this assessment is complete, investment proposals will be drawn up for presentation to the Court for formal consideration. Our stockbrokers assist CFO staff in delivering this service. Final decisions in terms of all investments rest with the Court.

How are funds invested?

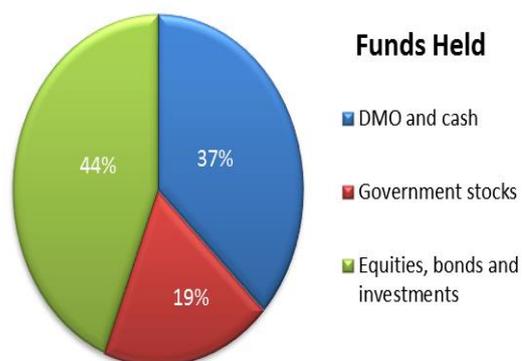
1.10 In considering how funds are invested, it is important to note that investment must be made in line with the requirements of the Judicature Act. Put simply, funds can be invested in:

- ***A cash deposit account at a fixed rate of interest.*** The Judicature Act requires that cash, not needed for day to day expenses, is lodged with the UK Debt Management Office (DMO) which is a government agency of HM

Treasury (HMT). All cash deposits, except those required for day to day business, are lodged with DMO and are guaranteed by HMT. Under the current legislation the Accountant General is limited on the extent to which he may invest cash deposits with any other institutions, such as High Street banks.

- **Government stocks (gilts).** These are regarded as low risk investments, with a guaranteed dividend. Interest is paid on the amount of money invested and is lodged into the DMO deposit account.
- **Stockmarket (equities).** Investments in equities have the potential to produce higher returns over a period of time, but also carry a greater risk as the value of the investments can decrease as well as increase. To take advantage of professional investment managers, economies of scale but most importantly reduced risk through diversification, we invest in the stockmarket via a number of investment funds. The aim is to achieve modest long term returns to the extent that this is needed to cover the expected lifetime requirements of the client. Any dividends received are lodged into the DMO deposit account.

1.11 At 30 April 2015, 37% (£106.8m) of the funds held in the CFO were held in cash, 19% (£55.5m) were held in UK government stocks and 44% (£128.7m) were held in equities, bonds and investments.



What governance arrangements are in place?

1.12 The NICTS Chief Executive has administrative responsibility for the CFO and serves as the NICTS Accounting Officer and Accountant General. He is supported in delivering his specific Accountant General responsibilities by the Judicial Liaison Group (JLG) which is chaired by a High Court Judge designated by the Lord Chief Justice. Four other judicial members and two independent members also serve on this group. The JLG provides an oversight role and an opportunity for the judiciary to discuss investment performance and options with the stockbroker at a corporate level. As the CFO is an office of the court, this is the main oversight group; however

the NICTS Agency Finance Committee and the Agency Board also receive regular reports on the work of the CFO, and provide additional oversight.

2. CURRENT ARRANGEMENTS FOR RECOVERING COSTS

2.1 NICTS is required by legislation to hold cash deposits that are not required on a daily basis in the DMO. Clients who have money held in DMO receive interest as laid down in the Court Funds Rules (Northern Ireland) 1979. It has been the practice of NICTS to recover the running costs associated with the administration of the CFO from the interest earned on cash held in the DMO. Such costs are recovered under the provisions in the Administration of Justice Act 1982 provided there is sufficient surplus after interest is paid to CFO clients.

2.2 This means that if, for example, the Bank of England interest base rate was set at 5% and the legislation states that CFO clients should receive 4% interest per annum, the remaining 1% would go towards the running costs of CFO. Therefore if a client held £300,000 in cash with the DMO, the client would receive 4% interest per annum (£12,000) and NICTS 1% (£3,000). Similarly if a client held £50,000 in cash with DMO, they would receive 4% interest per annum (£2,000) and NICTS 1% (£500).

2.3 As indicated in the Executive Summary, there are two issues with this method of cost recovery. Firstly as a result of the economic situation, the Bank of England base rate has been, and remains, historically low, there is insufficient surplus generated to enable full cost recovery. Secondly, when interest rates are high enough, each client makes the same percentage contribution from their cash holdings towards the running costs of CFO, which results in some clients paying more than others. In practice this means that fees are charged without any assessment of the administrative work required to manage the client's case.

2.4 As a result of the low interest rates, the DMO has only been able to pay out 0.5% interest on balances held. This means that the statutory mechanism for funding the administration of the CFO does not enable full cost recovery. In the context of such low interest rates the Accountant General decided to pass on in full

the interest earned to Patients and Minors. This means that the cost of providing CFO services is now being met in full by NICTS; this has been the case since 2012.

Why is a new cost recovery model required?

2.5 In considering why it is appropriate to introduce a new full cost recovery funding model, it is appropriate to refer back to the recommendation contained in the NIAO Report, Managing and Protecting Funds Held in Court. The recommendation states that NICTS “***should examine the current arrangements for recovering the CFO’s costs to ensure that they are fair and equitable.***”

2.6 This recommendation in effect highlights a concern that, in covering CFO costs from interest accruing on cash deposits, those with smaller funds subsidise the cost of fund administration for those with larger funds (i.e. those whose funds are also invested in equities). Not surprisingly investments held in gilts and equities are typically the more complex cases and therefore generally require more administrative input.

2.7 Separately, since 2012 the cost of operating the CFO has been borne by NICTS. In practice this has meant that funding has been diverted from other court and tribunal services. In essence NICTS has been subsidising the CFO during a period of low interest rates. Arguably this is unfair to the taxpayer.

2.8 Consequently, it is clear that the current process for recovering costs associated with administering the CFO is inequitable, inappropriate and is placing a burden on decreasing NICTS resources at a time when the NICTS funding allocation is significantly reducing.

2.9 In the context of both the NIAO recommendation and more latterly a recommendation made by the PAC, NICTS would wish to introduce a transparent fee structure that can be fairly and consistently applied and is easily understood by our clients, their guardians and controllers. Subject to the outcome of this consultation process, legal advice indicates that it is possible for the CFO to apply charges under the provision of Section 116 of the Judicature (Northern Ireland) Act.

3. APPROACHES IN OTHER JURISDICTIONS

3.1 In considering how to address the recommendation contained in the NIAO Report NICTS has considered the funding mechanisms used in England and Wales, Scotland and the Republic of Ireland (ROI).

ENGLAND AND WALES COURT FUNDS OFFICE

3.2 In practice arrangements for holding Court Funds in England and Wales and in Northern Ireland are based on similar primary legislation and therefore operate in a very similar way. The Office of the Accountant General (OAG) in England and Wales is an arm's length body which oversees the CFO for England and Wales, although their operations are contracted out to National Savings and Investments in Glasgow. Like the CFO in Northern Ireland, they invest client funds in DMO and seek to cover costs through the interest generated on those balances; they also currently earn the Bank of England (BoE) base rate.

3.3 Since 2008/09 OAG has been unable to fully cover costs in this way and has had to rely on subsidies from its parent department the Ministry of Justice (MoJ). Like NICTS, OAG is now considering alternatives.

REPUBLIC OF IRELAND: ACCOUNTANT OF THE COURTS OF JUSTICE

3.4 The system in ROI has a series of prescribed rules that determine which of a number of available investment options should be followed for individual cases. In contrast to England and Wales, the ROI operation of the CFO equivalent is primarily funded by the application of charges for the various transactions associated with the management of funds in court. Additionally, wards of court are charged a percentage fee, based on applicable income for the year.

SCOTLAND: ACCOUNTANT OF COURT

3.5 In Scotland there is a different model and there is not a directly comparable service to CFO NI. Comparable funds are largely held outside the court jurisdiction, under the responsibility of appointed controllers, who may be required to provide a

report to the court annually. Investment decisions rest with the controllers. Funding for the Scottish Court Service (including the Accountant of Court) comes from the Scottish Government. The Accountant of Court fulfils the litigation element of CFO only. (This compares with the aspect of the CFO role in Northern Ireland where monies are lodged into court in satisfaction or against costs as a token of intention to proceed with civil litigation.) The Accountant of Court cases are charged a fee when the funds are lodged in court and when funds are removed.

4. OPTIONS FOR CHANGES TO THE CURRENT COST RECOVERY MECHANISM

4.1 This section explains how the CFO is reducing costs before outlining a number of options for the new charging model. You are asked to consider each of the options before responding to the questions recorded at Section 6.

Objective – Meeting the cost of administering the CFO

4.2 The objective of this consultation is to introduce a fee structure that is fair, equitable, transparent, easily understood and can be applied without administrative burden. In doing so, it is important that we comply with MPMNI guidance referred to earlier in this document and the recommendations made by the NIAO and PAC.

4.3 In seeking to establish what our costs should be, we have estimated future costs by reviewing past trends in business levels. It is acknowledged that future business levels cannot be forecast precisely, and therefore our proposals have been developed using the assumption that the CFO business levels will remain relatively steady in line with recent trends. We have also made our estimates on the basis that we will deliver efficiencies that will reduce the annual direct running costs of CFO by 20% from April 2016. In this context the funding options outlined in this paper would allow NICTS to recover annual running costs of approximately £880,000. As previously explained the efficiencies are being delivered through investment in a new IT system and the introduction of more effective and efficient working practices. It would be our intention to introduce the new funding model during 2016.

Fee structure options - Principles

4.4 In considering potential options aimed at delivering full cost recovery, a number of principles have guided our thinking. NICTS would suggest that the options should:

- Take account of the level of work generated by different client groups;
- Be compliant with MPMNI and deliver full cost recovery;
- Be sustainable, irrespective of external factors such as low interest rates;
- Be fair, equitable, transparent and easy for clients to understand; and

- Be cost effective and easy to administer.

4.5 In publishing this consultation document, we are inviting consultees to comment on whether or not they consider it appropriate for the CFO to introduce a new fee structure in the context of the guiding principles outlined above. A number of questions aimed at seeking the views of consultees are recorded at Section 6 of this document.

Underpinning the funding models - Key decisions

4.6 Prior to considering specific funding options, the CFO analysed the level of work required to administer the funds of each client group. Our analysis indicated that:

- around 75% of the cost of operating the CFO relates to the administration of Patients' cases, and 25% relates to the administration of cases involving Minors;
- there is little or no administrative activity on accounts up to the value of £5,000; and
- administrative costs are incurred in opening and closing all accounts.

4.7 As a result we welcome your views on whether:

- There should be a separate fee structure for Patients and Minors;
- A de minimis level should be set for each of the options; and
- A one off set up and one off closure fee should be introduced.

4.8 The following paragraphs outline in more detail the rationale underpinning these suggestions.

A Separate Fee Structure for Patients and Minors:

4.9 We have estimated that around 75% of the cost of operating the CFO relates to the administration of Patients' cases, and 25% relates to the administration of cases involving Minors. The majority of Patients will require weekly or monthly payments to be processed for items such as living expenses, pension, benefits

payments; the activity on Minors cases tends to be less frequent. Consequently, we are proposing that we should have a separate fee structure for Patients and Minors. The benefit of this approach is that it will ensure that costs incurred by each group are proportionate, reflect the work required to administer the funds and eliminate the need for cross subsidisation.

4.10 In essence this means that we would seek to recover 75% of our total costs from Patients and 25% from Minors. For example, if it costs £880,000 per annum to administer the CFO, we would seek to recover £660,000 from Patients and £220,000 from Minors. **Consultees are invited to comment on whether they consider it appropriate, in the context of our estimate of the administrative work required for each of the client groups, to introduce a separate fee structure for Patients and Minors?** The questions recorded at section 6 refer.

De minimis level should be set for each of the options:

4.11 Secondly, we would suggest that a de minimis level of £5,000 is set for each option. The reason we have chosen £5,000 is because there is little or no activity on accounts up to this value, therefore they generate minimal administrative work for CFO. It is important to note that in adopting a de minimis level, we would limit the potential for small awards to be eroded. If a de minimus level of £5,000 is considered appropriate it will mean that Patients or Minors with £5,000 or less would not incur annual fees.

4.12 At the end of April 2015, we had 96 Patients and 9,587 Minors with holdings of £5,000 or less. **Consultees are invited to comment on whether they consider it would be appropriate to set a de minimis and if so would £5,000 be a reasonable approach?** The questions recorded at section 6 refer.

One off set up and one off closure fee:

4.13 Thirdly, we are suggesting that all new clients from 1 April 2016, regardless of value of their holding, should be charged a one-off set-up fee and all clients, with effect from 1 April 2016, be charged a one off closure fee. The reason we are proposing these fees is because there are administrative costs in setting-up and closing accounts and secondly because we want to ensure that the new fee structure

is equitable, in that all our clients contribute towards the running costs of CFO. We are proposing that the set-up fee of £20 is charged to cover the cost of registering the account and depositing the award; and a closure fee £40 is charged to cover the cost of confirming identity of the client, transferring payment and closing of the account.

4.14 Using the 2014/15 figures for new clients and the number of cases that closed, CFO would expect to generate income of £122,000 in 2016/17. Our calculations are outlined below for your consideration.

Set-up of New Cases

85 new Patient cases in 2014/15 x £20.00	=	£ 1,700
1,693 new Minor cases in 2014/15 x £20.00	=	£33,860
Total	=	£35,560

Closure of cases

133 Patient cases closed in 2014/15 x £40.00	=	£ 5,320
2,028 Minor cases closed in 2014/15 x £40.00	=	£81,120
Total	=	<u>£86,440</u>

Total income generated for one off fees **£122,000**

4.15 **Consultees are invited to comment on whether they consider the introduction of a set-up fee (£20) and closure fee (£40) is appropriate?** The questions recorded at section 6 refer.

4.16 As stated in paragraph 1.5, the cost of operating CFO is £880,000. If we were to generate £122,000 from the one-off fees outlined above, we would need to generate a further £758,000 to cover our administrative costs. Therefore, in addition to these set-up and closure fees, we are suggesting that each client who has holdings over the de minimis limit of £5,000 be required to pay an annual fee based on one of the three options outlined below.

Annual Funding Options

Option A – Charge a Flat Fee

4.17 As described in paragraph 4.6, we are proposing to introduce a separate fee structure for Patients and Minors due to the difference in the level of work required administering the accounts. Option A involves a separate annual flat fee for Patients and Minors: £775 for Patients with holdings of £5,000 or more; £40 for Minors with holdings of £5,000 or more. The separate flat fees take account of the cost ratio between Minors (25%) and Patients (75%) to help eliminate cross subsidisation. The de minimis limit also recognises that cases below that threshold generate less administration work for CFO.

4.18 Based on 2014/15 volumes, this would result in an estimated annual income from flat fees of £753,085.

843 Patient cases greater than £5,000 in 2014/15 x £775 =	£653,325
2,494 Minor cases greater than £5,000 in 2014/15 x £40 =	<u>£ 99,760</u>
	£753,085

4.19 As stated in paragraph 4.10, our objective is to recovery £880,000 to cover the administrative cost of operating the CFO. In the context of our analysis of the work required for patients and minors, we have established a 75% - 25% split. Consequently our objective is to recover £660,000 associated with processing minor cases and £220,000 for patient cases. The summary table below demonstrates how we propose to achieve this:

Patients		Minors	
Opening fees per annum	£ 1,700	Opening fees per annum	£33,860
Closing fees per annum	£ 5,320	Closing fees per annum	£81,120
Annual flat fee	<u>£653,325</u>	Annual flat fee	<u>£99,760</u>
Total per annum	£660,345	Total per annum	£214,740

Option B – Charge a Banded Fee

4.20 Option B involves a separate annual banded flat fee for Patients and Minors based on the valuation of the holding. As with all of the options, this model takes into account the different level of work generated by Patients (75%) and Minors (25%), and has a de minimis limit of £5,000

4.21 The benefit of this option is that those clients with high value holdings, which are generally the more complex cases, are charged more. The dis-benefit is that each client whose portfolio falls within a prescribed band would pay the same fee, regardless of where they sit within that band.

4.22 The proposed banded fee structure is:

Patients		Minors	
Banding	Fees	Banding	Fees
£0 - £5k	£0	£0 - £5k	£0
£5,001 - £10k	£75	£5,001 - £10k	£20
£10,001 - £25k	£150	£10,001 - £25k	£50
£25,001 - £100k	£750	£25,001 - £100k	£70
£100,001 - £500k	£1,250	£100,001 - £500k	£95
£500,001 - £1m	£1,500	£500,001 - £1m	£250
>£1m	£2,000	>£1m	£500

4.23 Using the number of cases in each band in April 2015, this option would result in an estimated annual income of just below the CFO running costs.

Patients		Minors	
Opening fees per annum	£ 1,700	Opening fees per annum	£33,860
Closing fees per annum	£ 5,320	Closing fees per annum	£81,120
Banded fee	<u>£647,175</u>	Banded fee	<u>£104,475</u>
Total per annum	£654,195	Total per annum	£219,455

Option C – Charge a Percentage Fee

4.24 This option is similar to the existing cost recovery method except it is proposing a separate percentage rate for Patients and Minors and a de minimis level of £5,000. This option would result in those with smaller portfolios paying less than those with a larger portfolio. The percentage rate applied in the example below is 0.36% for Patients and 0.12% for Minors. The percentage rate would be calculated annually using the total level of chargeable holdings in each client group divided by the administrative costs of the CFO. As with the other options the administrative costs would be split 75% to Patients and 25% to Minors. This would mean that every client with holdings above the de minimis level would have a calculated fee.

4.25 The examples below are based on a straight percentage application to the fund valuation, *typical* annual fees for this option could be:

Patients		Minors	
Holding	Typical Fee	Holding	Typical Fee
£0 - £5k	£0	£0 - £5k	£0
£10,000	£36	£10,000	£12
£100,000	£359	£100,000	£118
£500,000	£1,796	£500,000	£592
£1,000,000	£3,592	£1,000,000	£1,184

4.26 Based on the typical fees and current client profiles, this option would result in full recovery of the CFO running costs.

Patients

Opening fees per annum	£ 1,700
Closing fees per annum	£ 5,320
Percentage fee	<u>£653,000</u>
Total per annum	£660,020

Minors

Opening fees per annum	£ 33,860
Closing fees per annum	£ 81,120
Percentage fee	<u>£105,000</u>
Total per annum	£219,980

Preferred Option

4.27 In considering all of the funding options detailed within this document, NICTS has a preference for Option B – Banded Fee. The rationale being that those cases that are more complex, requiring more administrative input from CFO staff would pay a higher contribution towards the running costs of CFO. This option also recognises that there is minimal activity on the accounts under £5,000 and aims to limit cross subsidisation between client categories. As previously stated, CFO manages the financial affairs of some of the most vulnerable people in society so we want to adopt the fairest and most equitable approach possible. While Option B may be our preference, we welcome your views as we seek to shape our policy in this sensitive area.

Summary

4.28 The objective of this consultation is to introduce a fee structure that is fair, equitable and transparent, easily understood and can be applied without administrative burden. In doing so, NICTS must comply with MPMNI guidance and implement the recommendations made by the NIAO and PAC. In order to achieve this objective NICTS is seeking the views of consultees on the proposal to introduce a new full cost recovery charging model in 2016. As stated in paragraph 1.5, NICTS is committed to ensuring that costs to clients are kept to a minimum and will review annually the implementation of any new cost recovery model implemented following this consultation.

4.29 As part of the consultation you are asked to consider whether it is appropriate to introduce:

- i. A separate structure for Patients (75%) and Minors (25%);
- ii. A de minimis level of £5,000 for all clients;
- iii. A one off set up fee for new clients (£20) and a one off closure fee (£40) for all clients; and
- iv. One of three funding options based on either:
 - a flat fee
 - a banded fee or
 - a percentage fee.

5 IMPACT ASSESSMENTS

5.1 Section 75 of the Northern Ireland Act 1998 requires all public authorities in Northern Ireland to have due regard to equality of opportunity between the nine equality categories and have regard to promote good relations between persons of different religious belief, political opinion or racial group. Public Authorities are also required to meet legislative obligations under the Disability Discrimination Order, particularly in the formation of public policy making.

5.2 NICTS is fully committed to fulfilling its Section 75 obligations on the promotion of equality of opportunity, good relations and meeting legislative requirements in Northern Ireland.

5.3 The options set out in this consultation have been subjected to equality impact screening. There have been no adverse equality impacts identified and initial screening has not identified any other Section 75 impacts. The full equality screening form is available on the NICTS and Department of Justice websites. Comments are also welcome on any aspect of the equality screening assessment.

5.4 Responses to this consultation will be used to refine the impact assessments referred to in the paragraphs above.

6 RESPONDING TO THIS CONSULTATION

6.1 You are invited to comment on the proposals contained in this paper. NICTS welcomes responses to the following questions:

- Question 1** – Do you agree that the running costs of the Court Funds Office should be met by the users of the services? Please give reasons for your answer.
- Question 2** – Do you agree that we should seek to recover 75% of our costs from Patients and 25% from Minors?
- Question 3** – Do you agree that a de minimis limit of £5,000 should be applied to each option in respect of annual fees?
- Question 4** – Do you agree that a one-off set-up fee (£20) should be charged for all new cases and a one-off closure fee (£40) should be charged for all cases?
- Question 5** – Which option for the fee structure outlined on pages 14 to 21 do you prefer? Please give reasons for your answer.
- Question 6** – How do you think the proposals may be improved?
- Question 7** – Please provide any information or comments you may have on the equality and regulatory impact assessments.

6.2 Responses or requests for further information should be made in writing and emailed to NICTS.ModernisationProgramme@courtsni.gov.uk or sent by post to:

CFO Proposed Fee Structure Consultation
Northern Ireland Courts & Tribunals Services
5th Floor, Laganside House
23 – 27 Oxford Street
BELFAST
BT1 3LA

The consultation period will end at **5pm on Friday 18 September 2015**.

6.3 When responding please complete the template at Annex A; state whether you are responding as an individual or representing the views of an organisation. If

responding as an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

6.4 Responses will be analysed and we will aim to publish a summary of the responses to this consultation and the proposed way forward on the NICTS website within two months of the end of the consultation. Unless individual respondents specifically indicate that they wish their responses to be treated in confidence, their name and the nature of their response may be included in any published summary of responses. Respondents should also be aware that the Agency's obligations under the Freedom of Information Act may require that any responses not subject to specific exemptions under the Act, be disclosed to other parties on request.

6.5 This document is available in alternative formats; please contact us via the postal or email addresses above or by telephone on (028) 9072 8891 to discuss your requirements.

6.6 This consultation has been circulated to the DOJ list of Consultees, members of the Judiciary and CFO Clients.

ANNEX A: RESPONSE TEMPLATE

Question 1: Do you agree that the running costs of the Court Funds Office should be met by the users of the service?

Please give reasons for your answer.

Question 2: Do you agree that we should seek to recover 75% of our costs from Patients and 25% from Minors?

Please give reasons for your answer.

Question 3: Do you agree that a de minimis limit of £5,000 should be applied to each option in respect of annual fees?

Please give reasons for your answer.

Question 4: Do you agree that a one-off set-up fee (£20) should be charged for all new cases and a one-off closure fee (£40) for all cases should be charged?

Please give reasons for your answer.

Question 5: Which option for the fee structure outlined on pages 14 to 19 do you prefer?

Please give reasons for your answer.

Question 6: How do you think the proposals may be improved?

Question 7: Please provide any information or comments you may have on the equality and regulatory impact assessments.

Do you have any other comments?

Name:

Organisation:

Address:

Telephone:

Email:

Date:

Please provide details of who your organisation represents and, where applicable, how the views of members were assembled.