Written evidence from the Family Division of the
High Court

1. INTRODUCTION

1.1 The Family Division Judiciary (FDJ) recognises that under our constitution taxation and expenditure are the province of Parliament and not the judiciary. Within this context the FDJ recognises that, first and foremost, the setting of court fees is a political decision to be made by government, and arguably therefore this is a subject in respect of which they should remain neutral. However, in circumstances where the Judicial Executive Board has agreed that a response should be prepared for submission to the inquiry being undertaken by the Justice Select Committee into court and tribunal fees the FDJ advances the following views as part of that response.

2. FDJ VIEW OF THE REFORMS PRIOR TO THEIR INTRODUCTION

2.1 Within the context of the other Divisions of the High Court providing responses to the consultation document “Court Fees: Proposals for Reform” issued by the Ministry of Justice in December 2013, and the Lord Chief Justice advancing to the Ministry a collegial response of all the judges to the same the FDJ responded to the proposed reforms to the fee structure as follows.

2.2 The FDJ were supportive of the following elements of reforms proposed by the government in relation to fees pertaining to family proceedings:

a. The proposals to retain the current fee levels for private law family proceedings and divorce.

b. The proposal no longer to charge a fee for non-molestation and occupation orders.

c. The standardisation of the fee for private Children Act cases at £215.

d. The simplifying proposal that there should only be one single up-front fee of £2,000 for public law family cases.

e. The standardisation of fees for applications within family proceedings (£150 for general applications made on notice and £50 for those made by consent or without notice).

f. The proposed fee levels for cases taken to the Court of Appeal (£465 for permission to appeal and £1,090 for a hearing).

g. The proposed changes to the fees charged in the Court of Protection (£220 for a simple application and £400 for all other applications).
The fees set out above appeared reasonable to the FDJ having regard to (a) the indemnity principle, (b) current economic strictures and (c) the interests of simplification.

2.3 Throughout the process of reform the government has emphasised the “financial imperative” of increasing income to the courts from fees. Within this context the 2013 consultation made clear in Chapter 3 that it believed that there was a “strong rational” for departing from the principle that court fees should be set at a level designed to recover the full cost of providing services but no more; the so called “enhanced fees.” The government contended that it was reasonable to charge more in court fees for certain types of proceedings because the party bringing the case would be able to afford a fee which better reflected the value of the proceedings to that party.

2.4 In its response to the 2013 consultation document the FDJ made clear in respect of the principle of “enhanced fees” that this proposal breached one of our most ancient legal proscriptions, namely that the State shall not sell justice. The FDJ expressed the view that the concept of “enhanced fees” constituted a covert tax levied against a captive market. The FDJ further expressed the clear view that, contrary to that which was asserted at paragraph 118 of the 2013 consultation document, there were no circumstances in which “it is reasonable that, for certain proceedings, those who use the courts should make a greater contribution to the costs of running these services where they can afford to do so”.

2.5 Included by the government in the category of proceedings to which “enhanced fees” would apply were divorce proceedings (this was the only area of family justice affected by the proposed principle of “enhanced fees”). The 2013 consultation proposed that fees for the issue of a divorce or dissolution of marriage petition (which the FDJ pointed out in its response is almost inevitably an administrative process in circumstances where upwards of 95% of petitions are undefended) would be increased from £410 to £750. This was in the context of the government accepting (at paragraphs 71 and 188 of the consultation document) that the fee of £410 already exceeded the actual cost of administration in an undefended divorce case. The FDJ calculated that the fee of £410 resulted in a contribution of £16.8 million per annum based on 120,000 undefended divorce petitions issued each year. The proposed increase in the fee to £750 would have resulted in a revenue contribution of a little under £60 million per annum (or just short of 10% of the then total cost of running the civil justice system of £610 million).

2.6 The FDJ made clear that the government’s stated justification for applying the principle of “enhanced fees” to divorce proceedings, namely that “We believe that divorcing couples would be prepared to pay a higher fee to complete the dissolution of the marriage. We believe that it is right that those who can afford to pay more should do so to ensure that the courts are properly funded”, was not supported by any evidence or analysis making good those assertions. The government did not explain the basis of its assertion that the burden of ensuring the courts are properly funded to should fall on those divorcing couples who can afford to pay more. Within this context the FDJ made clear its fundamental objection to the proposals with regard to “enhanced fees” for divorce proceedings. The FDJ submitted that the proposals would act as an impediment to justice and would unfairly discriminate against women.
2.7 Following the conclusion of the 2013 consultation the government implemented the majority of the proposed changes to the fee scheme in the family courts by way of the Family Proceedings Fees (Amendment) Order 2014 and to fees in the Court of Appeal by way of the Civil Proceedings Fees (Amendment) Order 2014. The Family Proceedings Fees (Amendment) Order 2015 disapplied fees in proceedings relating to non-molestation orders, occupation orders and forced marriage protection orders. These orders implemented those aspects of the reforms in respect of which the FDJ had expressed support in its response to the consultation. Prior to the introduction of these changes, in October 2013 the government amended the operation of the fee remission system designed to assist certain litigants with the court fee.

2.8 Having listened to the concerns expressed regarding the proposed increase introduction of an “enhanced fee” for divorce proceedings the government decided not to implement that proposal. The government’s rationale for that decision was set out in its response to Part 2 of the Consultation on reform of court fees in January 2015 and was grounded in the high level of criticism leveled at the proposal, which criticism included that:

   a. The consultation advanced no persuasive justification for increasing the fee.

   b. It was wrong in principle to seek to increase the cost of court proceedings associated with the breakdown of a relationship.

   c. The fee was excessive and would deter people from seeking a divorce.

   d. The fee could result in people being trapped in unhappy or violent marriages or would be unable to form new relationships which benefitted from the full protection of the law.

   e. Recent reforms to the remissions scheme would mean fewer people would qualify in respect of divorce proceedings.

   f. The proposed reform was potentially discriminatory against women.

2.9 Notwithstanding these wide ranging criticisms (which appeared to be accepted by the government as the justification for not imposing an increase in the fee for divorce proceedings) the government has now decided that it intends to proceed with the introduction of an “enhanced fee” for such proceedings.

2.10 This decision was announced in a further consultation document issued by the government dated 22 July 2015 and entitled “The Government Response to Consultation on Enhanced Fees for Divorce Proceedings, Possession Claims and General Applications in Civil Proceedings and Consultation on Further Fee Proposals August 2015.” The document confirmed that, notwithstanding its acceptance in January 2015 that there should be no increase in the fee for divorce proceedings by way of the introduction of an “enhanced fee”, the government’s has decided that the fee payable to issue divorce proceedings should be increased by almost a third to £550. The Government is not consulting further on this increase. The rationale provided for the change of position is as follows:
“41. The Government recognises that fee increases are never popular and we acknowledge the strength of feeling that exists on this particular proposal. Given the financial imperative to bring down public spending and reduce the deficit, and the need to make sure that the courts are adequately funded in the long term, we now believe that it is right to reconsider that proposal.

42. Most of the respondents who opposed the fee increase pointed to the potentially discriminatory impact of the increases on women. The Government accepts that the majority of applications for a divorce are made by women. Nevertheless, fee remissions are available to those who qualify. In the circumstances of a divorce, the applicant will be assessed on individual rather than household means. Our analysis shows that on this basis, women, particularly those in single parent households, are more likely to be in the bottom quintile of average household incomes, and therefore more likely to qualify for a fee remission than men. For these reasons, we do not accept that the fee increase would have a disproportionate impact on women. Further details are set out in the Impact Assessment.

43. In view of the financial challenge we are facing, and bearing in mind the safeguards in place to protect access to the courts, we have concluded that there should be a limited increase to the fees for a divorce if we are to make good our promise to the electorate to reduce public spending.

44. We do, however, recognise that the original proposal represented an increase of over 80%, and we are sympathetic to those who argued that this was too substantial an increase. We have therefore decided to limit the increase to this fee to £550.

45. The same fee applies to applications for a decree of nullity or, in the context of civil partnership, for a dissolution order or nullity order and the fees for these applications will also be increased to £550, an increase of about a third."

The proposals set out in the July 2015 consultation also include a 10% increase in fees for appeals to the Court of Appeal (as part of a general uplift in fees for civil proceedings).

3. SUBMISSIONS

3.1 Within the foregoing context the FDJ makes the following submissions to the inquiry being undertaken by the Justice Select Committee into courts and tribunal fees.

*Complexity of the Issue*

3.2 The FDJ believes that it is vital that the Select Committee recognise the complex context in which the questions it poses are being asked. The factors influencing the
ability of a litigant in family proceedings to access justice, the volume and quality of cases brought and the competiveness of the legal services market of England and Wales are complex and multifaceted. Within this context, the Select Committee will recognise that it may be very difficult to separate out the impact of changes to the structure of court fees within the context of other fundamental and far reaching changes introduced by the government, not least the reforms to the provision of legal aid brought about by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. In these circumstances, an accurate picture of the manner in which reforms to court and tribunal fees have influenced the ability of a litigant to access justice, the volume and quality of cases brought and the competiveness of the legal services market is unlikely to be achieved unless those reforms are evaluated in their wider context.

Problems with the Evidence Base

3.3 The FDJ considers that there appears currently to be a lack of statistical evidence to assist in determining the questions posed by the Select Committee. This absence of statistical evidence relates to the impact of the fee scheme reforms both on individual court users and within HMCTS more widely.

3.4 The government drew a number of conclusions from the responses to the 2013 court fees consultation. These conclusions included the following in the context of the proposed increase in the fee for divorce proceedings:

a. Increases in the contributions from those individuals who use the courts are required if access to justice is to be protected and the overall cost of the courts to the taxpayer is to be reduced.

b. The proposed increases in court fees are not likely to impact on the volume of cases.

c. The decision to increase the fee for divorce proceedings will not have a disproportionate impact on women.

d. Women, particularly those in single parent households, are more likely to qualify for a fee remission of the fee for divorce proceedings than men.

3.5 Within this context, it is unclear whether any research has been done (whether by the government or non-governmental organisations) or is proposed to assess the extent to which these predictions have been, or will be accurate following the introduction and operation of the reforms. The FDJ is aware of no research examining whether in fact “enhanced fees” (where already introduced) have protected access to justice and reduced the overall cost to the taxpayer and whether or not the reforms to fees have or have not impacted on the volume of cases (although there may well be anecdotal evidence of the same in other Divisions in which “enhanced fees” have already been introduced).

3.6 Further, it is not clear on the face of the July 2015 consultation document announcing the government’s decision to proceed with the an “enhanced fee” for
divorce proceedings whether there is any intention to monitor the extent to which the consequent increase in fee income acts to protect access to justice and to reduce the overall cost to the taxpayer, whether it impacts on the volume of petitions for divorce or dissolution of marriage, whether the fees exacerbate the disparity in financial positions that exists or can exist between the parties to divorce proceedings, whether it has a disproportionate or discriminatory effect on women or whether the remission system mitigates any impact in the way it is designed to. In particular, in circumstances where “enhanced fees” are being introduced without any further reforms to the system of fee remissions it is vital that the government is astute to ascertain whether there develops a population of potential litigants comprised of the “squeezed middle”, that populating being comprised of those who do not qualify under the remissions system but who cannot afford the “enhanced fees” charged as a pre-cursor to gaining access to justice. Given the potential for the increase in the “enhanced fee” for divorce proceedings to dilapidate access to justice for a significant population of litigants it is incumbent on those introducing the changes to monitor their impact and adjust them accordingly where necessary.

3.7 Further, the legislative provisions which allow fees to be set at a level above the cost of the proceedings to which they relate (see the Anti-social Behaviour, Crime and Policing Act 2014 s 180) require that the income from enhanced fees must be used to provide an efficient and effective system of courts and tribunals. This legal duty is supplemented by the duties on the Lord Chancellor outlined below and in particular the duty on the Lord Chancellor to have regard to the principle that access to the courts must not be denied (Courts Act 2003 s 92(3) and see the Constitutional Reform Act 2005). Within this context however, the consultation paper gives no explanation of how the funds raised by the fee reforms, and in particular by “enhanced fees” are to be applied save “to ensure the continued operation of an effective court system”.

3.8 As noted above, the FDJ calculated that the current fee for divorce proceedings (which is, as noted, already “enhanced” when compared to the actual cost price of a divorce petition) results in a contribution of £16.8 million per annum based on 120,000 undefended divorce petitions issued each year. The increase in the fee that the government has now decided to implement will results in an additional contribution of a further £16.8 million, bringing the total revenue contribution from fees for divorce proceedings to £66.6 million per annum. Within this context, it is unclear to the FDJ whether there is any evidence demonstrating that the additional fees raised have been (or, in respect of the “enhanced fee” for divorce proceedings, will be) retained within the court and tribunal system or what systems are in place to ensure that this is the case. More particularly, it would not appear that any consideration has been given to the question of whether the £66.6 million per annum raised from the “enhanced fee” for divorce proceedings will be used to ensure the continued operation of an effective system of divorce and ancillary financial relief or whether the money raised from divorcing couples will be applied to fund the court and tribunal system more generally (raising a further issue that is properly the subject of public debate).

The Principle of Enhanced Fees

3.9 The FDJ maintains its objection to the principle of "enhanced fees" generally. The government still has not supplied a reasoned basis for charging fees that exceed the
cost of the service paid for, and which result in a profit for the State, beyond its bare conclusion that those who use the courts should make a greater contribution to the running of them where they can afford to do so within the context of the need to reduce public spending in the current economic climate. In particular, no attempt has been made to reconcile the principle of access to justice for all regardless of means, a benefit given in and for the public interest and one which might be expected to be at public expense, with the proposition that the administration of justice should be subsidised by a particular group of court users.

3.10 In this the octocentenial year of Magna Carta, it is important to recall one of the fundamental principles articulated by that seminal instrument, namely that “To no one will we sell, to no one deny or delay right or justice”. The principle that the State will provide access to justice without profit is one of the fundamental pillars of a democratic society. Within this context, whilst acknowledging the statutory duty on the Lord Chancellor to ensure that there is an efficient and effective system to support the carrying on of the business of the courts and that appropriate services are provided to the courts (Courts Act 2003 s 1(1)), the FDJ maintain the view that to treat the courts as a profit making customer service organisation rather than as a cardinal element of the governance of the State crucial to the operation of democracy, the operation of the rule of law and the proper operation of the free market economy, breaches one of our most ancient legal proscriptions, namely that the State shall not sell justice.

3.11 Further, the democratic imperative outlined above means that the courts must, as guardians of the rule of law, be equally open to all. Accordingly, they must provide access to the opportunity for legal redress to all members of society regardless of status, means or defined characteristics. Within this context, as already highlighted, when prescribing court fees the Lord Chancellor must have regard to the principle that access to the courts must not be denied (Courts Act 2003 s 92(3) and see Constitutional Reform Act 2005). The State therefore owes a duty to its citizens to provide effective access to justice for all of its citizens. Charging court fees designed to make a profit for the State materially increases the risk that sections of society will be precluded from accessing justice that is their right. In particular, to levy that amounts to a covert tax on a captive market increases the risk of the development of a population of potential litigants comprised of the “squeezed middle” who do not qualify under the remissions system but who cannot afford the “enhanced fees” charged as a pre-cursor to gaining access to justice.

Decision to Proceed with Increase in Enhanced Fee for Divorce Proceedings

3.12 The FDJ repeats the objections summarised at Paragraphs 2.5 and 2.6 above concerning the government’s original proposal to increase the fee for issuing a divorce or dissolution petition through the introduction of an “enhanced fee”. As already noted, the governments decision to increase the already enhanced fee for divorce proceedings will, based on based on 120,000 undefended divorce petitions issued each year, result in an additional contribution of a further £16.8 million, bringing the total revenue contribution from fees for divorce proceedings to £66.6 million per annum. In addition, the FDJ makes the following points to the Select Committee:
a. There is no suggestion by the government that the administrative costs of divorce proceedings have increased or that the justification for the decision to now increase the fee for divorce proceedings by a third is such a costs increase. It is therefore reasonable to assume that the increase in the fee for divorce proceedings by a third continues to constitute the introduction of an “enhanced fee” for such proceedings.

b. The decision by the government to reverse its previous position and introduce an “enhanced fee” for divorce proceedings by a third has not been the subject of further consultation following the initial decision not to implement the proposal for such “enhanced fees”. The decision to implement the increase would appear therefore to have been taken on the basis of the responses provided in response to the consultation Court fees: proposals for reform, Cm 8751, December 2013.

c. Within this context, the government offers no reasoned explanation of why the consultation responses which compelled its decision in January 2015 not to introduce “enhanced fees” for divorce proceedings (as summarised in Paragraph 2.8 above) ceased to apply as of July 2015.

d. In the absence of any further reasoning being advanced by the government, the sole justification for the introduction of an “enhanced fee” for divorce proceedings is therefore that those divorcing couples who use the courts should make a greater contribution to the running of them where they can afford to do so within the context of the need to reduce public spending in the current economic climate.

e. Within the foregoing context, the government has failed still to articulate why it is right that divorcing couples who use the courts should subsidise the same to the tune of £66.6 million per annum in circumstances where the court service (and any applicable fee remissions) are provided in the public interest. Once again, no attempt has been made to reconcile the principle of access to justice for all regardless of means with the proposal that a discrete group of court users should be required to pay more than the cost of issuing their divorce petition in order to reduce the national deficit. The significance of this failure by the government to articulate its reasoning is further illuminated by the fact that “enhanced fees” constitute a departure from the “normal” rule that fees for public services should be set at a level designed to meet the full cost of those services (see Managing Public Money, HM Treasury, July 2013).

f. Further, no reasoned explanation is given as to why the government now considers that a fee increase is not excessive and would not deter people from seeking a divorce. In particular, the research previously relied on does not bear the weight of the conclusions the government seeks to draw from it with respect to the impact of the “enhanced fee” for divorce proceedings on affordability and case volumes (see further point (i) below).
g. Likewise, and crucially, no explanation is advanced to explain why the government now concludes that an increase to the fees would not result in people being trapped in unhappy or violent marriages or would be unable to form new relationships which benefitted from the full protection of the law having apparently accepted this proposition in January 2015. Any measure that reduces the opportunity for a person to leave a marriage in which they are exposed to domestic abuse is particularly insidious and contrary to both the public interest and the government’s long term policy of seeking to address the fact of, and reduce the impact of domestic abuse. Within this context, it is beholden on the government to evidence the basis on which it is satisfied that the effect of introducing an “enhanced fee” for divorce proceedings will not be to ensnare people in marriages in which they are not only unhappy but which threaten their health and safety.

h. No consideration at all appears to have been given to the impact on the decision to introduce “enhanced fees” for divorce proceedings on the children of parents in failing marriages. Divorce impacts heavily on children. In 2012 nearly 100,000 children under 16 experienced the divorce of their parents (see ONS data table Children of Divorced Couples 1957-2012). Having to live with parents trapped in a failing relationship or, of even greater concern, within a household in which domestic abuse is the pernicious cause or symptom of a failing relationship, has an extremely caustic effect on the emotional, and in some circumstances physical, welfare of children (see for example Children’s Needs – Parenting Capacity Hedy C., Unell I. and Aldgate, J (2011) 2nd Edn TSO). Within this context an “enhanced fee” that acts as a disincentive to couples seeking a timely dissolution of their failed marriage also acts to expose a significant cohort of vulnerable children to emotional and, potentially, physical harm. The government’s decision to introduce an “enhanced fee” for divorce proceedings appears nowhere to have considered and taken account of the impact of that decision on the emotional, and in some cases physical, integrity of children experiencing marital breakdown.

i. Within the context of the submissions made above regarding the limitations to the current evidence base regarding the impact of the reforms to court fees generally, the limitations of the evidence on which the government has proceeded to take the decision to introduce the increase in the “enhanced fee” for divorce proceedings remain even more stark. In particular:

(i) The report prepared by the MOJ Analytical Services Team and advanced by the government as evidence that the introduction of “enhanced fees” would not influence the decision of a divorcing wife or husband to take a case to court cannot bear the weight of that conclusion.

The report canvassed the views of four solicitors representing privately paying private family clients and did not speak to any
clients themselves (the report acknowledging that the views of solicitors and their clients are not necessarily co-terminus).

The report made clear that that “decisions to bring financial and children cases to court were made on a case-by-case basis”, thereby demonstrating that there will be cases in which the court fee may be a factor in the decision to issue proceedings.

Within this context, the summary of the research findings set out in the paper failed to highlight that “some clients with limited resources could occasionally struggle to pull together the money to pay for the up-front court fees, with some having to rely on family or securing credit. And, at times, clients had to represent themselves at court because they had ‘run out of money’ and were unable to continue to meet the cost of solicitor fees”.

Finally, and most importantly, whilst the MOJ researchers did ask about “full cost recovery” they did not ask family law solicitors about the potential impact of “enhanced fees”.

In the foregoing circumstances, using the research to justify the conclusion that enhanced fees would have no impact on volume of cases in divorce proceedings is unsafe.

(ii) The IPSOS/MORI research entitled ‘The role of court fees in affecting users’ decisions to bring cases to the civil and family courts: a qualitative study of claimants and applicants’ (Pereira I, et al, (2014) Ministry of Justice) was conducted by speaking to family applicants who had already commenced proceedings and who all “expressed strong belief in the validity of their cases and typically believed that they would win the case.”

Within this context, the paper concedes at the outset that the study did not cover “those who resolved disputes using alternative means, or who had been deterred from bringing their case to court for any reason” and that in relation to family proceedings “The study only covered those who had brought a case to court. It did not include those who had considered making an application to court but decided against doing so, whether deterred by cost or because alternatives to court were successful, and therefore does not offer insight into the views of those who did not make it to court.” Within this context the paper further concedes that these groups “may also have views on costs and court fees that influenced how they sought to resolve their disputes, but these were outside the scope of this study”.

In the circumstances, the conclusions set out in the research are based on the views of people for whom the court fee had, by
definition, not been a barrier to litigation and did not canvass the views of people for whom the court fee may well have been a barrier to litigation. In such circumstances, whilst supporting the conclusion that the group of family litigants spoken to by the researchers would not have been deterred by higher fees, this research cannot support the wider conclusion which the government seeks to draw from the research.

In any event, the research did not ask litigants about the principle of “enhanced fees”. In particular, it would not appear that family applicants were asked whether they would be prepared to pay a fee greater than the administrative cost of their proceedings on the basis that that those who use the courts should make a greater contribution to the running of them where they can afford to do so.

Once again, in the foregoing circumstances, using the research to justify the conclusion that enhanced fees would have not impact on volume of cases in divorce proceedings is unsafe.

(iii) Overall, having regard to its central justification for “enhanced fees” in divorce proceedings, namely that the burden of ensuring the courts are properly funded should fall on those divorcing couples who can afford to pay more, the government still has not provided any evidence that divorcing couples would be prepared to pay a higher fee (and a fee that exceeds the administrative cost of issue) to complete the dissolution of their marriage or to justify the assertion that this captive market can afford to pay more.

3.13 Having regard to the matters set out above the FDJ maintains that the government has neither explained nor evidenced the basis of its assertion that the burden of ensuring the courts are properly funded should fall on those divorcing couples who can afford to pay more. In the circumstances, and where the fee for divorce proceedings remains higher than that required to cover the administrative costs of such proceedings, the FDJ maintains its objection to any increase in the fee for divorce proceedings. There is simply no justification for imposing on divorcing couples what amounts to a covert tax on a captive market. There is no reasoned basis for divorcing couples who take advantage of a justice system that is provided by the State in the public interest having some kind of special responsibility for addressing the wider economic issues of the country to the tune of £66.6 million per annum.

Enforcement of Cost Recovery

3.14 As the response of the Senior Judiciary to the 2013 Consultation Paper highlighted at Paragraph 73, a substantial amount of fees go uncollected. The reason for this (anecdotally) is that the judiciary at many levels now deal with requests by letter without demanding an application with an application fee. The prevalence of email (together, again anecdotally, with the willingness of the judiciary to permit parties to communicate with them directly through this medium) is likely to have
amplified this issue. As noted in the response of the Senior Judiciary, examples of this practice include applications for extensions of time, applications to vary directions and the making of consent orders. Reducing the occurrence of this practice would result in the more efficient collection of fees and reduce the need for increases in the same in order to meet the government’s financial targets.

4. Conclusion

4.1 Within the context of the statutory duty on the Lord Chancellor to ensure that there is an efficient and effective system to support the carrying on of the business of the courts and that appropriate services are provided to the courts, the FDJ accepts the urgent need to ensure adequate financial resources for HMCTS. The FDJ further accepts that achieving this end in the current economic climate presents a significant challenge for the government. However, the FDJ believes strongly that that urgent need and that significant challenge should not be met at the expense of the cardinal principles that underpin our democratic society. There are some State institutions, provided as they are in the public interest to sustain and nourish our democracy, to maintain the rule of law and to ensure the welfare of the community as a whole, that should as a matter of unwavering principle be funded by the collective contribution of society rather than by just narrow elements of the same. The decision to introduce “enhanced fees”, both generally and for divorce proceedings, offends against that fundamental tenet.

13 October 2015