

Towards quantifying the costs of civil, family, and tribunal (CFT) legal disputes.

Discussion paper

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Foreword

In December 2022 the Ministry of Justice (MoJ) commissioned PA Consulting to undertake a feasibility study to develop a methodology to quantify the specific costs of civil, family and tribunal (CFT) legal disputes. This was because the costs of legal disputes are not limited to the direct costs of legal advice and representation for individuals and businesses and the costs of court sitting days for the state. Instead, evidence from the long line of legal needs surveys conducted in this country, and around the world, suggests that legal disputes can also have wider social, physical, and psychological impacts. These can include lost days at work, stress, and ill-health for individuals and pressure on housing and family relationships. The cost of monies owed to businesses can impact investment decisions and innovation. All of these wider impacts can be damaging for individuals and costly to the parties involved, businesses, and government.

The project was comprised of two stages – a feasibility study, and quantification of costs. At the end of the initial feasibility stage it was evident that suitable data on which to base a robust analysis was lacking. However, it was agreed that it was still possible to proceed on a trial basis using certain assumptions. The approach taken in this discussion paper therefore represents an initial step forward in applying methodologies that have not previously been used in the CFT jurisdictions. By the same token, this also means that the work is exploratory and, as such, some assumptions and aspects of the methodology can be debated. Therefore, the results are illustrative rather than a definitive assessment of costs – and are intended to advance the pursuit of economic analysis in this area and provide a platform for further debate. Both PA Consulting and the MoJ welcome the opportunity afforded by the publication of this report to consider opportunities and alternatives for quantifying the costs of CFT legal disputes in the future.

1. Executive summary

1.1 Report context and scope

The Ministry of Justice (MoJ) commissioned PA Consulting (PA) to conduct an initial assessment and a generalised framework for analysing the direct, indirect, and wider costs of civil, family, and tribunal (CFT) legal disputes.

It is important to note that this report does not provide comprehensive estimates of the costs of CFT legal disputes. The research underlying this report has highlighted significant data and evidence gaps that currently prevent such estimates being produced. The report is intended to provide:

- guidelines for how such estimates could be produced in the future
- an overview of the current evidence base around these costs
- a summary quantification of some key elements of the costs (that are permitted by the available data).

The numbers in this report should only be quoted alongside these caveats.

In terms of our actual analysis, the direct financial costs borne (i.e. lawyers/court fees) are not the only costs incurred by users of the CFT legal system. Legal disputes also potentially carry hidden costs such as social, economic, physical, and psychological impacts. These costs may further exacerbate negative factors such as debt, unemployment, and associated anxiety and stress (indirect costs). The accumulation of these costs impacts negatively on society, creating pressure on services such as the health and welfare systems (wider costs). In any discussion around these costs, it is also important to acknowledge the benefits that the justice system facilitates, in terms of helping users to resolve issues which may otherwise be unresolved for years, creating costs that are likely higher than those seen today. This discussion paper does not seek to

weigh these benefits and costs together, and our scope is defined solely around examining the potential costs.

Prior to producing this discussion paper, we conducted a feasibility study that identified the key costs resulting from CFT legal disputes, the evidence gaps for quantifying these costs, and the feasibility of potential quantification methodologies that could be applied. This study drew on an accelerated evidence review of the existing literature, inspired by HM Magenta Book Rapid Evidence Assessment (REA) principles.¹

From our feasibility study, we identified a wide range of evidence gaps on the cost of CFT legal disputes, including:

- Much of the evidence base is dated and an updated picture is required
- Less than 10% of the studies we reviewed had quantitative numbers beyond descriptive statistics that provided insight into the costs of accessing the justice system
- The most readily available monetised evidence is for the ‘direct’ costs of legal disputes – there is a paucity of evidence around the ‘monetised’ impact of indirect costs incurred in a legal dispute and the wider costs for the economy and public services
- There is a much larger and more detailed evidence base on the costs of crime and their indirect and wider impacts – some of these methodologies have the potential to cross-over into further research into CFT legal disputes.

These evidence gaps mean that there are relatively limited opportunities to provide a direct quantification and monetisation of distinct sets of indirect and wider costs from the CFT justice literature alone. Our work uncovered a range of promising methodological approaches for appraising similar costs from broader fields, such as crime and healthcare, that could be feasibly applied to legal disputes in an initial and exploratory analysis.

We worked with the MoJ to assess this long-list of analytical options against four dimensions: the analytical feasibility to complete the analysis within the delivery timeframes; the availability of data to complete the analysis; the level of confidence in the

¹ A full methodology is set out in Annex 4: Evidence review

results of the quantitative estimates that result from the analysis; and an early-stage indication of the potential order of magnitude of the costs that are being quantified. From this assessment, we decided two focus areas for an initial and exploratory quantification:

- **The stress, mental health, and wider health impacts** that an individual involved in a legal dispute may experience
- **The wider economic impacts** of legal disputes, focusing on the labour force impacts from the time taken away from work.

1.2 Key findings

The outputs of this discussion paper are limited to the scope set out above and do not cover the entirety of the costs and case types that exist in the complex civil justice system. However, we do seek through the structure and research approach set out in this paper, to provide a basis for thinking about a much broader range of impacts within the legal system. This research is a first step into exploring a complex subject. The outputs should be viewed as initial and exploratory, and are intended to pave the way for further and more extensive research.

Our analysis should be interpreted as a starting point for understanding the potential size of these impacts, providing a platform for further work to deepen and extend this analysis (including through new primary data collection). In the context of the complex nature of CFT legal disputes and range of datasets and assumptions employed, the outputs are subject to uncertainty. We sought to capture this uncertainty through extensive scenario analysis and sensitivity testing.

Our estimates should not be considered in isolation and should be taken together with broader evidence on the full range of direct, indirect, and wider costs and benefits when appraising distinct civil justice interventions.

Stress, mental health, and wider health impacts

Stress and related mental health conditions, such as anxiety, are the key starting point of our analysis to assess the health impact of CFT legal disputes. Stress and related mental health conditions are the most commonly reported adverse consequences by the users of

the civil legal system, according to the LPRS (2014/15). They are also the underlying causes of other more severe mental and physical health conditions like depression.

Health literature outlines that stress responses are typically triggered when individuals are facing significant adverse consequences and uncertainty. In the case of CFT legal disputes, stress responses may be triggered in several ways, such as engaging with an unfamiliar process or mentally preparing for financially impactful adverse outcomes. Using the health impact of stress as the starting point, our analysis utilises a widely recognised framework in health economics literature in Quality-Adjusted Life Years (QALYs) to illustratively quantify the health impact of CFT legal disputes for cases issued in 2021. Our methodology aims to isolate the costs incurred by individuals as a result of the dispute process itself, excluding the stress caused by the issues underlying the dispute. We recognise the difficulties of disentangling causes of stress, which are likely to be highly bespoke to individuals concerned, and our analysis should therefore be interpreted as initial and indicative until further primary data can improve the evidence available on this.

The monetised outputs in relation to the health impact of CFT legal disputes are focused on the cases that were issued in 2021 across the CFT justice system (county and family courts and in tribunals). Our core scenario for the potential total cost of harm across these cases is c.£2.0 billion, with a range of up to c.£5.8 billion to account for some uncertainty in modelling assumptions due to the complex nature of the CFT legal system.² The key objective of our analysis is to demonstrate the significance of the health impacts on the users of CFT justice and set up an important platform for further analysis in this area.

Wider economic impacts of CFT legal disputes

In this section, we look at how individuals' involvement in legal disputes could have implications for economic outcomes as whole. Whilst we recognise that wider economic impacts could stem through a number of channels, our research focuses on the impact of legal disputes on workplace productivity and UK Gross Value Added (GVA). We supplement this by capturing potential costs to public services such as the NHS and to employers through additional sick days. By analysing these factors, we can provide a more

² The uncertainty is reflected by our sensitivity tests outlined in Section 4.

comprehensive understanding of the wider costs associated with legal disputes, which our accelerated evidence review has found is often overlooked.

In our approach, the economic cost of the time lost by individuals involved in legal proceedings considers two main factors: (i) the hours that individuals involved in legal disputes take away from working hours, and (ii) their levels of labour productivity. This reflects the 'core scenario' in our analysis, which we supplement through two scenarios that capture additional pathways through which legal disputes might impact the wider economy, linked to our analysis of health impacts set out in Section 4:

- Individuals involved in legal disputes incur stress and anxiety that is likely to see them take more sick days and absences from work
- The treatment that the NHS provides to these individuals places additional pressure on government spending.

Our illustrative monetised outputs specifically relate to CFT legal disputes cases that were issued in 2021 across the CFT justice system (county courts, family courts, and in tribunals). Our core scenario for the total in-year loss to UK GVA due to individuals taking time off work to engage in legal disputes was c.£1.1 billion, with a range of up to c.£1.4 billion that accounts for additional levels of workplace sickness and associated absences.³ In addition, our analysis indicates that the total additional cost for the NHS to treat the stress and anxiety caused by legal disputes issued in 2021 could be c.£670m. The key objective of our analysis is to demonstrate the significance of the CFT justice system to the wider economy and public finances, and set up an important platform for further analysis in this area.

³ The uncertainty is reflected by our sensitivity tests outlined in Section 5.

2. Introduction

2.1 Background, scope, and policy context

Background

The Ministry of Justice (MoJ) commissioned PA to conduct an independent assessment of the direct, indirect, and wider costs of CFT legal disputes.

The direct financial costs borne (i.e. lawyers/court fees) are not the only costs incurred by users of the civil legal system. Legal disputes also potentially carry hidden costs in relation to adverse social, economic, physical, and psychological impacts. These costs may further exacerbate negative factors such as debt, unemployment, and associated anxiety and stress. The accumulation of these costs impacts negatively on society creating pressure on services such as the health and welfare systems.

In this discussion paper, we present initial analysis to quantify two key elements of 'indirect' and 'wider' costs:

- 1) **The stress, mental health, and wider health impacts** that an individual involved in a legal dispute may experience
- 2) **The wider economic impacts** of legal disputes, focusing on the labour force impacts from the time taken away from work, and recognising the broader impacts on businesses engaged in legal disputes.

A better understanding of these costs, including further quantification, will develop an evidence base to support policymakers in identifying the most appropriate interventions to support the users of the CFT legal system.

Scope

Our assessment has been conducted as two phases of work:

1. **An initial Feasibility Study:** has been conducted to set out a framework that can be used to assess the key costs resulting from CFT legal disputes, the evidence gaps for quantifying these costs and the feasibility of potential quantification

methodologies that could be applied. This study drew on an accelerated evidence review of the existing literature, inspired by HM Magenta Book Rapid Evidence Assessment (REA) principles.

2. **Quantification of costs:** this paper aims to start to address some of the key evidence gaps highlighted by the feasibility study, seeking to quantify certain elements of indirect and wider costs that stem from legal disputes.

In this discussion paper, we focus on quantifying two distinct costs from legal disputes: the stress, mental health, and wider health impacts felt by individuals; and potential impacts on the labour force and wider economy.

The outputs of this paper are limited to the scope set out above and do not cover the entirety of the costs and case types that exist in the complex CFT justice system. However, we do seek – through the structure and research approach set out – to provide a basis for thinking about a much broader range of impacts within the legal system. This research is a first step into exploring a complex subject and the outputs are intended to pave the way for further and more extensive research.

Policy context

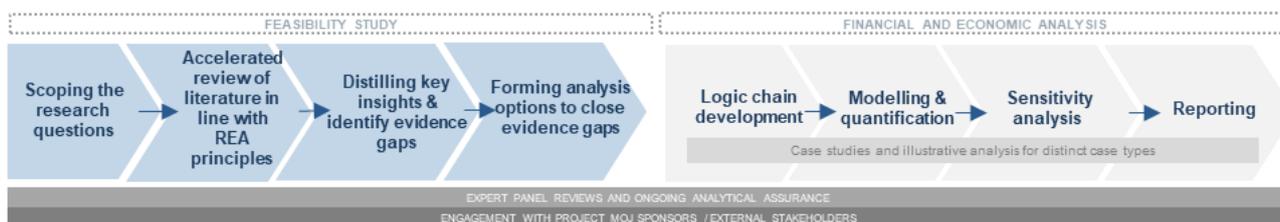
The MoJ held a Call for Evidence on Dispute Resolution in England and Wales between August and October 2021, inviting contributions from all interested parties with experience of dispute resolution services within and outside the court system. While the responses provided some data on the cost of mediation services for participants, there remains a need for the MoJ to improve its evidence base to assess a broader spectrum of costs from legal disputes.

This research will build on existing studies and seek to bring together a better collective understanding of the key types of costs incurred as part of a legal dispute and support a consistent methodological approach for appraising such costs. We hope the findings from the review can be built upon and applied in appraisals of legal system interventions so government resources can be best deployed and help reduce the costs felt by users, in line with the MoJ Outcome Delivery Plan to “deliver swift access to justice”.

2.2 Methodology

We deployed a consistent methodological approach across our two phases of work, aligned with HM Magenta Book principles. This broad approach is set out in Figure 1 and we describe each key step below:

Figure 1 - Methodology for feasibility study and quantification



Source: PA analysis

Feasibility study

The predominant research methodology we deployed is inspired by the principles of Rapid Evidence Assessment (REA) as outlined in the HM Magenta Book.⁴ A full REA was not appropriate in this setting due to time constraints. However, the core principles were implemented to provide a structured and rigorous approach to comprehensively identifying the relevant existing literature, whilst conducting the review proportionally and within the time bounds of the project. This accelerated evidence gathering process was supplemented by several rounds of engagements with the key stakeholders and an Advisory Panel of academic and industry leads. This included discussions with key stakeholder groups, including representatives of CFT justice system users, the judiciary, and HMCTS policy leads.

We liaised closely with MoJ project sponsors to agree an evidence review protocol which set out the research questions, information sources, search strategy, and selection process.⁵ We sought to provide evidence-based answers to three key research questions:

1. What are the existing categories of costs in the current CFT justice system and the drivers of these costs?

⁴ The Magenta Book provides standardised guidelines to ensure a consistent approach to government policy evaluation. 'The Magenta Book', GOV.UK [online] Available at: <https://www.gov.uk/government/publications/the-magenta-book> [Accessed 10 February 2023].

⁵ See Annex 4 – Evidence review

2. Where are the costs most likely to occur in a typical user journey, particularly in three key case types (business-to-business cases, civil money claims, and Employment Tribunal cases)?
3. What are the wider financial and economic impacts of CFT legal disputes?

This feasibility study assessed more than 150 academic articles and industry reports, and the findings were distilled and synthesised into a written report.⁶

Evidence gaps and analytical options

From our feasibility study, we identified a wide range of evidence gaps on the cost of CFT legal disputes. While there is a large volume of evidence, much of it is of limited direct relevance and we identified the presence of significant evidence gaps.⁷

These evidence gaps mean that there are relatively limited opportunities to provide a direct quantification and monetisation of distinct sets of indirect and wider costs from the CFT justice literature alone. Our work has, however, uncovered a range of promising methodological approaches for appraising similar costs from broader fields, such as crime and healthcare, that could be feasibly applied to legal disputes. This ranges from direct data collection from insurers and cost negotiators, to the application of jury awards, to the use of willingness-to-pay techniques, QALYs, and subjective wellbeing approaches.

We worked with the MoJ to assess this long-list of analytical options against four dimensions: the analytical feasibility to complete the analysis within the delivery timeframes; the availability of data to complete the analysis; the level of confidence in the results of the quantitative estimates that result from the analysis; and an early-stage indication of the potential order of magnitude of the costs that are being quantified. From this assessment, we decided on two focus areas for quantification:

- 1) **The stress, mental health, and wider health impacts** that an individual involved in a legal dispute may experience.

⁶ MoJ Costs of Legal Disputes – Phase 1 Feasibility Study (February 2023, Unpublished)

⁷ Key evidence gaps include: a lack of quantitative findings outside of descriptive statistics, very few recently published papers, and a lack of monetisation of indirect and wider costs. Full details of our Phase 1 findings are outlined in Annex 4.

- 2) **The wider economic impacts** of legal disputes, focusing on the labour force impacts from the time taken away from work, and recognising the broader impacts on businesses engaged in legal disputes.

Quantification stage

To develop an initial quantification of costs across both areas, we applied a consistent methodological approach:⁸

- *Logic chain development*: Utilising evidence from academic literature, we developed logic chains that explore the relationships between a legal dispute and the resultant costs incurred;
- *Modelling and quantification*: We developed an appropriate quantification approach to monetise key impacts identified within our logic chains; and
- *Scenarios and sensitivity analysis*: Built on our core estimates with scenario analysis, having identified additional aspects of costs that may be incurred from civil disputes. In addition, key assumptions in our model were tested using a range of sensitivity tests.

All our work has been conducted in line with HMG Aqua Book analytical standards and we conducted progressive quality assurance checks at each key step of our approach, including excel audits and peer reviews as appropriate. We set out our Quality Assurance practices in Annex 5. Whilst we applied appropriate and proportional assurance to our analysis, it is important to note the early-stage nature of the results, which should be interpreted as initial ranges and orders-of-magnitude through which to refine with further modelling in the future.

We held weekly conversations with MoJ project sponsors to iteratively work through and assure the key steps of our methodology, and have refined and updated this as appropriate. Our review includes a number of ‘deep dive’ case studies in particular thematic areas or on particular case types. These do not form part of the overall ‘core’

⁸ Full details of our quantification methodology can be found in Annex 1. It should be noted that whilst both parties to a dispute may experience potential emotional and health impacts from it, for prudence we make a high-level assumption that the impact falls on just one party, to help ensure our impact estimates are not overstated.

analysis described above but have been developed as areas of distinct interest to MoJ policy and relevant to the future potential applications of this work.

Appropriate interpretation of the analysis

Our analysis provides an in-year snapshot of the health and wider economic impact of legal dispute cases that were issued in 2021 across the county court, family court, and the tribunals⁹, which includes:

- Cases issued in the civil (non-family) county and magistrates' court system
- Tribunal cases that were receipted
- Cases starting in the family courts.

The type of civil claims covered in the statistics include money claims and personal injury claims but do not include some cases like enforcement of council tax demands or high-value and complex claims heard in the High Court. Importantly, in our main scenario we do not seek to quantify the costs of pre-action cases.

Our analysis should be interpreted as a starting point for understanding the potential size of these impacts, providing a platform for further work to deepen and extend this analysis (including through new primary data collection). In the context of the complex nature of CFT legal disputes and range of datasets and assumptions employed, the outputs are subject to uncertainty. We sought to capture this uncertainty through extensive scenario analysis and sensitivity testing.

Our estimates should not be considered in isolation and should be taken together with broader evidence on the full range of direct, indirect, and wider costs and benefits when appraising distinct civil justice interventions.

⁹ Gov.uk., (2023)., Guide to Civil Justice Quarterly Statistics., Available at: [Guide to Civil Justice Statistics Quarterly - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guides/civil-justice-quarterly-statistics)

2.3 Structure of this discussion paper

The remainder of the paper is structured in the following way:

- **Chapter 3:** sets out a baseline understanding on the costs of legal disputes, including defining the key users of the CFT justice system who are affected, identifying the key cost categories and stages of a legal dispute relevant for generating these costs, and the types of legal disputes these costs are evident across;
- **Chapter 4:** presents the results from our analysis of the costs of emotional harms, including stress and mental health impacts that result from legal disputes. We provide the context around this analysis, set out the methodological basis for our work, and present the key results and recommended next steps to apply this analysis
- **Chapter 5:** presents the results from our analysis of the wider economic costs from legal disputes.

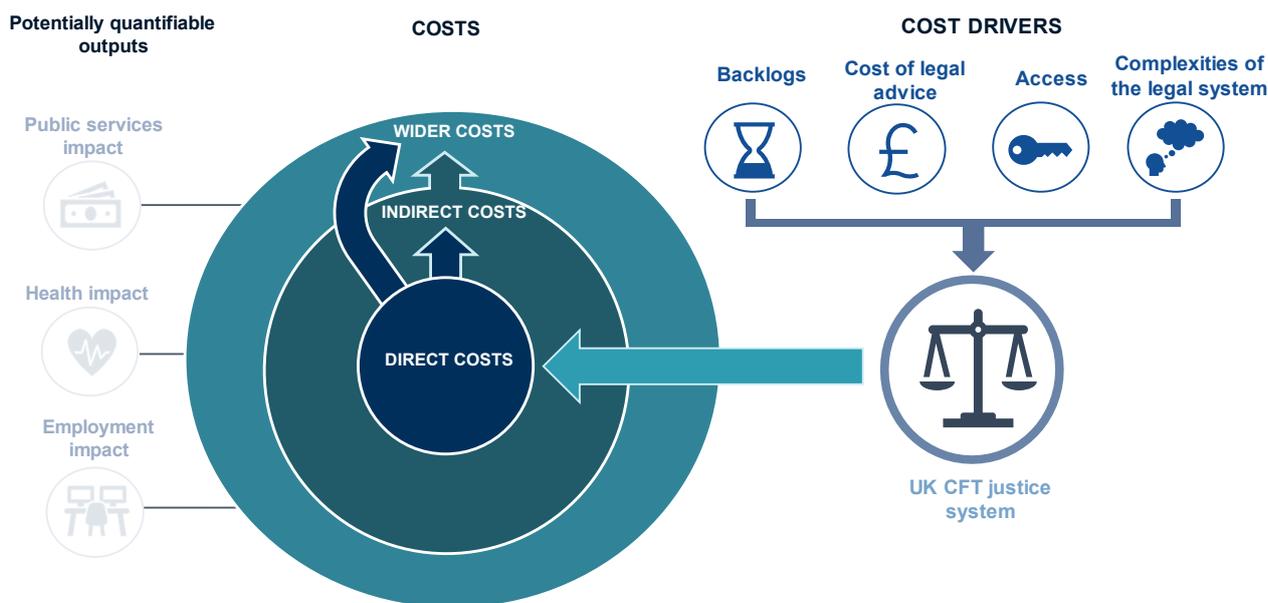
3. The costs of CFT justice

In this section, we use our findings from our accelerated evidence review to identify the key costs that are incurred by users of the justice system across the course of a civil, legal, or tribunal (CFT) dispute.¹⁰

3.1 Key cost categories

Our review distinguishes conceptually between three broad categories of cost: direct, indirect, and wider costs (see Figure 2, below).

Figure 2 - Distinguishing the broad categories of costs in legal disputes



Source: PA analysis

Direct costs refer to observable financial costs incurred by those directly involved in a legal dispute. This includes the financial cost of legal advice and representation for claimants and respondents, any applicable court fees, and costs involved with court sitting days for the public purse.

¹⁰ Further details regarding the users of the CFT justice system, the stages of a CFT legal dispute, and the range of case types can be found in Annex 2.

Indirect costs refer to other costs incurred indirectly by those involved in a legal dispute. These costs may not involve a direct financial outlay but could still have significant financial consequences. For example, indirect costs include physical or mental health effects experienced by the claimant or respondent, or other financial costs that could be exacerbated by the dispute, such as debt being incurred to fund the legal action or the loss of employment. Broader ‘opportunity costs’ from engaging in a legal dispute include spending or investment decisions that might need to be postponed due to heightened financial uncertainty.

Wider costs refer to the ‘knock-on’ costs that are experienced by actors in wider society that are not direct parties to the dispute. This might include the costs that result from heightened pressures on the health system, or welfare payments that result from social security benefits being claimed because of an individual being out of work due to an employment tribunal, or a business awaiting a resolution from a supplier dispute.

There are a number of factors that could **drive the level of direct, indirect, or wider costs** that are incurred. For example, backlogs of legal cases, resulting in delays to trials, may result in longer periods between a case being initiated and a judgment, prolonging the time over which costs may be incurred. The market structure and competitiveness of the legal services market and level and applicability of legal aid may influence the direct cost of legal advice. Users may also struggle to understand the legal dimension of their problem, paths to justice and services they can use, driving higher search costs. Finally, complex or high-value cases are likely to involve the need for higher expenditure on legal services and lead to longer case times.

In any discussion around these costs, it is also important to acknowledge the benefits that the justice system facilitates, in terms of helping users to resolve issues which may otherwise be unresolved for years, creating costs that are likely higher than those seen today. This discussion paper does not seek to weigh these benefits and costs together and our scope is defined solely around examining the potential costs.

3.2 Findings from our accelerated evidence review

The interconnected nature of the proceedings and the diversity of issues presented even within specific types of cases makes it challenging to identify a universally applicable list of costs, meaning that these might vary considerably from case to case. However, our accelerated evidence review has identified a range of cross-cutting insights:

Table 1 - Findings from our accelerated evidence review

Cost category	Cost element	Review finding
<i>Direct costs</i>	<i>Court fees</i>	<ul style="list-style-type: none"> • The ‘fees order’ shows that fees range from £35 to £10,000¹¹ • Fees can represent a significant portion of a litigant’s income and/or savings.¹²
	<i>Legal advice / representation</i>	<ul style="list-style-type: none"> • Mori (2017)¹³ finds that 90% of litigants did not pay for legal advice to help them solve a civil legal dispute – however, this data is from 2014-2015 and pre-dates recent changes to legal aid • YouGov discusses the financial consequences for individuals when they do pay for their own legal advice– more than half pay for legal advice by drawing down their savings and 3% do so through taking a loan or re-mortgaging.¹⁴
<i>Indirect costs</i>	<i>Indirect costs to individuals</i>	<ul style="list-style-type: none"> • 45% of respondents experienced one or more adverse consequences from their legal dispute such as stress-related illnesses, unemployment, and financial strain¹⁵ • Stress or other mental health problems and loss of confidence were the most common adverse consequences, with around a fifth of the respondents citing these issues¹⁶ • These problems sometimes observe a compounding effect where costs faced in one legal proceeding significantly worsen an

¹¹ Ministry of Justice, (2022), 'Court and Tribunal Fees', Ministry of Justice, p 3.

¹² Hodges, C., Peysner, J., & Nurse, A., (2009), 'Costs and Funding of Civil Litigation: A Comparative Study', University of Oxford Legal Research Series, p 6.

¹³ Ipsos Mori, (2017), 'Analysis of the Potential Effects of Early Legal Advice/Intervention', Ipsos Mori, p 11.

¹⁴ YouGov, (2019), 'Legal Needs of Individuals in England and Wales Technical Report 2019/20', YouGov.

¹⁵ *ibid*, Respondents were read a list of potential consequences during the surveying process.

¹⁶ YouGov, (2019), 'Legal Needs of Individuals in England and Wales Technical Report 2019/20', YouGov. pp.16

		individual's personal circumstances and see them drawn into further claims, further exacerbating the indirect costs. ¹⁷
	<i>Indirect costs to businesses</i>	<ul style="list-style-type: none"> • Half of businesses reported a negative financial consequence from their legal dispute, ranging from loss of income and short-term cash-flow difficulties through to insolvency¹⁸ • The impact on small businesses is particularly significant – total annual losses due to legal problems is up to £9.8 billion.¹⁹
<i>Wider costs</i>	<i>Pressures on public services</i>	<ul style="list-style-type: none"> • Depression and anxiety incur costs to public services²⁰ and result in lost employment costs²¹ • Personal crises partly caused by legal disputes can drive higher government spending on welfare payments.²²
	<i>Wider economic impacts</i>	<ul style="list-style-type: none"> • Delays processing legal cases can lead to negative impacts on business investment decisions²³ • 'Static' economic inefficiencies resulting from the misallocation of resources, might also result in longer-run impacts on the productivity and broader dynamism of the economy.²⁴
	<i>Loss of confidence in the court systems</i>	<ul style="list-style-type: none"> • Negative experiences during a legal dispute can decrease individual's confidence in the justice system more broadly. A 10% increase in trial lengths is associated with a 2% decrease in the likelihood of having confidence in the justice system.²⁵

¹⁷ *ibid*

¹⁸ Federation of Small Businesses, (2016), 'Tied Up: Unravelling the Dispute Resolution for Small Firms', pp 3.

¹⁹ Legal Services Board, (2015), 'The Legal Needs of Small Businesses', p 2.

²⁰ Mayhew, L., & Flatley, J., (2018), 'The economic and social costs of crime Second edition Research'.

²¹ Knapp, M., McDaid, D., & Parsonage, M., (2011), 'Mental health promotion and mental illness prevention: the economic case', Department of Health, p 29.

²² Leckie, C., Munro, R., & Pragnell, M. M., (2021), 'Defending the Public Purse: The Economic Value of Free Advice', CEBR and Pragmatix Advisory, p 7.

²³ Dejuan-Bitria, J., & Mora-Sanguinetti, J. S., (2021), 'Which Legal Procedure Affects Business Investment Most, and Which Companies Are Most Sensitive? Evidence from Microdata', Vol. 94, pp. 201-220.

²⁴ Restuccia D., Rogerson R., (2017), 'The Causes and Costs of Misallocation', Journal of Economic Perspectives, Vol. 31, pp. 151-174

²⁵ Organisation for Economic Co-operation and Development, (2013), 'Economics of Civil Justice: New Cross-country Data and Empirics', Note: The analysis shows a negative correlation between the logarithm of trial lengths and confidence in the justice system and covers Australia, France, Finland, Germany, Italy, Japan, Mexico, New Zealand, Netherlands, Norway, Poland, Russia, Slovenia, Spain, Sweden, Switzerland, Turkey, and UK between 2005-2008

We supplemented these findings with a more detailed review of the evidence available in three particular case types: civil money claims, business-to-business claims, and employment tribunals (see Annex 6 for more detailed findings).

3.3 Evidence gaps

Across our review, we identified significant gaps in the literature on the costs of legal disputes. In particular there is a lack of updated evidence on the ‘monetised’ impact of both indirect and wider costs of legal disputes incurred in a legal dispute, including:

- **Indirect costs** – monetary estimates for the time spent researching and engaging in a legal dispute, the emotional / mental health / stress harms that might be caused, and the deterioration of personal financial circumstances and business and investment effects
- **Wider costs** – monetary estimates for the wider knock-on consequences to health and other public services, welfare spending, and the broader economy and society.

This meant that there were relatively limited opportunities in this second phase to provide a direct quantification and monetisation of distinct sets of indirect and wider costs from the CFT justice literature alone. Our work did, however, uncover a range of promising methodological approaches for appraising similar costs from broader fields such as crime and healthcare, that could be feasibly applied to legal disputes. In the remainder of this discussion paper, we focus on providing initial quantification around two such impacts:

1. **The stress, mental health, and wider health impacts** that an individual involved in a legal dispute may experience; and
2. **The wider economic impacts of legal disputes**, focusing on the labour force impacts from the time taken away from work, and recognising the broader impacts on businesses engaged in legal disputes.

4. Quantifying the indirect costs of legal disputes: health impacts

4.1 The potential health impacts from legal disputes

CFT legal disputes will often be significant life events that can be extremely stressful for the individuals involved and have a significant impact on a person's mental and physical well-being. Strasburger (1999)²⁶ recognises that these disputes often revolve around loss or tragedy, whether that be financial, personal, or family orientated (see explainer on stress below). The legal process itself is often a traumatic experience, with the system that an individual seeks redress from often causing emotional harm itself. This impact can manifest in various ways, such as feelings of stress and anxiety, a formal diagnosis of mental health conditions, and a decline in overall health.

What is stress?

Stress is a challenging concept to define and isolate. Buck et al. (2018) define stress as “an important phenomena at multiple levels of biological organization, but finding a general and rigorous definition of the concept has proven challenging”. McEwen and Sapolsky (2006) states that “*generally speaking, stress means pressure or strain. Life constantly subjects us to pressures. In people, stress can be physical (e.g., disease), emotional (e.g., grief), or psychological (e.g., fear).*”

The causes of stress

Determining the causes of stress is equally challenging, given that individuals experience stress and respond to stress differently. McEwen and Sapolsky (2006) state that “*individuals vary in their ability to cope with stress. How you see a situation and your general physical health are the two major factors that determine how you will respond to a stressful event or to repeated stress.*”

²⁶ Strasburger, L., (1999), ‘The Litigant-Patient: Mental Health Consequences of Civil Litigation’, J Am Acad Psychiatry Law p 27.

The mental health charity Mind states that many things can cause stress – it may be caused by one extreme situation or a build-up of smaller things. Typical causes include being under significant pressure, facing big challenges, lacking control over the outcome of a situation, having responsibilities that are overwhelming, or going through a period of uncertainty.

Stress is highly prevalent in society – from a survey conducted by the Mental Health Foundation in 2018, 74% of people in the UK have felt so stressed they have been “overwhelmed or unable to cope in the past year”. Additionally, a report by the Health and Safety Executive (HSE) in 2019 found that work-related stress, depression, or anxiety accounted for 44% of work-related ill health and 54% of working days lost in the UK.

As we described in Section 3, stress or other related mental health conditions are the most commonly-reported adverse consequence of legal disputes, with around a fifth of respondents to the latest Legal Problems and Resolution Survey (LPRS) citing these issues.²⁷ The potential stress from engaging in a dispute can lead to people avoiding the civil justice system all together – ‘anticipated stress’ was cited as the leading reason for individuals choosing not to take action despite having grounds for a civil claim.²⁸

Whilst the literature provides significant evidence for the existence of these costs, to date there has been no quantification around their potential size. In this section we undertake new analysis that deploys the concept of Quality-Adjusted Life Years (QALY) to illustratively quantify the potential health impacts from those involved in legal disputes. Our analysis has been inspired by and is conducted in line with the ‘Economic and Social Costs of Crime’²⁹. We aim to create a transferable framework that can be further refined and deployed to assess the potential change in these costs from different interventions in the CFT justice system. In the remainder of the section, we set out:

²⁷ Franklyn, J., Earle, R., Patel, P., Genn, H., & Millie., A., (2014-15), 'Findings from the Legal Problem and Resolution Survey', Ministry of Justice, p 28.

²⁸ Currie, Ab., (2015), 'Individual and Public Costs of Everyday Legal Problems', Access to Justice, p 7.

²⁹ Heeks, M., Reed, S., Tafsiri, M., & Prince, S., (2018), 'The economic and social costs of crime, second edition', Home Office Research report, p 99.

- A logic framework to visualise the impact channels and underpin this through relationships evidenced in the literature
- Our quantification approach, complemented by a detailed quantification methodology in Annex 3
- The key results, for our main scenario and broader scenarios and sensitivities
- Our overall conclusions, recommendations, and next steps for taking forward the analysis.

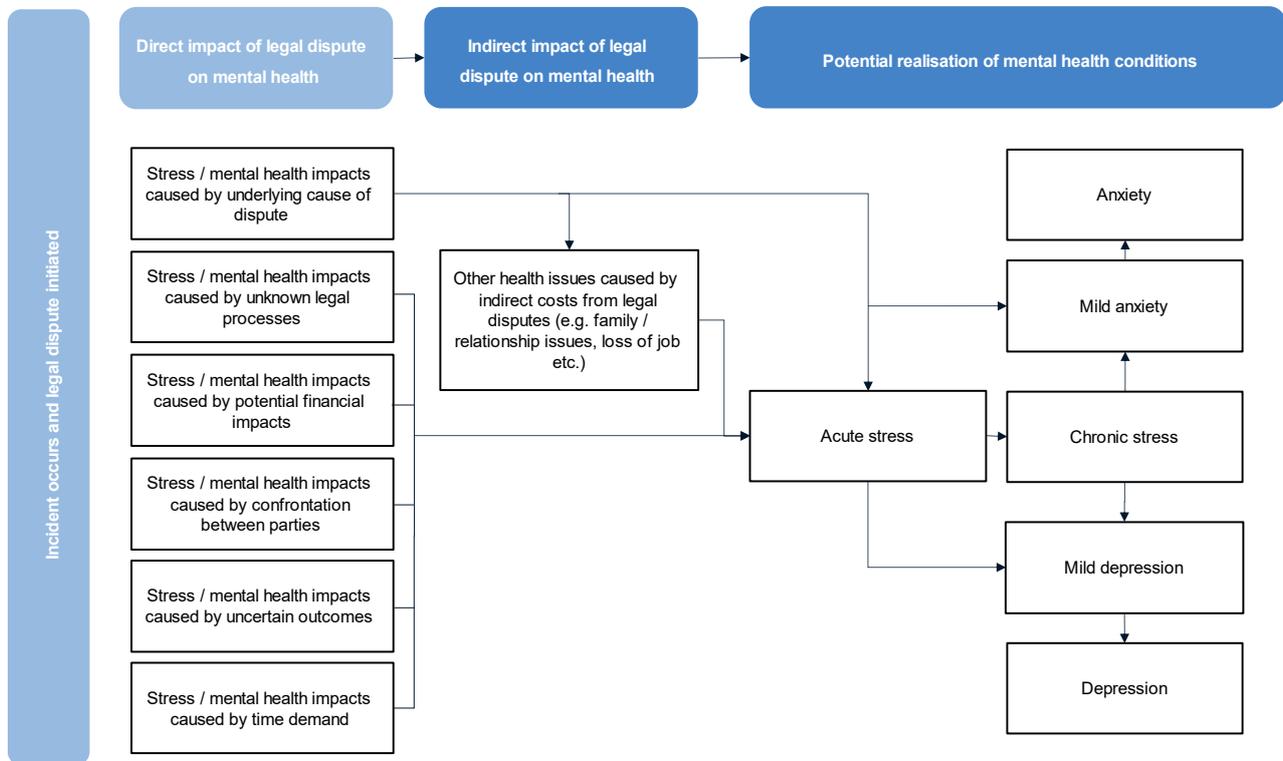
4.2 Logic chain of potential health impacts

An important first step in seeking to quantify the potential health impacts that result from legal disputes is the development of a **clear underlying logic chain**. We developed a summary-level logic chain (see Figure 3, below) to capture the channels through which individuals involved in a legal dispute **may** experience stress and other adverse mental health impacts that could result in a reduction in QALYs). We have drawn on established academic literature to evidence the relationships that are shown, including drawing on studies from our accelerated evidence review, and supplemented by a deep-dive review of the broader health literature in relation to QALYs. We step through each element of the logic chain below, and include references to this literature where appropriate.

It is important to note when interpreting the logic chain, that stress and mental health impacts that may arise from legal disputes have been found to be highly unique to individuals and these may manifest in a large number of different ways.³⁰ Whilst the logic chain methodology explores these impacts more as a linear process, the way individuals experience mental health challenges is more likely to reflect a ‘dynamic system’, with multiple underlying drivers which are often complex and interconnected. This logic chain should therefore not be used as a framework to trace causality – we instead use this as a tool to distil the key relationships at play and use evidence to underpin the structure of the quantification analysis.

³⁰ Ebner K, Singewald N., (2017), ‘Individual differences in stress susceptibility and stress inhibitory mechanisms, Current Opinion in Behavioral Sciences (14)’, pp. 54-64.

Figure 3 - Logic chain of potential health impacts from legal disputes



Source: PA analysis based on the wider literature

Below, we explain each of the key elements of the logic chain in more detail.

Health impacts caused directly by legal disputes

We begin by recognising how stress and other mental health impacts may materialise directly from a legal dispute. Our methodology aims to disentangle the stress caused by the issue or cause underlying the dispute, and the stress incurred as part of the legal dispute process itself. Often the cause of the dispute is a catalyst for a stress response, whether that be from a family problem, losing a job, or financial difficulties. As we set out in Section 4.3, and in more detail in Annex 3, we attempt to exclude the stress caused from the underlying cause of the dispute from our quantification to isolate the costs incurred as a result of the dispute process itself.

These stress responses might be triggered by a variety of factors:

- *The stress of engaging with an unknown and unfamiliar legal process* – 9% of individuals reported that the anticipated stress of a case was the leading reason for them not taking legal action at all³¹
- *The stress caused by the potential financial impacts of the dispute* – academic evidence consistently finds that financial pressures are strongly related to an increase in stress and other mental health problems such as anxiety.³² 15% of respondents to the most recent LPRS (2014/15) reported spending money to resolve their civil legal problem, with 39% of those reporting to have paid £1,000 or more
- *The stress caused by being in a dispute (e.g. the uncertainty and confrontation this involves)* – this stress response has been extensively documented within the health literature³³
- *The stress caused by time demands of the case* – as we explore in Section 4.3, our analysis of the LPRS (2014/15)³⁴ and the Legal Needs Survey indicates that the overall stress levels an individual reports increases the longer a legal dispute takes to resolve. This could be attributed to the increasing time demands of a case.

We recognise the difficulties of disentangling these causes of stress, which are likely be highly bespoke to individuals concerned, and potentially compound upon each other. Whilst we employed analytical techniques to isolate stress incurred as part of a legal disputes (see Section 4.3), our analysis should therefore be interpreted as initial and indicative until further primary data can improve the evidence available on this.

Health impacts caused indirectly from legal disputes

Across the course of a legal dispute, an individual may experience further indirect costs that may cause further stress and other health impacts. For example, the financial strains

³¹ Currie, Ab., (2015), 'Individual and Public Costs of Everyday Legal Problems', *Access to Justice*, p 7.

³² Davis C, Mantler J., (2004), 'The Consequences of Financial Stress for Individuals, Families and Society', p 8.

³³ Peters A, McEwen B, Friston K., (2017), 'Uncertainty and stress: Why it causes diseases and how it is mastered by the brain, *Progress in Neurobiology*', Volume 156, pp 164-188.

³⁴ The LPRS provides robust statistical data on the prevalence of civil, family and administrative justice problems in England and Wales, the strategies people use to resolve these problems, problem outcomes, and how these vary for different types of legal problem and for different groups of people.

of a legal dispute and the need to attend proceedings or undertake legal research may require individuals to reduce their hours of paid employment, causing a further stress response (acknowledging the evidence for this relationship is relatively limited).³⁵ Findings from the Legal Needs Survey 2019/20 reveals 7% of individuals who had a civil legal issue reported that they experienced a loss of employment, although it is important to note this cannot be identified and evidenced as a causal relationship.³⁶ Indirect costs reported by the LPRS include loss of secure housing or family relationship breakdowns, both of which have been linked to QALY losses in other studies.³⁷

How mental health conditions can manifest

The stress caused directly and indirectly by legal disputes has the potential to manifest into broader mental health conditions. The health literature indicates a broadly consistent pathway, where an initial experience of acute stress can, over time, lead to chronic stress. Chronic stress has been found to induce other mental health conditions, including different forms of anxiety.³⁸ Whilst not all individuals experiencing stress from legal disputes will experience associated mental health conditions, and this pathway may not always be experienced in a linear way, we believe it is important to recognise and capture the causality underlying these effects.

In defining our 'core scenario' for the QALY analysis, we included QALY impacts associated with stress and anxiety, given that there is strongest survey evidence for individuals involved in legal disputes reporting these conditions.³⁹ We define our core scenario in Section 4.3 together with how additional scenarios that capture wider potential impacts have been formed.

³⁵ This relationship is explored in more detail in Section 5, and in more detail in Annex 4, which cites some initial evidence from Saundry and Urwin, (2021) on the existence of this relationship.

³⁶ The Law Society, (2020), 'Legal Needs of Individuals in England and Wales', Available at: [Legal needs of individuals in England and Wales report | The Law Society](#)

³⁷ Norström F, Waenerlund AK, *et al.*, (2019), 'Does Unemployment Contribute to Poorer Health-Related Quality of Life Among Swedish Adults?', p 1.

³⁸ Ebner K, Singewald N., (2017), 'Individual differences in stress susceptibility and stress inhibitory mechanisms, Current Opinion in Behavioral Sciences (14)', pp 54-64.

³⁹ For example, 50% of respondents to the Legal Needs Survey 2019/20 reported experiencing stress in their civil legal dispute, in comparison to the global average reported stress level of around 35% (What is Stress?. The American Institute of Stress. 2022.)

4.3 Our approach to quantifying health impacts

We assessed the health impact of legal dispute cases that were issued in 2021⁴⁰ by estimating the loss in QALYs that result from the stress and other mental health conditions that are reported to occur during a dispute. QALYs are a measure of the state of health of a person where the length of their life is adjusted to reflect their quality of life – one QALY is equivalent to one year of life in perfect health.⁴¹

QALY losses are calculated by estimating the years of life remaining for an individual following a particular event and weighting each year with a quality-of-life score (0-10). It typically looks at the person's ability to carry out the activities of daily life free from pain and mental disturbances. The specific health impacts that we have assessed in our work relate to stress and any associated mental health conditions, such as anxiety. A legal dispute can result in stress and have a negative impact on a person's quality of life. For example, a QALY loss of 0.03 due to stress can be understood as a 3% loss to a year of perfectly healthy life. Whilst we acknowledge that both parties to a dispute may experience potential emotional and health impacts from it, for prudence, we make a high-level assumption that the impact falls on just one party, to help ensure our impact estimates are not overstated.

We adopted the approach used by the Home Office in *The Economic and Social Costs of Crime*⁴² and have translated this to assess the health impact of being involved in a legal dispute. The Costs of Crime uses a generalisable QALY methodological framework which is possible to transfer to the setting of CFT legal disputes. No 'crime-specific' estimates were transferred as part of this application – for example, all QALY estimates were drawn from the underlying health literature rather than the Costs of Crime.⁴³

⁴⁰ These include cases issued in the civil (non-family) court, tribunals and cases started in family courts. Please see Section 2.2 'Appropriate interpretation of the analysis' for more details

⁴¹ Glossary (2023), 'National Institute for Health and Care Excellence' Available at: <https://www.nice.org.uk/Glossary?letter=Q>.

⁴² Heeks, M., Reed, S., Tafsiri, M., & Prince, S., (2018), 'The economic and social costs of crime, second edition', Home Office Research report 99'

⁴³ The disputes will predate the filing of the case and most CFT legal disputes do not involve formal legal advice or make it to court. Given the availability of data, we captured the cases filed to court only. However, we have included a sensitivity analysis to account for some pre-action cases using data for personal injury cases.

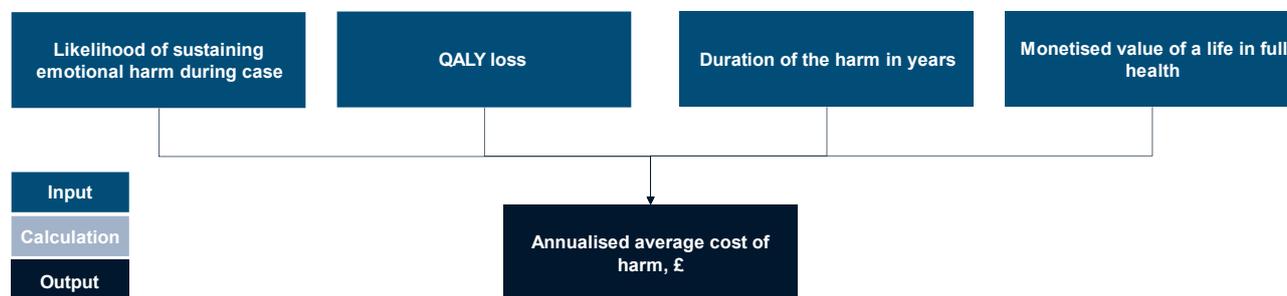
This has involved conducting a range of analytical exercises to translate “QALY loss estimates” that are established in the wider literature to the costs incurred by individuals in CFT legal disputes.⁴⁴ The costs are calculated as follows:

$$\text{Likelihood of harm} * \text{Reduction in QALY} * \text{Duration of harm} * \text{Value of Life Years} = \text{Avg. Physical/Emotional Cost of harm}$$

In other words, the costs of emotional harm from legal disputes are the product of the likelihood of an individual experiencing an emotional harm due to engaging in CFT legal disputes, the length of time that harm lasts, the impact on their quality of life once they experience the harm, and the relation this has to the value of their life in full health.

In our analysis, Figure 4 sets out our overall approach for applying this generalised formula to our analysis of indirect costs of legal disputes. We use this approach to estimate the total cost of harm for CFT legal cases filed with court in 2021.⁴⁵

Figure 4 - QALYs approach to calculate the emotional harm suffered by individuals in CFT legal disputes



Source: PA analysis

We adjust to level of harm incurred to an annual value and apply this to 2021 case volumes to estimate a total cost of harm due to CFT legal disputes in a given year. The volume metric we applied is the overall number of CFT cases, rather than distinguishing

⁴⁴ As such, these estimates only serve as proxies to a “pure”/original estimate of a QALY applicable in a civil legal dispute – this could only be uncovered by an original study involving primary data collection.

⁴⁵ We analyse in-year effects for cases issued in 2021 including those issued in the civil (non-family) courts, tribunals and cases started in family courts and total 2.1 million cases. This data is available here: [Civil justice statistics quarterly - GOV.UK \(www.gov.uk\)](https://www.gov.uk/civil-justice-statistics-quarterly). This timeframe has been chosen given that this latest period where there is a full year of published information. This figure may capture some of the lasting impact of Covid-19 and as such a sensitivity test has also been undertaken using 2019 case volumes. We have selected ‘cases started/issued’ as this reflects when the evidence indicates that emotional harms are incurred. We have adjusted this figure to remove the cases that do not progress through the system (c.13% of cases do not last at least one month, resulting in an adjusted 2021 case volume of 1.9 million cases).

between the number of cases that are allocated to track or how many go to a final hearing. We consider this appropriate at this stage given the evidence available, as the differing levels of harm that may be experienced across different types of disputes is captured within our 'harm' calculation (see below).

It should be noted that we use two analytical approaches to attempt to isolate the stress incurred as part of a legal dispute and exclude the emotional harm caused by the underlying event or the legal dispute process:

1. We subtract the stress reported by respondents at the start of a legal dispute from the stress they subsequently report as the legal dispute progresses, measuring a 'residual' level of stress that can be attributed to the legal disputes process itself.
2. We remove the reported cases that do not last for longer than one month from case volumes as stress caused in those cases is most likely to be attributed to the event that triggered the dispute.

This approach is set out in more detail in Annex 3. We recognise this is an imperfect approach and there are significant difficulties in disentangling causes of stress which are highly bespoke to individuals, and potentially compound each other. Our analysis should therefore be interpreted as initial and indicative until further primary data can improve the evidence available on this.

Our main scenario captures the QALY impacts from the most commonly-reported mental health conditions – stress and anxiety. This may under-estimate the potential QALY losses because of health conditions that result from other 'indirect' impacts from CFT legal disputes (such as the breakdown of relationships and unemployment). We therefore go on to develop further scenarios in which we analyse the implications from these additional consequences.

In addition to our wider scenarios, we included four sensitivity tests to assess the sensitivity of our results to changes in key assumptions: (1) the independence of multiple QALY losses when individuals suffer multiple harms, (2) the magnitude of case volumes to account for any potential impact resulting from the COVID-19 pandemic, (3) a combination

of the sensitivity analysis in (1) and (2), and (4) the total health impact if we account for pre-action cases in addition to those that are formally issued.

As set out in detail in Section 2.2, our cost estimates specifically relate to CFT legal disputes cases that were issued in 2021 across county courts, family courts, and tribunals.⁴⁶

We set out our full methodology, including data sources, key assumptions and full range of scenarios and sensitivity tests, in Annex 3.

4.4 Key results

This section summarises the key findings from our analysis, including the illustrative results from our core scenario, supplementary scenarios and sensitivity tests. All monetary values are based on 2020/21 prices.

Core QALY impacts scenario

As set out earlier in this sub-section, our core QALY scenario captures the mental health impacts that can be most directly linked to CFT legal disputes and are the most commonly reported by individuals following stress events. These include:

- **Acute stress** – an intense, unpleasant, and dysfunctional reaction beginning shortly after an overwhelming traumatic event and lasting less than a month;⁴⁷
- **Chronic stress** – the feeling of being stressed or a consistent sense of feeling pressured and overwhelmed over a long period of time. Chronic stress typically occurs after a few months or years⁴⁸
- **Anxiety** – a future orientated, long-acting response, characterised by feelings of tension, worried thoughts, and physical changes like increased blood pressure.⁴⁹

⁴⁶ Courts and Tribunals Judiciary., (2023), 'Civil Justice in England and Wales', Data available at: [Civil justice statistics quarterly - GOV.UK \(www.gov.uk\)](https://www.gov.uk/civil-justice-statistics-quarterly)

⁴⁷ Barnhill J W (2023), , 'Acute Stress Disorder', *MSD Manual.*, Available at: [Acute Stress Disorder - Mental Health Disorders - MSD Manual Consumer Version \(msdmanuals.com\)](https://www.msdmanuals.com/consumer/acute-stress-disorder)

⁴⁸ Yale Medicine, (2023), 'Chronic Stress Fact Sheet', Available at: <https://www.yalemedicine.org/conditions/stress-disorder>

⁴⁹ American Psychological Association, (2023), 'Anxiety', Available at: <https://www.apa.org/topics/anxiety/>

We indicatively estimate that the total annualised cost of harm potentially caused by the stress and anxiety of legal disputes cases issued in 2021 in the county and family courts, together with tribunal cases, could be c.£2.0 billion. This equates to a potential health impact of up to £1,100 for each CFT legal dispute case initiated in 2021 that lasted longer than one month. Table 2, below, sets out our detailed results, broken down by the harm caused by different stress conditions across different case lengths.

Table 2 – Average and total cost of harm from stress and anxiety for CFT legal disputes filed to court, by dispute length⁵⁰

Dispute length (years)	Average cost of harm per year - acute stress	Average cost of harm per year – chronic stress, £	Average cost of harm per year - anxiety, £	Weighted average cost of harm per year, £
0.25	20	-	560	170
0.5	20	-	770	160
1	20	440	830	230
2	20	490	950	250
3	30	550	1,060	120
4	30	610	1,180	60
5	30	670	1,290	40
6	40	730	1,410	20
7	40	790	1,520	30

Average cost of harm per case, £	1,100
Volume of cases in 2021, million	1.9
Total cost of harm in 2021, £ billion	2.0

Source: PA analysis

This analysis potentially indicates that the most significant harm occurs from CFT legal disputes that last between three months and two years. Beyond this point, the mental health conditions experienced by individuals involved in those cases become more severe and involve higher degrees of harm, however this applies to fewer individuals and so the contribution to total harm is lower overall (as indicated by the ‘weighted average cost of harm’ column in Table 2, above). For example, less than 1% of cases in the sample last for seven years or more and this means that the weighted average cost of harm for cases

⁵⁰ Figures presented are rounded. The average costs of harm per year, for harms that last longer than one year, have been annualised.

that last for longer periods of time is relatively low. The analysis includes disputes lasting up to seven years because LNS data reports case lengths up to this period of time.

'Indirect QALY Impacts' scenario

The indirect QALY impact scenario accounts for additional health impacts that have been reported by individuals taking part in legal disputes, including the potential loss of employment or housing, and alcohol and substance abuse issues.⁵¹ According to the LPRS (2014/15), 5% of the respondents reported to have suffered unemployment due to a civil legal dispute, while up to 4% of the respondents have reported having to move home and 1% reported becoming homeless.⁵²

We indicatively estimate that the total annualised cost of harm potentially caused by unemployment, alcohol and substance issues and homelessness resulting from legal dispute cases issued in 2021 could be c.£1.5 billion. This is in addition to the c.£2.0 billion potential cost of harm caused by stress and anxiety discussed in the core scenario. Taken together, this totals c.£3.5 billion, which equates to health impacts of up to £1,900 for each civil legal dispute case that was issued in 2021 and lasted longer than one month.

Sensitivity tests

In addition to our wider scenarios, we included four sensitivity tests to assess the sensitivity of our results to changes in key assumptions: (1) the independence of multiple QALY losses when individuals suffer multiple harms, (2) the magnitude of case volumes to account for any potential impact resulting from the COVID-19 pandemic, (3) a combination of the sensitivity analysis in (1) and (2), and (4) the total health impact if we account for pre-action cases in addition to those that are formally issued.

⁵¹ QALY losses for unemployment, alcohol and substance issues and homelessness ranges between 0.096 – 0.235, while the QALY losses for stress and anxiety are between 0.013 – 0.083.

⁵² Franklyn, J., Earle, R., Patel, P., Genn, H., & Millie., A., (2014-15), 'Findings from the Legal Problem and Resolution Survey', Ministry of Justice, p 30

(1) Independence of multiple QALY losses

In this test we adjust the assumption that multiple QALY losses can occur independently when an individual suffers multiple health impacts. In our main results, we assumed when an individual suffers from multiple health conditions, they can suffer the associated QALY losses from those conditions simultaneously and independently, which is consistent with the empirical health literature.⁵³⁵⁴

However, given the similarities in the observed symptoms and the dependencies between the health conditions under consideration, we tested the case where multiple QALY losses do not occur and the QALY loss of the most severe condition captures the QALY loss of less severe conditions.⁵⁵⁵⁶ **In this sensitivity test, our indicative estimate for the potential cost of emotional harms from legal dispute cases issued in 2021 falls from c.£2.0 billion to c.£1.3 billion in our main scenario, a fall of around 35%, but still a sizeable cost impact.**

(2) Case volumes to account for the COVID-19 pandemic period

In this test, we use the number of cases issued in 2019 rather than 2021, to account for the potential effects from COVID-19 on case volumes. In this sensitivity test, **our indicative estimate for the cost of emotional harms potentially arising from legal dispute cases issued increases from c.£2.0 billion in 2021 to c.£2.6 billion in 2019, driven by higher pre-COVID-19 case volumes.**

⁵³ Health literature indicates that an individual can suffer from multiple mental health conditions like stress and anxiety at the same time, despite symptoms being similar.

⁵⁴ Daviu N, et al. (2019). Neurobiological links between stress and anxiety.
<https://www.sciencedirect.com/science/article/pii/S2352289519300438>

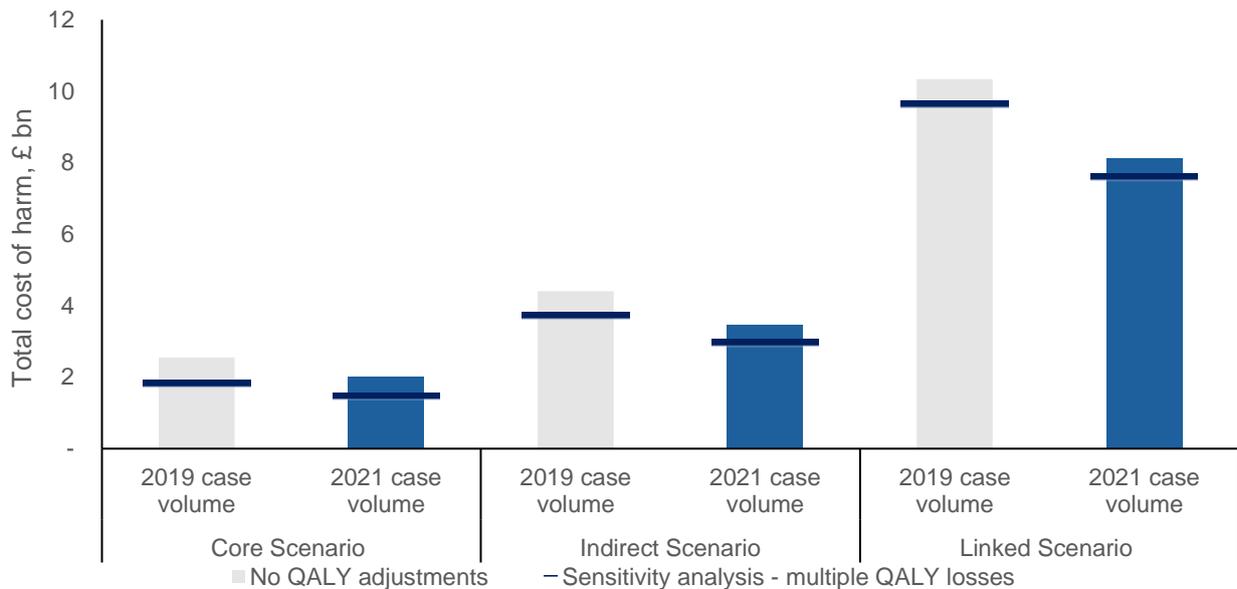
⁵⁵ Moisan, MP., Moal, M., (2012), 'Stress in all its states', Available at:
https://www.medicinesciences.org/en/articles/medsci/full_html/2012/08/medsci2012286-7p612/medsci2012286-7p612.html

⁵⁶ For example, as taken from wider health literature, the QALY loss from chronic stress 0.026 and the QALY loss from acute stress is 0.013, so the additional QALY loss for an individual that suffers from both chronic and acute stress is 0.013 (0.026 – 0.013).

(3) Combination of (1) and (2)

The combined results from these two sensitivity tests are set out in Figure 5, below:

Figure 5 - Comparison of total cost of harm between the main results and the sensitivity analysis



Source: PA analysis

(4) Pre-action cases

Our central analysis does not reflect pre-action cases that may still be stressful for those involved but are not formally issued. Pre-action cases are difficult to identify given the lack of representation in official MoJ statistics. However, a recent study by Fenn and Rickman (2019)⁵⁷ has shown that, in personal injury claims over £25,000, approximately 60% of all claims did not get issued and would not be captured in any published court statistics.⁵⁸

In this test, we use this finding from Fenn and Rickman (2019) to capture this uncertainty and apply this to other case types.⁵⁹ This analysis indicates that 3.2 million pre-action cases were potentially initiated in 2021. The potential additional cost of emotional harm

⁵⁷ Fenn, P. and Rickman, N., (2019), 'The Impact of Legislation on the Outcomes of Civil Litigation: An Empirical Analysis of the Legal Aid Sentencing and Punishment of Offenders Act 2012', Available at: SSRN 3326665.

⁵⁸ Fenn and Rickman, (2019), have further stated that these case types are complex and the 60% figure is most likely to be a lower estimate.

⁵⁹ While this percentage relates to personal injury or clinical negligence cases only, this proportion would appear to be a reasonable estimate that can be applied across most case types. This assumption has been verified with our expert panel.

incurred as a result of pre-action cases initiated in 2021 ranges from c.£1.4 billion to c.£3.9billion, depending on the assumptions made around the duration of harm.⁶⁰

4.5 Implications and potential next steps

This section sets out some potential implications of our health impacts analysis and recommends next steps to refine and improve the assessment.

Potential implications

Our analysis illustrates that legal disputes can result in widespread adverse health impacts that affect large numbers of people. The link between the UK's CFT justice system and health systems has rarely been explored but this analysis indicates the significant role the justice system plays in the nation's health. Stress and anxiety, taken together with other mental health conditions and possible broader adverse consequences, potentially resulted in costs to the UK of between £2.0 billion and £3.5 billion from legal dispute cases issued in 2021. The cost of harm is found to be highest for legal disputes that last around two years, but even relatively short disputes can have significant impacts.

These figures are an opportunity to recognise the real and tangible mental health effects that those on both sides of legal disputes often experience and consider policies and broader approaches that reduce these costs wherever possible. For example, changes that help reduce the length of cases in the civil justice system such as through mediation and other Alternative Dispute Resolutions (ADR) mechanisms might help to reduce these costs. Similarly, access to support services and provision of information on the legal dispute process might support a better understanding of the legal system and reduce the stress and anxiety that might come from engaging with it.

Potential next steps

Our analysis to quantify the health impacts of CFT legal disputes has taken an important first step in understanding the potential size of these impacts. We believe that this QALY loss framework can be built on and improved in several ways, including:

⁶⁰ The lower bound assumes that the duration of harm for pre-action cases do not last longer than 6 months, while the upper estimate makes the same assumption around the duration of harm as the main results. Whilst the upper estimate is most consistent with the underlying data in the Legal Needs Survey, the lower bound estimate captures a more conservative assumption. We have conducted this test on the basis of the central scenario only.

- Deepen this framework by conducting new primary data collection to validate key assumptions (such as the distribution of case volumes and users' experience of stress and anxiety)
- Extend this framework by collecting more granular data specific to particular case types and/or user types (for example, considering the additional and specific costs that Litigants in Person [LiPs] may experience).

There are a number of important considerations that require careful judgement when applying this analysis, including:

- **Subjectivity:** QALY loss estimates rely on subjective judgments about the impact of legal disputes on individuals' quality of life and different individuals may have different perspectives on the impact of a legal dispute
- **Causality:** At the individual-level, it can be challenging to determine whether a particular legal dispute caused a particular QALY loss, especially if the individual was already experiencing health or social issues prior to the dispute
- **Consideration of benefits:** Whilst the scope of our work has focused on the costs of disputes, it is equally important to consider the positive 'closure' and 'feeling of justice' that a positive resolution to a legal dispute may bring, which could for some individuals outweigh stress and anxiety that may have been caused along the way
- **Scope limitations:** QALY losses are primarily focused on health-related impacts, such as physical or mental health. While we have attempted to quantify some non-health related impacts, such as unemployment and homelessness, there are other significant costs that may not be captured under a QALY losses approach, such as financial stress, loss of reputation, and social isolation.

In summary, our QALY framework has taken an important first step to quantify the health and other related costs of CFT legal disputes. However, given the complex nature of disputes and the civil justice system, any QALY loss estimates should not be considered in isolation and should be taken together with broader evidence on the full range of direct, indirect, and wider costs when appraising distinct CFT justice interventions.

5. Quantifying the wider economic costs of CFT legal disputes

5.1 The potential wider economic costs from CFT legal disputes

As Section 4 has highlighted, legal disputes can have a significant impact on individuals' mental health, and this could add up to a sizeable potential cost for the UK. In this section, we complement this with new analysis on how individuals' involvement in CFT legal disputes could have implications for economic outcomes as whole.

Our research focuses on the impact of legal disputes on workplace productivity and UK GVA. We supplement this by capturing potential costs to public services such as the NHS and to employers through additional sick days. By analysing these factors, we can provide a more comprehensive understanding of the 'wider' costs associated with legal disputes, which our accelerated evidence review has found is often overlooked.

5.2 Logic chain of potential wider economic impacts

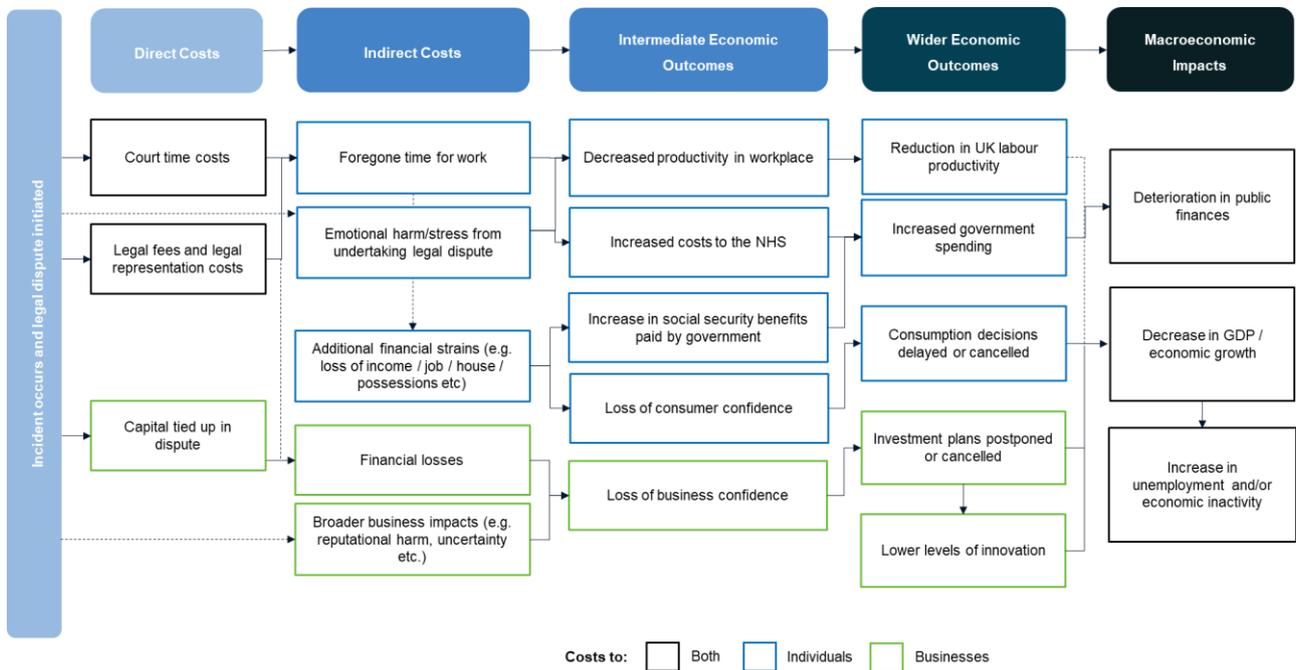
We developed a summary-level logic chain (see Figure 6, below) to capture the channels through which the direct and indirect costs of legal disputes may impact the wider economy. Whilst some studies have looked at such effects in the civil legal dispute arena, as highlighted by our accelerated evidence review, we have drawn on a wider body of macro literature to evidence the full set of economic transmission mechanisms at play.

Our review also highlighted the potential for distinct impact pathways for individuals and businesses. Therefore, within the logic chain we have distinguished between the impacts on the wider economy that are driven by individuals, businesses, or both of these parties.

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⁶¹ Please note, our focus in Figure 6 highlights the potential impacts on higher public health spending (e.g. NHS costs) and social security benefits – however, we note the potential for higher spending pressures in other public service areas.

Figure 6 - Logic chain of potential wider economic costs from legal disputes



Source: PA analysis

We step through each element of the logic chain below, and include references to the literature where appropriate.

Direct costs of legal disputes

Our accelerated evidence review highlighted the key costs that are incurred directly because of a legal dispute, including the costs involved with attending court proceedings, legal fees, court fees, and the cost of appointing legal representation. For example, the fees in the ‘fees order’ range from £35 to £10,000⁶² and survey data finds that 24% of individuals paid for professional legal advice to help them resolve their legal dispute.⁶³

Both individuals and businesses experience these costs but for businesses, it is additionally important to recognise the financial sum that might be ‘tied up’ in the dispute, which for small businesses has been found to be particularly significant: a Legal Services

⁶² Ministry of Justice, (2022), ‘Court and Tribunal Fees’, Ministry of Justice, p 3.

⁶³ Ipsos Mori, (2017), ‘Analysis of the Potential Effects of Early Legal Advice/Intervention’, The Law Society, p 11.

Board analysis⁶⁴, found that approximately £62 billion of capital was tied up in legal disputes involving small businesses over a five-year period.

Indirect costs of legal disputes

Individuals

The time an individual dedicates to engaging with a legal dispute, including undertaking legal research, interacting with solicitors, or attending court proceedings, all reduce the hours an individual has available for either work or leisure. Both might have broader economic consequences, but in this logic chain we focus on the wider impacts that stem from an individual substituting a portion of their available hours for work.

Linked to this, as demonstrated in Section 4, the stress and other mental health issues that individuals might experience from a legal dispute could result in health consequences that might lead to higher sickness and absence from work. For example, 874,000 employees are estimated to take sickness absence per year because of conflicts and disputes in the workplace.⁶⁵

For self-employed individuals or those earning an hourly wage, reducing hours of paid work may reduce their income and potentially lead to wider financial strains (such as challenges in paying household bills, making housing payments, and reduced shifts offered for those on zero hours contracts). For those in full time employment, whilst they may be eligible for statutory sick pay (which is time-limited) or occupational sick pay, longer-term absences from work may result in a lower rate of pay (depending on individual employer policies) and there may be further financial effects through a reduction in their broader employment prospects.

Businesses

For businesses, a combination of capital tied up in the legal dispute and the legal costs can result in significant financial impacts. A 2016 study by the Federation of Small

⁶⁴ Blackburn R., John Kitching J & George Saridakis G., (2015), 'The Legal Needs of Small Businesses, Legal Services Board', Small Business Research Centre, p 2.

⁶⁵ Richard Saundry & Peter Urwin, (2021), 'Estimating the Costs of Workplace Conflict', Acas.

Businesses⁶⁶ showed that these financial impacts can range from short-term cash-flow difficulties through to insolvency, depending on the size of the costs involved.

Our accelerated evidence review also points to a range of non-financial impacts on businesses that may impact financial performance over the longer-term. Alongside financial costs, litigation involves substantial investments of human capital to navigate the complexities of the system. Often this means time taken away from managing the business. Businesses which decide to progress a legal dispute are found to experience additional costs because of time and disruption incurred by navigating legal system complexities (Hyde 2023).⁶⁷

Other non-financial effects may include the impact on existing business relationships and reputation (Cheit and Gerson, 2000).⁶⁸ Legal disputes might impact commercial relationships with third parties on whom/which the business may be highly financially dependent (Blackburn *et al.* 2015).⁶⁹

Intermediate and wider economic outcomes

Individuals

The time that individuals take out of their working hours, either voluntarily or through increased sickness rates, is likely to **reduce their productivity in the workplace**. At a macro-economic level, this may result in a lower labour supply and lower overall labour force productivity. There is evidence that similar effects can result in economy-wide productivity losses. For example, analysis by ACAS indicates that employees who continue to work during an employment-related legal dispute are less productive and this could add up to an annual productivity loss of between £590 million and £2.3 billion.⁷⁰ 'The

⁶⁶ FSB, (2016), 'Tied Up: Unravelling the Dispute Resolution for Small Firms', *Federation of Small Businesses*, p 3.

⁶⁷ Hyde R., (2023), 'Future-proofing Justice: Making the Civil and Criminal Courts World-leading by 2030', *Social Market Foundation*.

⁶⁸ Cheit, R.E. and Gersen, J.E., (2000), 'When businesses sue each other: An empirical study of state court litigation', *Law & Social Inquiry*, Vol 25, Issue 3, pp 789-816.

⁶⁹ Blackburn R., John Kitching J & George Saridakis G., (2015), 'The Legal Needs of Small Businesses, Legal Services Board', *Small Business Research Centre*, p 2.

⁷⁰ Richard Saundry & Peter Urwin, (2021), 'Estimating the Costs of Workplace Conflict', *Acas*.

Economic and Social Cost of Crime'⁷¹ study by the Home Office indicates the average lost employment costs of an individual experiencing poor mental health is £11,432 per annum.

A second economic impact may play out through the **costs to the NHS that are incurred** through treating the stress and other mental health conditions that can be caused by a legal dispute. 'The Economic and Social Cost of Crime' ⁷² study by the Home Office indicates that the annual costs for health and social services to treat an individual with poor mental health is £1,508 per annum.

A third type of economic impact could be felt through an **increase in social security benefits** that are paid out due to individuals facing financial strain as a result of a legal dispute. Evidence for this effect comes from a Centre for Economics and Business Research (CEBR) study that shows the savings that might be delivered to the public purse if those who experience a legal dispute are able to seek specialist legal advice and achieve better outcomes. The work finds that the availability of legal advice can help individuals achieve more positive resolutions and avoid 'crises' in their personal lives. These crises might include housing evictions and loss of employment or employment hours which may result in the need to claim additional benefits. Adding up these costs to the Exchequer, this research finds that specialist legal advice obtained at the start of claims could save up to £8,000 of additional public spending (in 2020 prices) per client.⁷³

Businesses

For businesses engaged in legal disputes, the financial and non-financial impacts they experience is expected to **reduce business confidence and hold back expansion and investment plans**. Mora-Sanguinetti (2021) shows using evidence from Spain that a lower quality of institutional framework (which includes the justice system) has the potential to distort the incentive structure for investment, and result in lower investment rates for business.⁷⁴ Specifically, they found that backlogs and longer processing times at the initial stages of a legal dispute has a negative effect on the investment rate: a 10% decrease in

⁷¹ Heeks, Reed, Tafhiri and Prince, (2018), 'The economic and social costs of crime Second edition Research' Home Office.

⁷² Ibid

⁷³ Leckie C., Munro R. & Mark Pragnell M., (2021), 'Defending the Public Purse: The Economic Value of Free Advice', CEBR and Pragmatix Advisory, p 7.

⁷⁴ Dejuan-Bitria & Mora-Sanguinetti., (2021), 'Which Legal Procedure Affects Business Investment Most, and Which Companies Are Most Sensitive? Evidence from Microdata', Vol 94, pp 201-220.

the backlogs would increase the investment rate by 0.1% on average. Businesses might 'assume' that an ineffective justice system will lead to slower resolutions of disputes arising from investments, leading to a lower willingness to invest. This is found to particularly impact investment in smaller and unknown companies, which might result in productivity-enhancing investments being postponed or reduced, and ultimately lead to higher costs being incurred that limits their growth opportunities.

Lower investment may also reduce innovation levels. (Nesta 2009) find that firms that invest more in research and development (R&D) are more likely to introduce new products and have higher sales growth than firms that invest less. Every pound invested in R&D was found to deliver a commercial return of up to £7 for high-tech firms and up to £20 for pharmaceutical companies in the UK.⁷⁵ Therefore, a decrease in investment by businesses can lead to lower levels of innovation and reduced competitiveness in the long run for the economy as a whole.

Macroeconomic impacts

The economic impacts described above are likely to feed through into broad macro-economic indicators at a national level in two ways:

- Firstly, lower levels of labour productivity and reductions in consumer spending and business investment are likely to reduce economic output and result in **lower levels of GDP**. There is a strong linkage between GDP and unemployment, and reductions in GDP are likely to go hand in hand with higher levels of unemployment and/or economic inactivity, particularly because the driver is labour productivity and employment rates.
- Secondly, higher public spending on welfare payments and health spending on those that require treatment for health conditions may result in **increased pressure on public services**. This deterioration may be further exacerbated by unemployment or economic inactivity that reduces income tax revenue, and any fall in VAT-related consumption from lower consumer confidence.

⁷⁵ Haskel et al., (2009), 'Innovation, knowledge spending and productivity growth in the UK'

5.3 Our approach for quantifying wider economic impacts

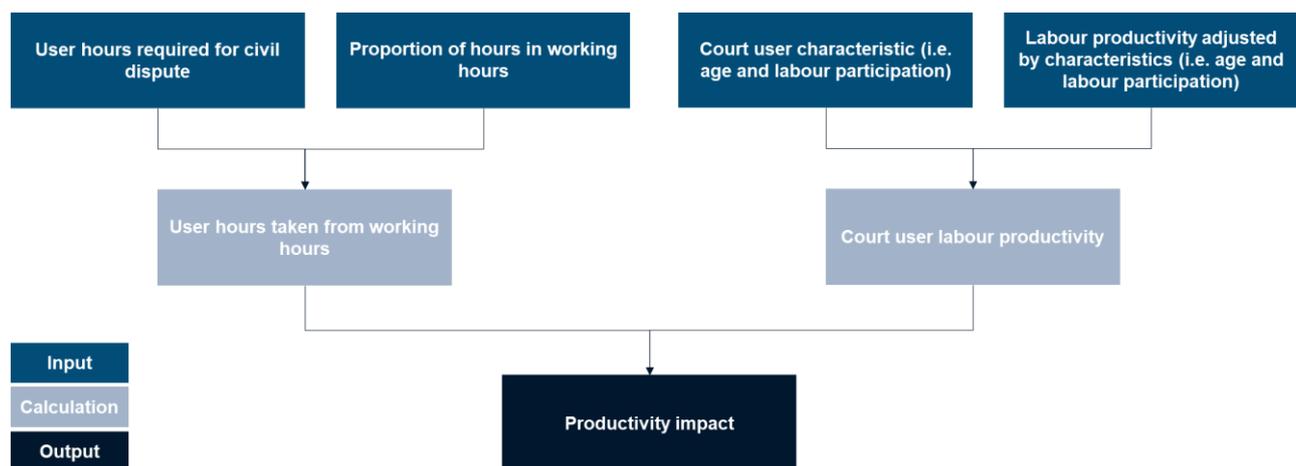
We assessed the wider economic impact of legal disputes by using macroeconomic techniques to analyse the potential labour force impacts that stem from individuals being involved in legal disputes. Specifically, we estimate the monetary loss in GVA⁷⁶ to the UK economy from the time that individuals take away from work to spend engaging in a legal dispute, and the linked impact on their levels of productivity.

Our analytical approach is based on precedents across a wide variety of literature that models the hours taken away from work as depletion of a key economic factor of production, which leads to lost output in the economy. Our approach is in line with approaches defined by the World Economic Forum⁷⁷, World Health Organisation⁷⁸ and Naylor *et al.*⁷⁹ Across these studies, the loss to GVA is typically calculated as:

$$\text{Number of working hours spent on court case} * \text{Average labour market productivity (output per hour worked)} * \text{Average court user employment rate} = \text{Loss to UK GVA}$$

Figure 7, below sets out our overall approach for applying this generalised formula to our analysis of wider economic costs from legal disputes.

Figure 7 - Methodology for our wider economic impacts approach



Source: PA analysis

⁷⁶ In economics, Gross Value Added (GVA) is the measure of the value of goods and services produced in an area, industry or sector of an economy

⁷⁷ World Economic Forum, (2011), 'The Global Economic Burden of Noncommunicable Diseases', p 14.

⁷⁸ EPIC: Economic Projections for Illness and Cost of Treatment

⁷⁹ Naylor et al., (2012), 'Long Term Conditions and Mental Health: the cost of co-morbidities,' *King's Fund*.

In our approach, the ‘economic cost’ of the time lost by individuals involved in legal proceedings considers two main factors that contribute to this cost: (i) the hours that individuals involved in legal disputes take away from working hours and (ii) their levels of labour productivity. The product of these two dimensions gives us the productivity impact of time taken away from work during a legal dispute. In other words, the more time individuals spend on the dispute, the less productive they are during that time, and the greater the cost to the wider economy.

This reflects the ‘core scenario’ in our analysis which we supplement through two scenarios which capture additional pathways through which legal disputes might impact the wider economy, linked to our analysis of health impacts set out in Section 4:

- Individuals involved in legal disputes incur stress and anxiety that is likely to see them take more sick days and absences from work⁸⁰
- The treatment that the NHS provides to these individuals places additional pressure on government spending.

In addition to our wider scenarios, we included four sensitivity tests to assess the sensitivity of our results to changes in key assumptions: (1) the time taken to engage in legal disputes and impact on work hours, (2) the magnitude of case volumes to account for any potential impact resulting from the COVID-19 pandemic, (3) a combination of the sensitivity analysis in (1) and (2), and (4) the total impact if we account for pre-action cases in addition to those that are formally issued.

As set out in detail in Section 2.2, our cost estimates specifically relate to CFT legal disputes cases that were issued in 2021 across county courts, family courts, and tribunals.

We set out our full methodology, including data sources, key assumptions and full range of scenarios and sensitivity tests, in Annex 4.

⁸⁰ This methodology incorporates our analysis around the potential emotional harms from legal disputes, where we attempt to use analytical methods to isolate the stress incurred as part of the legal dispute, rather than the underlying cause.

5.4 Key results

This sub-section summarises the key findings from our analysis, including results from our core scenario, supplementary scenarios, and sensitivity tests. All monetary values are based on 2020/21 prices.

Core scenario

We indicatively estimate that the potential in-year loss to UK GVA due to the time that individuals take off work to engage in legal dispute cases issued in 2021 could be c.£1.1 billion. This impact is equivalent to £520 of lost GVA for each legal dispute case initiated in 2021. Our total figure represents 22.8 million work hours lost, worth 0.06% of UK GDP. Table 3 sets out our detailed results, broken down by the number of labour hours used in legal dispute proceedings by age and gender.

Table 3 - Labour hours used in undertaking court proceedings (by age and sex)

Age range	Gender	2021
Aged 16 - 19	Male	67,000
Aged 20 - 24	Male	531,000
Aged 25 - 49	Male	5,754,000
Aged 50 +	Male	4,264,000
Aged 16 - 19	Female	87,000
Aged 20 - 24	Female	868,000
Aged 25 - 49	Female	7,245,000
Aged 50 +	Female	4,022,000

Source: PA analysis of multiple sources. Note: Rounded to nearest thousand

These results indicate that the largest amount of labour hours used for court proceedings is women aged 25-49. While women in this age group have a lower employment rate than men of the same age group, the analysis showed that there were more female court users within this age group.⁸¹

⁸¹ It should be noted that the demographical split is based on the Legal Needs Survey and while they seek to obtain an accurate representation of court users, this might not completely represent actual court user demographics

Wider scenario – sick days

Our analysis finds that **6.4 million sick leave hours may have been taken off work in 2021 (c.860,000 days)** due to the stress impacts of legal disputes and this may have resulted in a potential **loss of GVA of c.310million**.⁸² Table 4, below, sets out our estimates of the number of hours taken off work due to the stress of legal disputes, split by age groups and gender.

Table 4 - Labour hours used in sick days due to the emotional stress of legal disputes (by age and sex)

Age range	Gender	2021
Aged 16 - 19	Male	2,148
Aged 20 - 24	Male	35,490
Aged 25 - 49	Male	1,070,265
Aged 50 +	Male	1,395,518
Aged 16 - 19	Female	3,480
Aged 20 - 24	Female	48,996
Aged 25 - 49	Female	2,020,568
Aged 50 +	Female	1,852,683

Source: PA analysis of multiple sources. Note: Rounded to nearest thousand

The case study box below illustrates the potential longer-term effects from this sickness absence for both individuals and the public purse.

Case Study: The potential economic consequences of sickness absence

Sickness absence, particularly over prolonged periods, can result in a range of economic impacts beyond the short-run loss of output from the workers involved. For example:

- **Employers may incur additional costs** to temporarily manage absences which may mean postponing orders or arranging temporary staff.

⁸² A working day is assumed to be 7.5 hours (ONS)

- **Public sector may incur additional costs** for example through statutory sick pay; and
- **Individuals may incur additional costs**, for example the employer may chose not to renew an employment contract or to replace the individual.

Any long-term economic inactivity or unemployment impacting individuals has the potential to cause long-term damage to their employment prospects – a phenomenon known as ‘labour market scarring’. Arulampalam et al ⁸³ show how long-term interruptions in employment inflict a longer term ‘scar’ on the economy through increased future incidence of unemployment and lower subsequent earnings in employment.

Black and Frost (2011)⁸⁴ quantify some of these impacts – employers pay £9 billion per year in sick pay and associated costs, and the Government incurs £14 billion annually on health-related benefits.

Wider scenario – additional costs to the NHS

Our indicative analysis estimates that the **total additional cost for the NHS to treat the stress and anxiety caused by legal disputes issued in 2021 might be approximately £800 million**. To put this number in context, this is equal to around £1 in every £30 the NHS spent on mental health (including learning disabilities and dementia services) over the same period.⁸⁵

Sensitivities

(1) The time taken to engage in legal disputes and impact on work hours

We conducted a sensitivity test on the time we assume individuals take engaging in legal disputes and the proportion of hours we assume they take from work time. Our core analysis assumes that an individual spends 24 hours of personal time engaging in a legal

⁸³ Arulampalam, W., Gregg,P., and Gregor, M., (2023), ‘Unemployment Scarring’, University of Warwick,pp1

⁸⁴ Black, C., and Frost, D., (2011) ‘Health at work- an independent review of sickness absence’, HM Government

⁸⁵ NHS, (2023), ‘Mental Health Dashboard’, Available at: [NHS England » NHS mental health dashboard NHS England » Our funding](#)

dispute per case, which is sourced from BEIS (2018),⁸⁶ and that 80% of this is during work hours. Table 5 and Table 6 below, presents the results of applying a sensitivity of +/-10% around both of these assumptions in turn. **In both cases, our core potential GVA impact of c.£1.1 billion falls by £100m in our 'low' sensitivity and rises by £100m in our 'high' sensitivity** (see below):

Table 5 - User hours in work hours sensitivity results

70% (low assumption)	80% (core assumption)	90% (high assumption)
£1.0 billion	£1.1 billion	£1.2 billion

Source: PA analysis

Table 6 - User hours required to use courts sensitivity results

22 hours (low assumption)	24 hours (core assumption)	27 hours (high assumption)
£1.0 billion	£1.1 billion	£1.2 billion

Source: PA analysis

(2) Case volumes to account for impact of COVID-19 pandemic

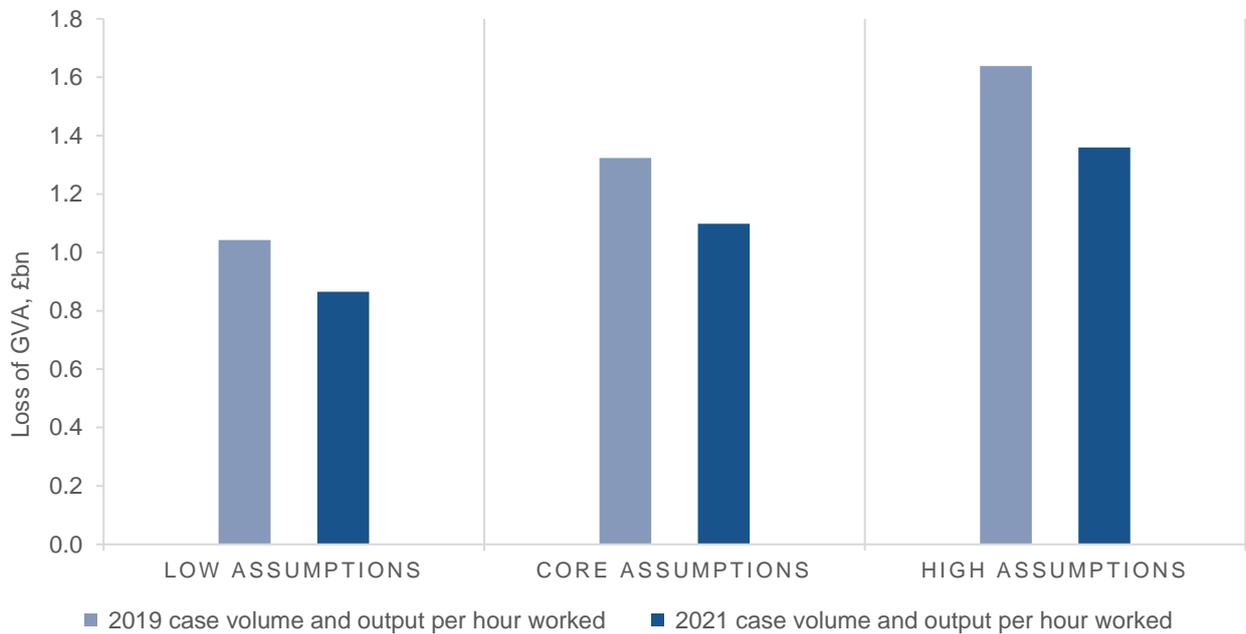
In this test, we use the number of cases issued in 2019 rather than 2021, to account for the potential effects from COVID-19 on case volumes. To ensure consistency in our analysis we also use 2019 output per worker levels. In this sensitivity test, **our estimate for potential loss of GVA from legal dispute cases issued increases from c.£1.1 billion in 2021 to c.£1.3 billion in 2019**, driven by higher pre-COVID case volumes.

(3) Combination of (1) and (2)

Figure 8 collates the sensitivity analysis conducted in (1) and (2) to give a total potential GVA cost range of c.£1.0 billion to c.£1.6 billion in 2019 and c.£0.9 billion to c.£1.4 billion in 2021.

⁸⁶ BEIS, (2018), 'Resolving Consumer Disputes: Alternative Dispute Resolution and the Court System Final Report', pp 26.

Figure 8 - Comparison of loss of GVA between the main results and the sensitivity analysis



Source: PA analysis

(4) Pre-action cases

We assess the potential GVA losses from pre-action cases by applying a consistent sensitivity test used in our QALY analysis, based on Fenn and Rickman (2019) data,⁸⁷ amending this to reflect the lower likely time spent on a case in pre-action cases. **The potential additional loss of GVA as a result of lost work hours from pre-action cases initiated in 2021 is estimated to be c.£800m**, resulting in a potential total loss in GVA from pre-action cases and claims issued of c.£1.9 billion.⁸⁸

⁸⁷ Fenn, P. and Rickman, N., (2019) The Impact of Legislation on the Outcomes of Civil Litigation: An Empirical Analysis of the Legal Aid Sentencing and Punishment of Offenders Act 2012.

⁸⁸ The duration of user hours spent on a case is unknown for pre-action users. The average number of user hours required for pre-action cases is assumed to be 50% (12 hours) of the user hours required to use the court (24 hours).

5.5 Implications and next steps

This section sets out some potential implications of our wider impact analysis and recommends next steps to refine and improve the assessment.

Potential implications

Our indicative analysis illustrates that legal disputes can have real and tangible impacts on the wider economy at large. Taking the potential channels through which legal disputes can impact labour productivity together – time taken off to engage in disputes and deal with the health consequences – this resulted in a potential loss of GVA to the UK of between c.£1.1 billion and c.£1.4 billion in 2021. The loss of labour productivity particularly impacts women who are likely to be in the middle of their careers. Alongside this loss of UK productivity, increased demand on NHS mental health services may have contributed to overall pressures on health budgets, with additional spending of c.£670 million required to treat stress conditions that resulted from legal disputes.

These figures are an opportunity to recognise the potential significance of the wider economic costs that stem from legal disputes, and to consider policies and broader approaches that reduce these costs wherever possible. For example, enabling individuals to efficiently participate in legal disputes in ways that minimises their time investment (including through remote proceedings and other technological developments) may reduce these costs. Similarly, working with employers to find efficient ways for litigants to take time off around work commitments may also help mitigate wider costs to the economy.

Potential next steps

Our analysis to quantify the wider economic impacts of CFT legal disputes has taken an important first step in understanding the potential size of these impacts. We believe that this labour productivity/GVA framework can be built on and improved in several ways, including:

- Further distinguish how a dispute is defined and measured. This could involve analysing how harm may differ between cases that have been filed with the court (where the issue may be smaller or uncontested and courts are used more for

enforcement) and those which involve resolving a more substantive 'dispute' (such as in defended claims)

- Deepen this framework by conducting new primary data collection to validate key assumptions (such as using BEIS data to more conclusively define the number of days users take to engage in legal disputes, updated LPRS data to explore how harm may vary across different case types and lengths and user journey mapping to ascertain the extent to which relationships may be causal in nature)
- Better understand the distribution of outcomes (e.g. whether there are particular groups of individuals that are particularly impacted by productivity losses and understanding the longer-term implications of this)Extend this framework by collecting more granular data specific to particular case types and/or user types (for example, considering the additional and specific costs that LiPs may experience).

More broadly, there are wider opportunities to capture and quantify the full range of wider economic costs, including by exploring a wider range of economic transmission mechanisms set out in Section 4.2, and in particular considering employment as well as business-specific effects.

There are a number of important considerations that require careful judgement when applying this analysis, including:

- **Dynamic impacts:** The 'dynamic' linkage from productivity to broader employment levels has not been calculated, and a proportion of lost work days may in practice be filled by the unemployed labour force with a flexible labour market
- **Consideration of GVA benefits:** Whilst the scope of our work has focused on the costs of disputes, it is possible that work days lost may reflect 'investment' of time that delivers a longer-term payback for individuals and fuller labour market participation over a longer-term period. It is also possible that there are some GVA benefits from legal disputes, such as spending in the legal services industry
- **GDP impact of government spending:** Government spending may increase GDP in the short-term but over the longer-term may weaken the UK's fiscal position.

In summary, our labour productivity framework has taken an important first step to quantify the potential wider economic and fiscal costs of CFT legal disputes. However, given the complex nature of disputes and the CFT justice system, these estimates should not be considered in isolation and should be taken together with broader evidence on the full range of direct, indirect, and wider costs when appraising distinct CFT justice interventions.

Annex 1: Quantification methodology

In this Annex, we lay out details of the broad quantification methodology we deployed across both our health impacts and wider impacts analysis:

- Logic chain development
- Modelling and quantification
- Scenarios and sensitivity analysis
- Analytical assurance and engagement.

Logic chain development: We developed logic chains that explore the relationships between the process of a legal dispute and the resultant costs incurred by individuals and businesses. These logic chains were formed based on the evidence within the underlying academic literature. They enabled us to capture the channels through which costs are incurred, and how these manifest and ‘ripple through’ into wider impacts on broader society.

Modelling and quantification: We developed an appropriate quantification approach to monetise the key impacts identified in the logic chain to inform initial and summary-level estimates for the costs we assessed. These approaches have been summarised in a ‘methodology map’ which outline the key calculations undertaken. Our methodology was informed by a comprehensive data collection exercise, including public and MoJ data and informed by conversations with authors of previous relevant studies. We worked closely with MoJ to make appropriate assumptions where these are necessary. Given the early-stage nature of the analysis, we presented our core findings as ranges, and these have been supplemented by several additional scenarios and sensitivity tests.

Scenarios and sensitivity analysis: We calibrated our core scenario around a set of conservative assumptions for key variables identified in the analysis. As such, our core scenario represents a ‘baseline’ impact with a higher level of confidence attached. In the

course of our work, we identified a number of additional scenarios which pick up additional aspects of the costs incurred from legal disputes, but where the evidence is less established and so there is a lower confidence in these impacts. These scenarios, however, are useful in presenting the 'upside' in our analysis and could be more representative of the true total cost of legal disputes subject to further work in the future. On top of our core estimates and wider scenarios, we tested key assumptions in our model using a set of sensitivity tests. These sensitivity tests help stress-test our analysis to potential changes in underlying assumptions and helped us form a broad confidence in the order of magnitude implied by the analysis.

Analytical assurance and engagement: All our work was conducted in line with HMG Aqua Book analytical standards and we conducted progressive quality assurance checks at each key step of our approach, including excel audits and peer reviews as appropriate. We set out our Quality Assurance practices in Annex 5. Whilst we applied appropriate and proportional assurance to our analysis, it is important to note the early-stage nature of the results, which should be interpreted as initial ranges and orders-of-magnitude through which to refine with further modelling in the future.

We held weekly conversations with MoJ project sponsors to iteratively work through and assure the key steps of our methodology, and refined and updated this as appropriate. Our review includes a number of 'deep dive' case studies in particular thematic areas or on particular case types. These do not form part of the overall 'core' analysis described above but have been developed as areas of distinct interest to MoJ policy and relevant to the future potential applications of this work.

Annex 2: The CFT justice system

In this Annex, we provide further details on the civil justice system which acts as a baseline for our understanding and provides key definitions that we use across our analysis. Below we describe the users of the system, the stages of a civil legal dispute, and the range of legal dispute case types.

The users of civil justice

The civil justice system contains a diverse range of stakeholders that will incur costs to varying degrees at different stages of a legal dispute. Our assessment focuses on costs incurred by the two main parties to a claim:⁸⁹

- **The claimant:** the party (individual, businesses, or institutions) that brings the proceeding or claim to the civil courts.
- **The respondent:** the party (individual(s), business(es), or institution(s)) that responds to the proceedings brought forward by the Claimant.

In practice, we recognise that several other stakeholders incur costs during legal disputes, including witnesses, legal representatives of both parties, and the public bodies involved in administering the civil justice system. For the purposes of the analysis, we focus on the direct and indirect costs incurred by claimants and respondents and the wider knock-on costs that might result for society (i.e., those outside of the courts and court users). For example, impacts to labour productivity and government spending.

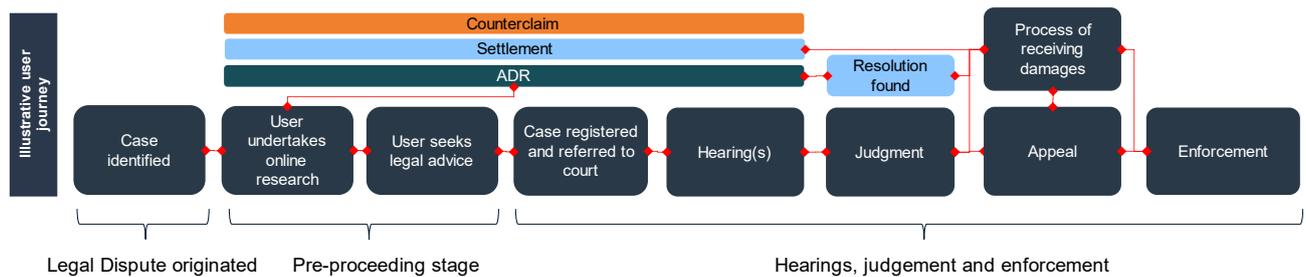
The stages of a legal dispute

The civil justice system is complex and the costs that are incurred by users vary considerably across different types of cases. Figure 9 offers a stylised illustration of the journey a user might undertake when engaged in a legal dispute; this can help provide a basis for identifying costs that are incurred during each key stage of the dispute.

⁸⁹ In practice, claimants and respondents may not be as precisely defined as above. For example, respondents of proceedings can bring counterclaims against the claimants such as an employer being sued by an employee for wrongful termination may counterclaim for breach of employment contract.

It is important to note that each legal dispute is unique and different types of case involve their own nuances in terms of process. Equally, each user’s path to justice and experience is likely to be unique to themselves. For example, parties frequently enter the justice system without formal legal advice or representation as LiPs, which can be for many reasons – including due to the costs involved.⁹⁰

Figure 9 - Illustrative user journey through a legal dispute



Source: PA analysis from the accelerated evidence review.

When interpreting Figure 9, it is important to consider that:

- There is potential for significant costs to be incurred before the start point and beyond the end points identified above. For example, the costs to users of a legal dispute do not end with a judgment being enforced. Whilst the claimant may recover some of the financial outgoings if they succeed in the proceedings, evidence we present in Section 4 indicates that any mental health impacts may persist over a long-term period, particularly if their case is unsuccessful.
- Many cases are resolved early in the process, without the need for a hearing. For example, pre-action cases may be resolved between parties before a claim is issued. Similarly, official statistics highlight that of the 1.5 million claims issued in the civil county and magistrate courts in 2021, just 17% were defended and around 10% were allocated to track.⁹¹
- There is the potential for various feedback loops and iterations within the process which could indicate that legal disputes operate more like a ‘dynamic system’ than the linear approach described below.

⁹⁰ Trinder, L., Burton, M., & Kaur, H, (2014)., ‘Litigants in Person in Family Law Cases (Report No. 56)’, Nuffield Foundation, p12.

⁹¹ Courts and Tribunals Judiciary., (2023), ‘Civil Justice in England and Wales’., Statistics available at: [Civil justice statistics quarterly - GOV.UK \(www.gov.uk\)](https://www.gov.uk/civil-justice-statistics-quarterly)

Types of cases in CFT justice

Each type of legal dispute brings with it a diverse collection of user experiences and a distinct set of costs. Table 4, Table 5, and Table 6 set out the number of proceedings in 2021 in civil courts, family courts, and tribunals, respectively.

Table 7 - Number of proceedings by case type – civil courts

	<i>Money claims</i>	<i>Non-money claims</i>	<i>Damages claims</i>	<i>Total insolvency petitions</i>
<i>Volume of proceedings, thousands</i>	1,312	175	109	1.8

Source: PA analysis based MoJ Quarterly Statistics (Q3 2022)

Table 8 - Number of proceedings by case type – family courts

	<i>Children Act - private and public law</i>	<i>Matrimonial matters</i>	<i>Financial remedies</i>	<i>Adoption Act</i>	<i>Other family court Proceedings</i>
<i>Volume of proceedings, thousands</i>	71	109	46	0.1	30

Source: PA analysis based MoJ Quarterly Statistics (Q3 2022)

Table 9 - Number of proceedings by case type – tribunals

	<i>Employment tribunal</i>	<i>Immigration</i>	<i>Employment appeal</i>	<i>Social Security and Child Support</i>	<i>Upper tribunal</i>	<i>Mental health</i>	<i>Special tribunals</i>
<i>Volume of proceedings, thousands</i>	118	27	1.2	93	2.2	32	27

Source: PA analysis based MoJ Quarterly Statistics (Q3 2022)

Money claims are the most common type, with over 1.3 million cases brought in 2021. Other civil claims include personal injury claims, mortgage and landlord possession claims and insolvency petitions. Family courts cover the majority of Children Act 1989 (public and private law), matrimonial matters and adoption matters, whilst tribunals account for all employment, social security and child support appeals, asylum & immigration, and mental health and special appeals.

Annex 3: Methodology to quantify the health impacts of CFT legal disputes

This Annex sets out a detailed explanation of the methodology we used to quantify health impacts caused by CFT legal disputes, including citing the full range of data inputs used and key underpinning assumptions.

Methodology

We adopted the approach used by the Home Office in “*The Economic and Social Costs of Crime*”⁹² and have translated this to quantify the potential health impacts that litigants experience as a result of the legal dispute process. **We use this approach to estimate the total cost of harm from CFT legal disputes that were issued in 2021.** This has involved conducting a range of analytical exercises to translate “QALY loss estimates” that are established in the wider literature to the costs incurred by individuals in CFT legal disputes.⁹³ QALY loss estimates are commonly used across health literature in economic valuations as a method to quantify health impacts and appropriately allocate healthcare resources.

QALY losses are calculated by estimating the years of life remaining for an individual following a particular event and weighting each year with a quality-of-life score (0-10). It typically looks at the person’s ability to carry out the activities of daily life free from pain and mental disturbances. The specific health impacts that we assessed in our work relate to stress and any associated mental health conditions, such as anxiety. A legal dispute can result in stress and have a negative impact on a person’s quality of life. For example, a QALY loss of 0.03 due to stress can be understood as a 3% loss to a year of perfectly healthy life. The costs are calculated as follows:

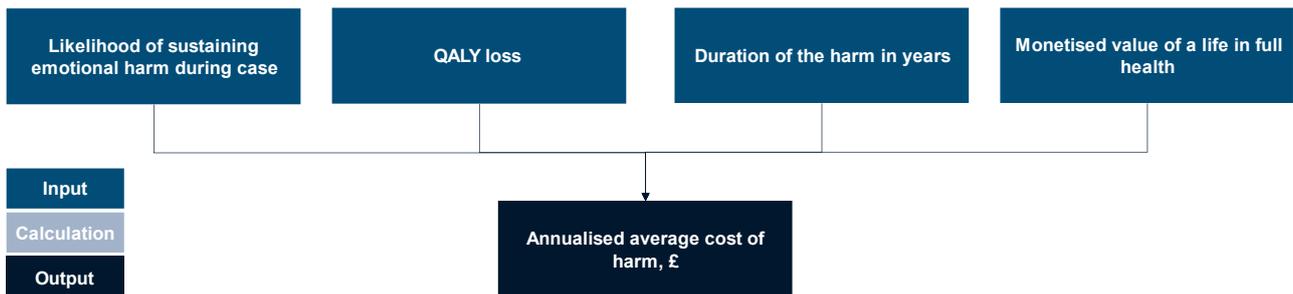
⁹² Heeks, M., Reed, S., Tafsiiri, M., & Prince, S., (2018), ‘The economic and social costs of crime, second edition. Home Office Research report 99’.

⁹³ As such, these estimates only serve as proxies to a “pure”/original estimate of a QALY applicable in a civil legal dispute – this could only be uncovered by an original study involving primary data collection.

$$\text{Likelihood} * \text{ReducedQL} * \text{Duration} * \text{ValueLY} = \text{Avg. Physical/Emotional Cost}$$

We breakdown our approach to each variable of the above formula in the following sub-sections. Figure 10 sets out our overall approach for applying this generalised formula to our analysis of health costs of legal disputes.

Figure 10 - QALYs approach to calculate the emotional harm suffered by individuals in CFT legal disputes



Source: PA analysis

Structure of the model

The structure of the model breaks down into four main sections: **inputs and assumptions, data, calculations, and outputs.**

Inputs and assumptions

The inputs and assumptions are detailed in this Annex.

Data

The input data is sourced from the relevant academic sources and The Legal Needs Survey (2019/20). Case volumes are sourced from official MoJ quarterly statistics for civil legal dispute cases that were issued in 2021 across the county and family courts, and tribunals.

Calculations

The calculations part of our model takes our input data and assumptions to execute the model specification set out above. We produce QALY loss estimates for a central scenario and two alternative scenarios.

Output

The output section of the model summarises the total costs of emotional harm attributable to the CFT legal dispute process from the cases that were filed to court in 2021.

Scenario assessment

Our core QALY estimates capture the QALY losses from stress and mental health conditions that can be most directly linked to CFT legal disputes and are the most commonly reported mental health impacts experienced by individuals following stress events. These conditions include acute stress, chronic stress, and anxiety.

This is most likely to be a conservative estimate. Our core result may under-estimate the potential QALY losses because of the prevalence of other health conditions caused by the indirect costs of CFT legal disputes, such as the breakdown of relationships and unemployment.

To account for the further health impacts, we set out a further scenario which looks to capture a wider range of QALY losses that could result from an individual's participation in a civil legal dispute. It should be noted that this scenario includes the costs assessed in our core scenario.

A key assumption is that while the health impacts associated with the outcomes in our additional scenario are likely to be significantly higher than the impact of stress and anxiety, the probability of these outcomes occurring is much lower as they affect a lower number of people.

Indirect QALY Impact scenario

According to the LPRS (2014/15),⁹⁴ 5% of the respondents reported to have suffered unemployment due to a civil legal dispute, while 4% of respondents reported having to move home. Other literature corroborates this and finds that individuals tend to struggle to secure future employment and financial stability following legal disputes.⁹⁵ This lack of

⁹⁴ Franklyn, J., Earle, R., Patel, P., Genn, H., & Millie., A., (2014-15), 'Findings from the Legal Problem and Resolution Survey', Ministry of Justice, p 30.

⁹⁵ Drinkwater, S., Latreille, P.L. and Knight, K.G., (2008), 'When it's (mostly) the taking part that counts: the post-application consequences of employment tribunal claims.'

stable earnings and employment was found to increase the risk of homelessness. In our model, we define these three outcomes as follows:

- **Unemployment** – captures those without a job, who have been actively seeking work in the past four weeks and are available to start work in the next two weeks, as well as people who have found a job and are waiting to start in the next two weeks⁹⁶
- **Alcohol and substance issues** – drinking alcohol or using substances in a way that is harmful, or when you develop dependency⁹⁷
- **Homelessness** – the condition of lacking stable, safe, and adequate housing.⁹⁸

Modelling approach

This section outlines our approach to develop the model to quantify the health impact of CFT legal disputes that were issued in 2021 based on the “*The Economic and Social Costs of Crime*” formula set out above. We also detail the key data inputs and assumptions in relation to each element of the calculation process.

The likelihood of incurring harm from the legal dispute process

The “*likelihood*” variable in our calculation refers to the probability of an individual suffering from stress or a mental health problem during a CFT legal dispute.⁹⁹ As described in Section 4.2, it is important to distinguish between two potential causes of stress or mental health problems:

- The harm caused by the underlying cause of the dispute (e.g., the injury itself in a PI claim); and
- The harm caused due to the legal dispute process (e.g., the uncertainty, complexity or confrontation involved, the stress of the financial consequences etc).

Core scenario

⁹⁶ ONS., (2020)., ‘A guide to labour market statistics’, Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/methodologies/aguidetolabourmarketstatistics#unemployment>

⁹⁷ NHS., (2022)., ‘Alcohol misuse’, Available at: <https://www.nhs.uk/conditions/alcohol-misuse/>

⁹⁸ United Nations., (2022), ‘Homelessness and human rights’, Available at: <https://www.ohchr.org/en/special-procedures/sr-housing/homelessness-and-human-rights>

⁹⁹ This follows the Cost of Crime QALY calculation methodology where ‘Likelihood’ refers to the probability of suffering from adverse emotional consequences due to a crime.

In our analysis, we seek to isolate the costs due to the latter cause – the stress and mental health problems caused by the legal dispute process itself. To do this, we used data from the Legal Needs Survey (2019/20) and the Legal Problem and Resolution Survey (LPRS, 2014/15).

Table 10 sets out Legal Needs Survey data on the probability that an individual involved in a legal dispute suffers from a “stress related illness or mental health problems”. This probability changes depending on how long the dispute is running – overall, the longer a dispute lasts the more likely an individual is to experience stress or mental health issues. LPRS data also shows a strong positive relationship between the duration of a dispute and the likelihood that the individual experiences at least one adverse consequence. For example, the LPRS reported that 61% of individuals experiencing a legal problem lasting longer than 2 years experienced adverse consequences, whereas just 34% experienced adverse consequences if their legal problem lasted up to 3 months.¹⁰⁰

Table 10 - The likelihood of suffering from stress due to CFT legal disputes by the duration of the disputes from when the case is filed to court

Description	0 months	1-3 months	3-6 months	6-12 months	1-2 years	2-3 years	3-4 years	4-5 years	5-6 years	6-7 years
Stress related illness or mental health problems	31%	44%	54%	60%	57%	66%	68%	73%	72%	68%

Source: PA analysis based on *The Legal Needs Survey (2019/20)*.

Our analysis of the question posed in the Legal Needs Survey (2019/20) indicates that the harm reported by respondents could be caused by the underlying event or the legal dispute process.¹⁰¹ Using the profile of harm set out in Table 10 - The likelihood of suffering from stress due to CFT legal disputes by the duration of the disputes from when the case is filed to court, we can reasonably assume that for individuals who have been involved in the CFT legal disputes for “0 Months”¹⁰², the likelihood of suffering from stress

¹⁰⁰ Franklyn, J., Earle, R., Patel, P., Genn, H., & Millie., A., (2014-15), 'Findings from the Legal Problem and Resolution Survey', Ministry of Justice, p 31.

¹⁰¹ Respondents were asked if they had experienced stress related illness or mental health problems “as part of or as a result of” the legal issue.

¹⁰² We use the reported ‘problem start and end dates’ to obtain the length of dispute proceedings. The reported problem start date is in the same month and year of the reported problem end date.

related illness or mental health problems (31%) is entirely driven by underlying event itself. We use the reported “0 Months” probability as our “baseline” Likelihood assumption – in other words, the likelihood of suffering stress or mental health problems from the event underlying the dispute, regardless of whether the case enters the civil justice system or not.

Similarly, the additional stress reported as the dispute progresses is more likely to be driven by the legal dispute process than the underlying harm. By subtracting the “baseline” likelihood from the remaining probabilities we calculate a “residual” level of likelihood of experiencing stress that can be attributed to the legal disputes process itself. We smooth the natural variation in the above data to obtain more consistent and logical results by fitting a trend line of likelihood over time. We use this trend line to calculate our final likelihood assumptions of an individual experiencing stress related illness or mental health problems as part of a legal dispute. These values are presented in Table 11, below.

Table 11 - The likelihood of stress due to CFT legal disputes by case duration from when the case is filed to court

Description	0 months	1-3 months	3-6 months	6-12 months	1-2 years	2-3 years	3-4 years	4-5 years	5-6 years	6-7 years
Stress related illness or mental health problems	0%	21%	22%	24%	27%	30%	34%	37%	40%	44%

Source: PA analysis based on the Legal Needs Survey (2019/20)

In our core scenario, we assess the health impacts associated with stress and anxiety experienced during legal disputes, which are two of the most commonly reported mental health conditions following stress events. Specifically, we account for the following conditions in our core scenario:

- Acute stress – an intense, unpleasant, and dysfunctional reaction beginning shortly after an overwhelming traumatic event and lasting less than a month¹⁰³

¹⁰³ Barnhill J W (2023), , ‘Acute Stress Disorder’, *MSD Manual*, Available at: [Acute Stress Disorder - Mental Health Disorders - MSD Manual Consumer Version \(msdmanuals.com\)](https://www.msdmanuals.com/consumer/acute-stress-disorder)

- Chronic stress – the feeling of being stressed or a consistent sense of feeling pressured and overwhelmed over a long period of time. Chronic stress typically occurs after a few months or years¹⁰⁴
- Anxiety – a future orientated, long-acting response, characterised by feelings of tension, worried thoughts, and physical changes like increased blood pressure.¹⁰⁵

Given the Legal Needs Survey question refers directly to “stress”, we assume that the probabilities of incurring the stress conditions described above maps to probabilities of harm implied by the survey.¹⁰⁶ In terms of anxiety, literature has shown individuals have a 61% chance of suffering anxiety if they already experience stress.¹⁰⁷ This percentage was applied to the likelihood of experiencing stress to calculate the likelihood of experiencing anxiety.¹⁰⁸ Table 12, below, sets out the likelihood values we used in our analysis.¹⁰⁹

Table 12 - Likelihoods of suffering stress and anxiety from CFT legal disputes, by length of dispute

Description	0 Months	1-3 months	3-6 months	6-12 months	1-2 years	2-3 years	3-4 years	4-5 years	5-6 years	6-7 years
Stress	-	21%	22%	24%	27%	30%	34%	37%	40%	44%
Anxiety	-	13%	14%	15%	17%	19%	21%	23%	25%	27%

Source: PA analysis based on Legal Needs Survey (2019/20)

We applied a similar logic to determine the likelihoods for the health impacts included in the indirect and linked QALY impacts scenarios.

Indirect scenario

¹⁰⁴ Yale Medicine, (2023), ‘Chronic Stress Fact Sheet’, Available at: <https://www.yalemedicine.org/conditions/stress-disorder>

¹⁰⁵ American Psychological Association, (2023), ‘Anxiety’, Available at: <https://www.apa.org/topics/anxiety/>

¹⁰⁶ Acute and chronic stress will differ in the duration of harm and QALY loss. This is explained in the relevant sub-sections.

¹⁰⁷ Mental Health Foundation, (May 2018), ‘Stress: Are we coping? London: Mental Health Foundation’, pp.11

¹⁰⁸ The likelihood of suffering anxiety is calculated from a standard conditional probability set up:

$$P(\text{Anxiety} | \text{Stress}) = \frac{P(\text{Stress} | \text{Anxiety}) * P(\text{Anxiety})}{P(\text{Stress})}$$

¹⁰⁹ Untangling the likely cause of stress and anxiety is a challenging process. There may be many other factors that is causing the likelihood of suffering stress and anxiety other than the dispute itself. This approach, which has been verified by our expert panel, is the most appropriate given the availability of data.

To quantify the costs associated with our indirect scenario, we derive likelihood values using the same methodology employed to get to the likelihoods associated with stress. Unemployment, loss of a home, and alcohol and drug issues are all identified by respondents in the LNS as an indirect consequence, however, the assumed likelihood of suffering from these consequences, on average, is much smaller than the likelihood of suffering from stress and anxiety, given that they are likely to occur in more extreme scenarios.¹¹⁰

Table 13 below sets out the percentage of respondents who reported to have suffered with each of these additional indirect consequences based on the duration of their legal dispute.

Table 13 - The likelihood of suffering from indirect costs due to CFT legal disputes by the duration of the disputes from when the case is filed to court

Description	0 Months	1-3 months	3-6 months	6-12 months	1-2 years	2-3 years	3-4 years	4-5 years	5-6 years	6-7 years
Loss of employment	4%	5%	7%	7%	6%	9%	9%	13%	9%	8%
Loss of home	4%	5%	8%	11%	13%	16%	16%	23%	17%	17%
Issues with alcohol or drugs	3%	2%	2%	4%	5%	5%	7%	6%	13%	7%

Source: PA analysis based on The Legal Needs Survey (2019/20)

Under the same assumption outlined under our core scenario, using the figure reported in 0 months as our baseline likelihood that is attributed to the cause of the dispute and reducing the other likelihoods by this figure and smoothing the variation in results, we arrive at our final likelihood figures that are used within our QALY calculation for each of these harms. These likelihoods are laid out in Table 14 below:

¹¹⁰ The likelihood of suffering from stress and anxiety ranges between 21 – 44%, while the likelihood of suffering unemployment, alcohol and substance issues and homelessness are below 6% on average.

Table 14 - The likelihood of suffering from indirect costs due to CFT legal disputes by case duration from when the case is filed to court

Description	0 Months	1-3 months	3-6 months	6-12 months	1-2 years	2-3 years	3-4 years	4-5 years	5-6 years	6-7 years
Loss of employment	0%	2%	2%	3%	3%	4%	4%	5%	6%	6%
Loss of home	0%	5%	5%	6%	8%	10%	12%	13%	15%	17%
Issues with alcohol or drugs	0%	0%	0%	1%	1%	3%	4%	5%	6%	7%

Source: PA analysis based on *The Legal Needs Survey (2019/20)*

Reduction in QALYs

The loss in QALYs associated with specific health conditions are directly available in the wider health literature. The key source used to extract the relevant QALY losses is the Lancet Global Health (2013) report¹¹¹, and this has been supplemented by drawing on relevant studies in the wider health literature. The estimates are considered to be applicable to all types of harm, regardless of the underlying cause of the harm, so that they are directly applicable to our study. Table 15 sets out the annual QALY loss estimated for each type of harm:

¹¹¹ Salomon *et al.*, (2015) 'Disability weights for the global burden of disease 2013 study', *The Lancet Global Health* (3), pp 717-718.

Table 15 - Annual QALY loss by type of harm

Description	Annual QALY Loss	Source
Mild Anxiety	0.030	Salomon et al.. (2015) Disability weights for the global burden of disease 2013 study. <i>The Lancet Global Health</i> (3), 717-718
Moderate Anxiety	0.133	Salomon et al.. (2015) Disability weights for the global burden of disease 2013 study. <i>The Lancet Global Health</i> (3), 717-718
Severe Anxiety	0.523	Salomon et al.. (2015) Disability weights for the global burden of disease 2013 study. <i>The Lancet Global Health</i> (3), 717-718
Major depressive disorder (severe episode)	0.658	Salomon et al.. (2015) Disability weights for the global burden of disease 2013 study. <i>The Lancet Global Health</i> (3), 717-718
Acute Stress	0.013	Hidaka, Y., Imamura, K., Watanabe, K., Tsutsumi, A., Shimazu, A., Inoue, A., ... Kawakami, N. (2021). Associations between work-related stressors and QALY in a general working population in Japan: a cross-sectional study. <i>International Archives of Occupational and Environmental Health</i> , 94(6), 1375–1383. doi:10.1007/s00420-021-01710-1
Chronic Stress	0.026	Fernández, A., Saameño, J. Á. B., Pinto-Meza, A., Luciano, J. V., Autonell, J., Palao, D., Salvador-Carulla, L., Campayo, J. G., Haro, J. M. and Serrano, A. (2010) “Burden of chronic physical conditions and mental disorders in primary care,” <i>The British Journal of Psychiatry</i> . Cambridge University Press, 196(4), pp. 302–309. doi: 10.1192/bjp.bp.109.074211.
Homelessness	0.117	R. W. Aldridge, Homelessness and Quality Adjusted Life Years: Slopes and Cliffs in Health Inequalities a Cross-sectional Survey., International Journal of Epidemiology, Volume 44, Issue suppl 1, October 2015, Pages i80–i81, https://doi.org/10.1093/ije/dyv097.295
Unemployment	0.096	Norström, F., Waenerlund, AK., Lindholm, L. et al. 2019. Does unemployment contribute to poorer health-related quality of life among Swedish adults?. <i>BMC Public Health</i> 19, 457
Alcohol Use Disorder - Mild	0.235	Salomon et al.. (2015) Disability weights for the global burden of disease 2013 study. <i>The Lancet Global Health</i> (3), 717-718

Source: PA analysis based on information from the wider health literature¹¹²

We made the following estimations and assumptions, using information from the above table, to develop QALY losses that are applicable to our scenarios to account for being unable to accurately predict the severity of certain harms.

- Taken the average of mild and moderate anxiety to use as our anxiety QALY loss
- Taken the average of mild cocaine dependence, mild cannabis dependence, and alcohol use disorder – mild, for our alcohol and drug issues QALY loss.

¹¹² The literature typically sets out differing levels of harm (such as mild, moderate, and severe) and the QALY losses increase as the harm becomes more severe. In our core scenario, we assume that the increase in the QALY loss as the severity of the harm increases, is cumulative rather than additive. Due to the difficulty in distinguishing whether an individual will suffer from mild or moderate anxiety as a result of a legal dispute, we have used an average QALY loss for mild and moderate anxiety.

After making these assumptions, we use the QALY losses featured in Table 16 below in calculating our main results:

Table 16 - Annual QALY losses

QALY impacts	Annual QALY Loss
Acute stress	0.013
Chronic stress	0.026
Anxiety	0.082
Unemployment	0.096
Homelessness	0.117
Alcohol and drug issues	0.130

Duration of harm

In our analysis, we assume that the total duration of the harms experienced by individuals consists of the total duration of the case and any additional period of time following the case where the individuals are still experiencing health impacts. The total duration of a legal dispute has been directly derived from the Legal Needs Survey (2019/2020), where the length of the legal problem reported by individuals ranged between 0 months to beyond 7 years.

We also made several assumptions to adjust the duration of harm based on the particular form of mental health conditions experienced by individuals, to ensure this is in line with the health literature. For example, we assume that acute stress only lasts up to 0.1 years on average for individuals, whereas chronic stress by definition must have been occurring over a minimum period of time. See Table 17 below for our final duration figures:

Table 17 - Duration of harm by dispute length for all harms

Dispute Length (years)	Acute stress - Duration of harm (years)	Chronic stress - Duration of harm (years)	Anxiety - Duration of harm (years)	Unemployment - Duration of harm (years)	Homelessness- Duration of harm (years)	Alcohol and drug issues - Duration of harm (years)
0	0.1	-	0.5	0.5	0.74	1
0.25	0.1	-	0.75	0.75	0.99	1.25
0.5	0.1	1.0	1.0	1.0	1.24	1.5
1	0.1	1.5	1.5	1.5	1.74	2.0
2	0.1	2.5	2.5	2.5	2.74	3.0
3	0.1	3.5	3.5	3.5	3.74	4.0
4	0.1	4.5	4.5	4.5	4.74	5.0
5	0.1	5.5	5.5	5.5	5.74	6.0
6	0.1	6.5	6.5	6.5	6.74	7.0
7	0.1	7.5	7.5	7.5	7.74	8.0

Source: PA analysis based on data from the Legal Needs Survey (2019/20).

The period of time – following the conclusion of any formal legal proceedings, but where individuals are still suffering from the harms caused by the process – is challenging to define and parameterise. Theoretically, in the most extreme cases, individuals may suffer from long-lasting harms (for example, anxiety) for the remaining years of their life that must be managed.¹¹³ However, for the purposes of this study, we consider it most representative to use analysis from Cohen and Vespa (2001)¹¹⁴ which found, on average, stress-related mental health problems last around 6 months following the conclusion of a legal case. For the wider impacts, government unemployment statistics find that the vast majority of unemployment lasts for less than a year in the UK, whilst Allgood & Ronald (2003) find that the median duration of homelessness is approximately 270 days. In addition, recovery from alcohol problems has been found to take up to a year.¹¹⁵

Sensitivities

In addition to building out multiple scenarios in our analysis, we included sensitivity analysis to stress test the results of our analysis for changes in key assumptions. We adjusted two key assumptions and assessed their impacts on the outputs: the treatment of multiple QALY losses, and the magnitude of case volumes to account for any potential impact resulting from the COVID-19 pandemic.

The independence of multiple QALY losses

For our QALY impacts scenarios, we assumed that the QALY losses associated with suffering from multiple health conditions are additive. In other words, when an individual suffers from both stress and anxiety, they suffer the total QALY losses from those conditions.¹¹⁶ This is also applicable to non-health costs assessed in our Indirect scenario, such as unemployment and homelessness, where our calculations have assumed that the associated QALY losses exist in addition to the other QALY losses. We consider this assumption is appropriate because:

¹¹³ NHS My Health London., (2023)., 'How Long Does a Mental Illness Last?'

¹¹⁴ Cohen L, Vespa J., (2001), 'Forensic Stress Disorder, Law & Psychology Review (25)'

¹¹⁵ Americas Rehab Campus., (2021), 'How Long after you stop drinking does your body heal?', Available at: <https://www.americasrehabcampuses.com/blog/how-long-after-you-stop-drinking-does-your-body-heal/>

¹¹⁶ Acute and chronic stress has an annual QALY loss of 0.013 and 0.026 respectively, and anxiety has an annual QALY loss of 0.0815. An individual suffering from all three has a total QALY loss of 0.1205.

- Health literature indicates that an individual can suffer from multiple mental health conditions like stress and anxiety at the same time, even though the physical symptoms may appear similar¹¹⁷
- The health impacts of non-health conditions like unemployment and homelessness extend far beyond mental health impacts. Schuring (2011) finds that whether a person is employed or not impacts a number of quality-of-life domains including vitality, general health, social functioning, and physical function, in addition to mental health.¹¹⁸

We designed a sensitivity test to reflect an assumption that the total QALY losses, when an individual suffers from multiple mental health conditions, are independent. For example, given that anxiety stems from stress and the symptoms have been found to be similar, the QALY loss associated with anxiety of 0.0815 may include the QALY loss of stress already (0.013 for acute stress and 0.026 for chronic stress). Similarly, we also adjust the QALY loss values for unemployment and homelessness to reflect that these circumstances almost always lead to stress.¹¹⁹ Table 18 below outlines the QALY losses when adjusted to reflect a ‘cumulative’ approach:

Table 18 - Cumulative QALY loss adjustments

Core QALY impacts	Annual QALY loss
Acute stress	0.013
Chronic stress	0.013
Anxiety	0.056
Indirect QALY impacts	
Acute stress	0.013
Chronic stress	0.013
Anxiety	0.056
Unemployment	0.070
Homelessness	0.091
Alcohol and drug issues	0.130

Source: PA analysis based on the wider health literature

¹¹⁷ Daviu N, et al. (2019). Neurobiological links between stress and anxiety.

<https://www.sciencedirect.com/science/article/pii/S2352289519300438>

¹¹⁸ Shuring, M., et al., (2011), ‘The effect of re-employment on perceived health. J Epidemiol Community Health 65(7)’.

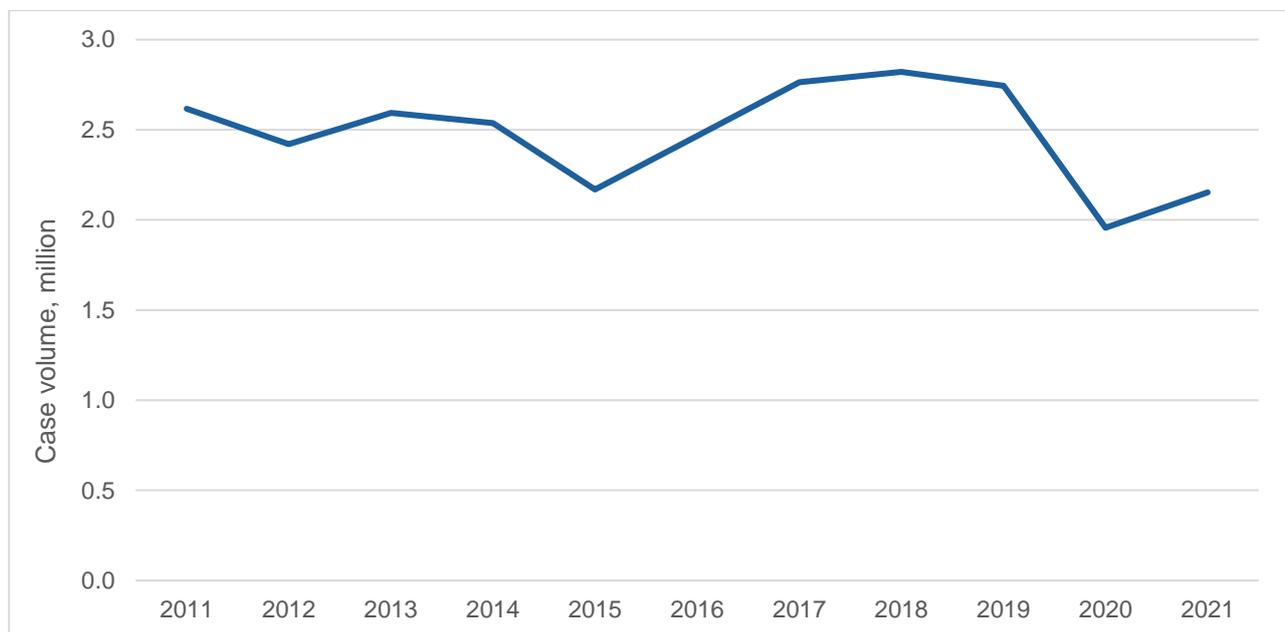
¹¹⁹ Norström, F., et al., (2019), ‘Does unemployment contribute to poorer health-related quality of life among Swedish adults?’, BMC Public Health 19, pp 457.

Adjusting this assumption reduces the average harm per case and therefore the total cost of harm.

Case volumes – accounting for COVID-19

For our core assessment, we used the cases initiated in 2021 that lasted beyond one month as the basis for our ‘volume’ metric in our analysis. We chose this timeframe as the latest annual period where there is a full year of published information. However, this period immediately followed a significant drop-off in case volumes in 2020 caused by the COVID-19 pandemic (see Figure 11 below). During the initial COVID response, many courts suspended their operations and sickness rates of administrative and judicial staff resulted in significant reductions in case volumes, and significant changes to timeliness measures. This may have also been accentuated by social distancing measures that were introduced to tackle COVID-19 also created barriers for access to justice, especially for the most vulnerable and disadvantaged groups.¹²⁰

Figure 11 - Case started per year, 2011 - 2021



Source: PA analysis based on MoJ Civil Court Quarterly Statistics, 2021

¹²⁰ The Law Society (2020), ‘Law Under Lockdown The Impact of Covid-19 Measures on Access to Justice and Vulnerable People’, Available at: [Law under lockdown: the impact of COVID-19 measures on access to justice and vulnerable people | The Law Society](#)

To reflect that case volumes for 2021 may still capture some the impacts of judicial backlogs and delays since COVID-19, we designed a sensitivity test to assess the impact of using 2019 case volumes (2.3 million), as the closest full-year picture preceding the pandemic.

We also combined our QALY loss adjustment sensitivity with our sensitivity accounting for the change in case volumes due to COVID-19 to allow for consistent comparison across sensitivities.

Case volumes - accounting for pre-action cases

Our central analysis does not reflect pre-action cases that may still be stressful for those involved but are not formally issued. Pre-action cases are difficult to identify given the lack of representation in official MoJ statistics. However, a recent study by Fenn and Rickman (2019)¹²¹ has shown that, in personal injury claims over £25,000, approximately 60% of all claims did not get issued and would not be captured in any published court statistics.¹²²

In this test, we use this finding from Fenn and Rickman (2019) to capture this uncertainty and apply this to other case types.¹²³ This analysis indicates that 3.2 million pre-action cases were potentially initiated in 2021.

¹²¹ Fenn, P. and Rickman, N., (2019), 'The Impact of Legislation on the Outcomes of Civil Litigation: An Empirical Analysis of the Legal Aid Sentencing and Punishment of Offenders Act 2012', Available at: SSRN 3326665.

¹²² Fenn and Rickman, (2019), have further stated that these case types are complex and the 60% figure is most likely to be a lower estimate.

¹²³ While this percentage relates to personal injury or clinical negligence cases only, this proportion would appear to be a reasonable estimate that can be applied across most case types. This assumption has been verified with our expert panel.

Annex 4: Methodology to quantify the wider economic costs of CFT legal disputes

This Annex sets out a detailed explanation of the methodology we used to quantify wider economic impacts of CFT legal disputes, including citing the full range of data inputs used and key underpinning assumptions.

Methodology

We assessed the wider economic impact of legal disputes by using macroeconomic analysis techniques to analyse the potential labour force impacts that stem from individuals being involved in legal disputes. Specifically, we estimate the monetary loss in GVA to the UK economy from the time that individuals take away from work to spend engaging in a legal dispute, and the linked impact on their levels of productivity.

Our analytical approach is based on a precedent across a wide variety of literature that models the hours taken away from work as depletion of a key economic factor of production, which leads to lost output in the economy. Our approach is in line with approaches defined by the World Economic Forum¹²⁴, World Health Organisation¹²⁵ and Naylor et al.¹²⁶ Across these studies, the loss to GVA is typically calculated as:

*Number of working hours spent on court case * Average labour market productivity (output per hour worked) * Average labour market employment rate = Loss to UK GVA*

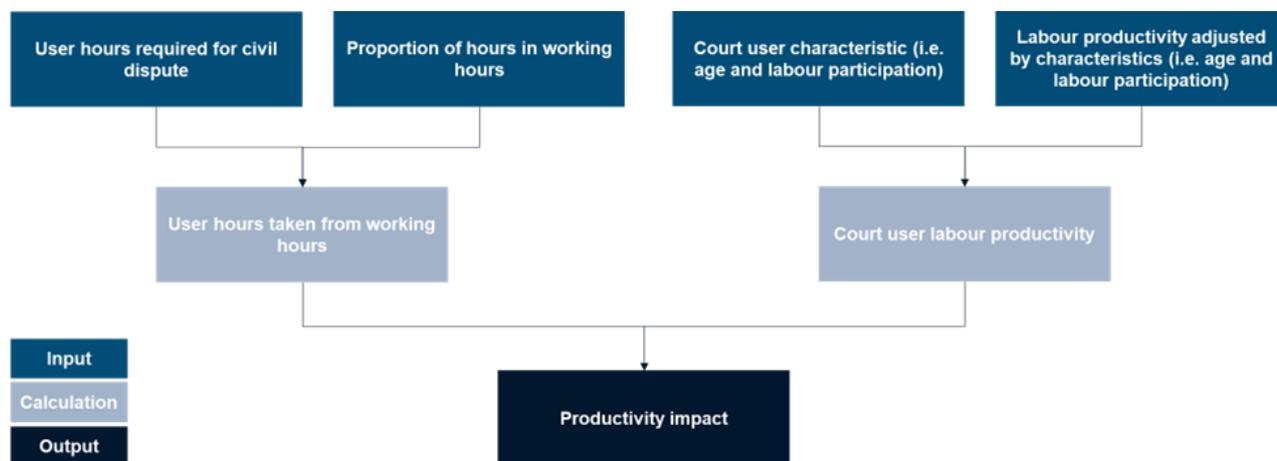
Figure 12, below sets out our overall approach for applying this generalised approach to our analysis of wider economic costs from legal disputes.

¹²⁴ World Economic Forum, (2011), 'The Global Economic Burden of Noncommunicable Diseases,' pp 14.

¹²⁵ EPIC: Economic Projections for Illness and Cost of Treatment

¹²⁶ Naylor et al., (2012), 'Long Term Conditions and Mental Health: the cost of co-morbidities,' *King's Fund*.

Figure 12 - Wider economic costs approach



Source: PA analysis

In our approach, the ‘economic cost’ of the time lost by individuals involved in legal proceedings considers two main factors that contribute to this cost: (i) the hours that individuals involved in legal disputes take away from working hours and (ii) their levels of labour productivity. The product of these two dimensions gives us the productivity impact of time taken away from work during a legal dispute. In other words, the more time individuals spend on the dispute, the less productive they are during that time, and the greater the cost to the wider economy.

Structure of the model

The structure of the model breaks down into three main sections. Those being: inputs and assumptions, calculations, and outputs.

Inputs and assumptions

Our inputs and assumptions are detailed throughout this Annex.

Data

The input data is sourced from the relevant academic sources and The Legal Needs Survey (2019/20). Economic data is sourced from the ONS. Case volumes are sourced from official MoJ quarterly statistics for civil legal dispute cases that were issued in 2021 across the county and family courts, and tribunals.

Calculations

The calculations part of our model takes our input data and assumptions to execute the model specification set out above. We produce GVA estimates for a central scenario and two alternative scenarios.

Output

The output section of the model summarises the total wider economic costs attributable to the CFT legal dispute process from the cases that were filed to court in 2021. The findings from our central estimates can be found in the “2.2 Labour productivity”, “2.4 MH sick days” and “Cost to the NHS” tab.

Modelling approach

This section outlines our approach to develop the model to quantify the wider economic impact of CFT legal disputes based on the formula set out above for the ‘core’ scenario. We also detail the key data inputs and assumptions in relation to each element of the calculation process.

User hours taken from working hours:

This refers to the amount of time individuals spend engaging in a legal dispute, which takes away from the time they could have spent on productive work. This could include time spent on legal research, preparing documentation, attending and travelling to and from court, and so on. The more time individuals spend on a dispute and away from work, the greater the impact on their productivity.

Our calculation to inform the user hours taken from working hours draws together the following data points:

- *The number of hours spent on a court case:* 24.15 hours, taken from page 26 of the 'Resolving Consumer Disputes: Alternative Dispute Resolution and the Court System Final Report (BEIS)¹²⁷

¹²⁷ BEIS, (2018), 'Resolving Consumer Disputes: Alternative Dispute Resolution and the Court System Final Report', pp 26.

- *The case volumes these ‘average’ level of hours apply to:* in line with our QALY analysis described in Section 4, we used case volumes from the most recent available MoJ Quarterly Statistics ¹²⁸– 2.1 million total legal disputes commenced in 2021
- *The % hours taken away from working hours:* this variable in our calculation attempts to capture the percentage of an individual’s normal working hours that are spent in a court case. In our analysis, this is assumed to be 80% based on benchmarking against existing literature.¹²⁹

Court user labour productivity:

Court user labour productivity refers to the productivity level of individuals involved in the legal dispute, adjusted for their characteristics such as age, gender, and employment. Our calculation to inform court user labour productivity draws together the following data points:

- *Employment rate by age and sex:* We used the Labour Force Survey 2022¹³⁰ in order to determine the percentage of those employed by gender and aggregated age-group categories. Employment is found to range from a lower bound value of 22% (16–19-year-old males) to an upper bound value of 81% (25–49-year-old males);
- *Output per worker by sector:* the ONS provides industry-specific estimates for seasonally adjusted (SA) productivity hours and jobs, as well as output per hour and output per job. In our analysis, the output per worker by sector is multiplied by employment by sector to calculate average labour market productivity;
- *Employment by sector:* In lieu of data on output per hour worked by age group, employment by sector was needed in order to take a weighting of output per hour worked by sector and estimate output per hour worked by age group. The Nomis dataset includes the total number of workers per sector in England and Wales, and their spread across five age categories.

¹²⁸ 2,154,370 cases were started in 2021 based on PA Consulting calculations using MoJ Quarterly Statistics 2021.

¹²⁹ PA analysis based on Richard Saundry & Peter Urwin, (2021), ‘Estimating the Costs of Workplace Conflict’, Acas.

¹³⁰ ONS, 2022., ‘Summary of Labour Market Statistics’ Available at: [Labour market overview, UK - Office for National Statistics \(ons.gov.uk\)](https://www.ons.gov.uk/labour-market-statistics/summary-of-labour-market-statistics)

Developing our total cost estimates:

The product of these two dimensions gives us the productivity impact of time taken away from work during a legal dispute. In other words, the more time individuals or businesses spend on the dispute, and the less productive they are during that time, and the greater the cost to the wider economy.

Scenario assessment methodology

Alongside our core assessment that focused on labour productivity and GVA, it is also important to consider other routes through which legal disputes might impact the economy. We considered two such routes which are linked to our analysis of health impacts set out in Section 4:

- The treatment that the NHS provides to these individuals leads to additional pressure on government spending
- Individuals involved in legal disputes incur stress and anxiety that is likely to see them take more sick days and absences from work. This leads to further labour productivity costs.

Additional costs to the NHS

Methodology and approach

Our analysis has considered not only the impact that prolonged court cases have on the UK's overall GVA and workforce productivity, but also the economic consequences associated with the **financial burden placed on the NHS** due to treating stress and other mental health conditions which arise from legal disputes.

The total cost to the NHS that can be attributed to legal disputes was calculated as:

*Likelihood of suffering from a mental illness because of the civil dispute (%) * Total number of civil disputes per year * Average cost per hour of counselling* Total hours needed in counselling per individual = Total additional cost to the NHS per year*

The output refers to the total cost that the NHS would incur as a result of providing counselling services to individuals who develop mental health issues due to CFT legal

disputes. This cost is calculated by multiplying the likelihood of a user suffering from a mental illness, the total number of civil disputes per year, the average cost per hour of counselling, and the total hours needed in counselling per individual.

Inputs and assumptions

Likelihood of suffering from a mental illness because of the civil dispute (%)

This refers to the probability of an individual experiencing stress or other mental health problems during the legal dispute process, in line with the likelihood calculations described in Section 4. To reiterate, this likelihood is based on data from the Legal Needs Survey 19/20, which shows that the longer a dispute lasts, the more likely an individual is to experience stress or mental health issues. The harm reported could be caused by the underlying event or the legal dispute process. By subtracting the probability of harm caused by the underlying event from the total probability of harm, a residual level of likelihood of experiencing stress attributed to the legal disputes process is calculated.

Total number of civil disputes per year

This refers to the total number of civil disputes that occur within a given year. Again, in line with Section 4, this is estimated to be **2.2 million** for the most recent year (i.e., 2021).

Average cost per hour of counselling

For the NHS costs, data was extracted from 'The Economic and Social Cost of Crime'¹³¹ study conducted by the Home Office. In this study, the estimates of health service costs are based on assumptions about the treatment that is likely to be required for certain injuries and the prevalence of the injuries. For emotional harms, the study references the hourly cost of counselling which was estimated to be £51 in 2016. Taking into account inflation, we assumed that this number increased to £57 in 2021. The exact unit costs of healthcare (in pounds) activities used are from Curtis and Burns (2015)¹³² and NHS Reference Costs from the Department of Health (2015).

¹³¹ Heeks, M., Reed, S., Tafsiri, M., & Prince, S. (2018), 'The economic and social costs of crime, second edition', Home Office Research report, pp 99.

¹³² Curtis & Burn, (2015), 'Unit Costs of Health and Social Care', PSSRU

Total hours needed in counselling per individual

This refers to the total number of hours of counselling that an individual would need based on their specific mental health issue. The average number of hours required for each of the four mental health issues studied (depression, anxiety/panic attacks, drug abuse, and alcohol abuse) is provided in Table 19 below:

Table 19 - Average number of therapy hours required split by medical requirement

Medical Requirement	Average Number (Hours of Therapy)
Depression	20
Anxiety/panic attacks	25
Drug abuse	50
Alcohol abuse	50

Source: PA analysis of: 'The economic and social costs of crime, second edition, 2018'

Sick days lost

Methodology and approach

Those experiencing stress and anxiety may be expected to be more likely to take sickness leave from work to recover and manage their mental health.

The total number of hours that employees take off work due to (i) mental illness and (ii) stress of court cases in a year were calculated. Then, this was used to estimate the lost productivity per hour in the economy, and this was translated into total output lost (in terms of GVA) in a year due to these sick days. This methodology incorporates our analysis around the potential emotional harms from legal disputes, where we attempt to use analytical methods to isolate the stress incurred as part of the legal dispute, rather than the underlying cause.

The formula can be illustrated as follows:

Number of employees with emotional stress likelihood of taking sick day per employee
with emotional stress = emotional stress hours lost per employee*

*Emotional stress hours lost per employee * likelihood of employee suffering from emotional stress due to court case* number of court users in work that suffer from stress * labour productivity per hour = lost output due to sick leave hours (£) per year*

Inputs and assumptions

Breaking down each of the elements of this formula:

- **Number of employees with emotional stress:** This is the number of employees in the UK with a mental illness, split by age and gender. The data is taken from Chapter 2 of Common Mental Disorders (Stansfeld et.al).¹³³
- **Likelihood of taking sick day per employee with emotional stress:** The number of sick days per year due to stress is taken from the ONS¹³⁴. This is then divided by the number of employees that experience emotional stress, to output how many hours each employee is likely to take off work because of the stress. This part of the formula gives us the hours lost (in millions) due to emotional stress per employee in the UK.
- **Likelihood of employee suffering from emotional stress due to court case:** From the LNS survey, this refers to the likelihood (in percentage terms) of experiencing stress directly attributed to a civil dispute.
- **Number of court users in work that suffer from emotional stress:** Also, from the Legal Needs Survey, this refers to the number of court users that are part of the labour force that suffer from stress.
- **Labour productivity per hour:** Taken from ONS statistics, this shows the economic output/hour of employees in the UK economy. This data is the same that was used for the core productivity scenario above.
- **Developing our lost output estimate:** The product of these factors gives us the lost GVA impact of time taken off during a legal dispute.

¹³³ Stansfeld et al., (2016), 'Chapter 2: Common mental disorders'.

¹³⁴ ONS, (2022), 'Sickness absence in the UK labour market', Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/sicknessabsenceinthelabourmarket>

Sensitivities

We chose to apply sensitivities tests where we found a level of uncertainty and/or where the results might be particularly responsive to changes in assumptions. These assumptions include:

80% user hours taken being in work hours

The assumption around the proportion of hours that users who engage in legal disputes take from work hours rather than leisure hours is not well documented within the literature. We expect 80% to be a relatively conservative approach, given that this is assumed to be 100% in an Acas report that looks at the labour productivity impact of court user's time.¹³⁵ Our 80% assumption presumes that all of the time spent in court and conducting legal meetings will be in work hours and that some of the time spent undertaking legal research and time spent travelling to court and legal meetings will be outside of work hours. While we expect that users will spend some of their free time conducting their own research, it is also likely to be true that workers are less productive during work hours due to the complexities and stress of the case. Our sensitivity test assumes a 10% confidence interval around this assumption, to obtain a range of 70%-90% of user hours being in work hours.

Duration of user hours spent on the case

We also apply a sensitivity test around the average number of hours an individual personally spends on a case. Our central estimate of 24 hours per user is sourced from BEIS (2018)¹³⁶ which sets out the personal time required to use the courts relative to ADR. This study groups the results using a range, and 25% of users report taking more than 40 hours of personal time. Our sensitivity test assumes a 10% confidence interval around this assumption, to obtain a range of 23-27 user hours.

¹³⁵ Richard Saundry & Peter Urwin, (2021), 'Estimating the Costs of Workplace Conflict', Acas.

¹³⁶ BEIS, (2018), 'Resolving Consumer Disputes: Alternative Dispute Resolution and the Court System Final Report', pp 26.

Case volumes – accounting for COVID-19

Consistent with our QALY assessment, our core assessment uses the cases initiated in 2021 that lasted beyond one month as the basis for our 'volume' metric in our analysis. We chose this timeframe as the latest annual period where there is a full year of published information. However, this period immediately followed a significant drop-off in case volumes in 2020 caused by the COVID-19 pandemic. To reflect that case volumes for 2021 may still capture some the impacts of judicial backlogs and delays since COVID-19, we designed a sensitivity test to assess the impact of using 2019 case volumes (2.3 million), as the closest full-year picture preceding the pandemic. For consistency in our analysis, we also used output per hour worked from 2019, rather than 2021.

Case volumes – accounting for pre-action cases

We conducted a sensitivity test to reflect pre-action cases where individuals may still need to take time away from work to engage in the dispute, despite no formal proceedings being launched. We conducted this sensitivity in line with the method described in Annex 3 but adjusting the duration assumption to reflect the lower time we expect users to engage in shorter dispute types. Whilst the duration of user hours spent on a case is unknown for pre-action users, we assume this to be 50% (12 hours) of the user hours required to use the court (24 hours).

Annex 5: Quality assurance summary

This Annex describes the analytical and quality assurance approach to review and assure the analysis, findings, and underlying models across both our QALY and GVA analysis. This approach has followed the quality assurance guidance set out in the HMT Aqua Book¹³⁷ to ensure we can have appropriate levels of confidence in the outputs of the analysis, together with the underlying analytical framework and methodology employed. We also provide a summary statement around the appropriateness, compliance, and uncertainty of the outputs, and cite the results from the arms-length review from our Expert Panel.

Progressive analytical review and assurance

Our analytical approach has been rigorously scoped, tested, iterated, and improved through extensive internal review and external engagement with the MoJ:

- The analysis was scoped following a comprehensive review of the evidence that identified and short-listed analytical quantification opportunities
- Analytical plans were prepared that detailed key data inputs and methodologies and data has been gathered and analysed from a number of departments across government including MoJ
- Reputable data sources, including official statistics, internal HMG data and from well-established academic literature discovered during our accelerated evidence review
- Our methodologies and assumptions were iteratively tested and refined internally, including through numerous analytical working group sessions. Key assumptions and approaches were agreed progressively with the MoJ project team through regular review and steering sessions prior to the final draft
- Analytical approaches, scenarios and sensitivities were developed, refined, and agreed in close liaison with our Expert Panel of academics close to this subject
- A number of model audit checks were completed (see below).

¹³⁷ GOV.UK, (2023), 'The Aqua Book: guidance on producing quality analysis for government', Available here: [The Aqua Book: guidance on producing quality analysis for government - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/the-aqua-book-guidance-on-producing-quality-analysis-for-government).

The model to quantify the health and wider economic impacts of CFT legal disputes has been developed in line with our internal modelling best-practice guidelines at all times. This has included undertaking a technical review of the model by an independent, suitably qualified resource who has provided detailed feedback on the design, build, and operation of model calculations.

Expert Panel comments

We provided an extra layer assurance on our analytical approach and outputs through regular engagement with our Expert Panel. Our Expert Panel consists of experienced academics with notable experience in the CFT legal disputes space:

- Professor Neil Rickman – University of Surrey
- Professor Richard Moorhead – University of Exeter
- Professor Paul Fenn – ex-University of Nottingham

Feedback from our Panel has been received and acted upon at each key stage of the analysis, including analytical scoping, methodology design and reporting and assurance.

Overall, the Expert Panel found that our analytical approach is broadly fit for purpose, using appropriate and proportional analytical approaches given the scope of the study. The Panel recognised the challenges and limitations in the existing data, which has required different data sources to be translated together to parameterise the model. The Panel provided several recommendations for deeper and more extensive analysis and the collection of new primary data. A key piece of feedback from the Panel related to the potential uncertainty around the ‘volume metric’ in our analysis. Namely, they considered that the use of published court statistics likely represents a conservative estimate for the total cost from legal disputes as this does not capture the large number of pre-action cases that do not proceed to a formal case being issued. To capture this feedback, we designed a sensitivity test in conjunction with our Panel and have presented the results in this discussion paper.

Summary assurance statement

Having conducted the assurance processes set out above, and considered the feedback from our academic panel, we can draw the following assurance statements:

Appropriateness

'Appropriateness' reflects how well the analytical approach and output address the analytical requirements of the issue being posed. We consider that given the focus of the study to secondary analysis of existing data sources, our analysis uses appropriate analytical techniques to provide insights into the broad order of magnitude of certain indirect and wider costs of CFT legal disputes.

Compliance

Compliance refers to how closely the analysis adheres to the relevant guidance. We consider that our analysis adheres to the key principles and assurance framework set out in the HMT Aqua Book.

Uncertainty

'Uncertainty' captures the quantitative uncertainty in the estimated output that may be accounted for using analytical techniques, and qualitative uncertainty for unknowns that may be out of scope for the analytical framework deployed. We consider that our analysis is subject to uncertainty, given the complex nature of legal disputes and the broad range of assumptions we applied and datasets drawn from. We sought to address this uncertainty through incorporating a range of scenarios and sensitivity tests. However, caution should be applied when interpreting and applying these results (see below).

Fit for purpose

In summary, we consider that our analysis is fit for the purpose that it has been designed for – namely, to inform the broad size of distinct indirect and wider costs from CFT legal disputes. Given that new primary data collection was not available for the purposes of the work, the analysis draws on an appropriate range of secondary analytical techniques, applying assumptions in a way that is compliant with HMT Aqua Book best practice. The analysis is subject to uncertainty, and this has been captured through scenario analysis and sensitivity testing. Our analysis should be used to inform future policy debate and development but should not be used in isolation to appraise specific justice system

interventions. This research should be used in conjunction with broader evidence on the full range of direct, indirect, and wider costs, and benefits, when appraising distinct civil justice system interventions.

Annex 6: Accelerated evidence review

This section outlines our methodology for assessing the evidence on the economic costs of CFT legal disputes. This methodology has been inspired by the principles of ‘Rapid Evidence Assessment’¹³⁸ to put in place a structured and rigorous approach that identifies a comprehensive coverage of existing research and literature, whilst conducting the review proportionally and within the time bounds of the project. We developed the following methodology by liaising closely with the MoJ team. This sets out the research questions, information sources, search strategy, and selection process.

Research questions

We initially set out to provide evidence-based answers to the following research questions:

What are the existing categories of costs in the current civil justice system and the drivers of these costs?

- What are the “direct costs” of CFT legal disputes? These costs refer to observable financial costs to the individuals, businesses, and Government
- What are the “indirect costs” of CFT legal disputes? The costs include additional costs (financial and economic impact) such as social, physical, and psychological to individuals and businesses, as well the Government
- What are the key drivers of the direct and indirect costs of CFT legal disputes? Key drivers may be the financial burden of acquiring advisory and/or representation, backlogs in the legal system, and the justice system being complex to navigate.

¹³⁸ Civil Service Archives, (2014), ‘How to do a Rapid Evidence Assessment’, Available at: [\[ARCHIVED CONTENT\] How to do a REA - Civil Service \(nationalarchives.gov.uk\)](#)

Where are the costs mostly to occur in a typical user journey?

- Where are the direct and indirect costs of legal disputes most likely to occur in a typical user journey for the following court cases:
- Civil case: business to business case
- Civil case: large claims (£10,000+)
- Employment tribunal: party-to-party case.

What are the wider financial and economic impacts of CFT legal disputes?

- What are the wider impacts of the direct and indirect costs of CFT legal disputes?
These include:
 - o Social impacts: increases in unemployment and related benefits (job seeker's allowance, social housing benefit etc), demand on local council services etc
 - o Health impacts: financial pressure on the health service due to the need for therapy and treatment for stress and ill-health.

What are the existing relevant appraisal and evaluation methodologies and/or frameworks?

- Existing approaches to appraise the wider costs in the civil justice system
- Existing approaches to appraise costs in other settings i.e. DfT's appraisal guidance (webTAG).¹³⁹

¹³⁹ Web-based Transport Analysis Guidance is used to support evaluation planning and business cases for transport interventions.

Information sources

We retrieved evidence from publicly available policy documents, academic literature, and the relevant statistical surveys. For this purpose, we focused on the following sources to search for evidence:

- Policy documents published by the UK public authorities, including the Ministry of Justice, Department for Health and Social Care, Home Office, and BEIS.
- Databases of published and unpublished academic literature including: Google Scholar, JSTOR, NBER, Science Direct, and SSRN eLibrary.
- Website and publications from the relevant institutions, including from ACAS, Judiciary of England and Wales, Ipsos, World Bank, and CEBR.
- Official UK Government databases, including quarterly statistics from: tribunal statistics, Family Court Statistics, civil justice Statistics, and any other relevant data from the ONS.

This information was supplemented by non-public, non-sensitive statistical information provided by MoJ in distinct areas, to help triangulate findings identified through public sources.

Search strategy

We designed and carried out the search strategy to ensure it could thoroughly answer the research questions. Table 20 contains the keywords that were used to identify additional sources of evidence, in addition to the existing evidence base. These keywords were combined into search strings, using Boolean operators (AND/OR/NOT) and other database specific operators.

Table 20 - List of key words

Category	Key words
Direct costs of CFT legal disputes	cost of legal advisory/services/representation/fees/disputes; cost to government/businesses; direct/indirect costs; legal costs; economic impact; legal aid; ADR; mediation; earnings
Indirect costs of CFT legal disputes	psychological/ mental health impact [including stress, trauma, anxiety]; financial pressures [including unemployment, debt, housing]; social impacts [including family and marriage]; opportunity costs to businesses; network; job opportunity; reputation
Cost drivers	legal complexity [costs, causes, consequences]; court backlogs/waiting times; long/inefficient process; incorrect judgment; information barriers
Wider impact	societal; economic analysis; economic costs; costs to health services [NHS, therapy]; unemployment; benefits; social housing; local councils; community; workforce; opportunity costs
Research methodology	appraisal; evaluation; framework; economic modelling/analysis; economic impact; causality

Selection process

We carried out independent research using our search strategy to expand our knowledge of existing sources. The next stage was to screen the titles and abstracts to decide which to include in the short list. The screening process to shortlist papers was carried out according to the inclusion and exclusion criteria as set out below in Table 21.

Table 21 - Inclusion and exclusion criteria

Theme	Inclusion Criteria	Exclusion Criteria
Population	All (all individuals and businesses that enter the civil legal process)	
Areas of impact/outcomes	<p>Studies/policy documents that focus on the impact of CFT legal disputes on individuals, businesses, and government.</p> <p>Studies that assess/evidence the costs/pressures in the existing civil legal system.</p>	
Methodology	All (surveys, appraisals, descriptive, quantitative, qualitative etc.)	
Date of research	All (prioritising the most recent sources)	
Language	English	Other language
Geographical location	Evidence from the UK will be prioritised but will be supported by including regions of interest to the MoJ, such as Canada and Estonia, as a secondary focus	

For the purposes of this phase, we assessed the quality of the studies that were included in the short list. The quality assessment of the new evidence is based on: a) credibility, b) methodology; and c) relevance of the study. We assigned a score of 1-3 to each category, and the overall judgment.

Table 22 - Quality-assessment criteria

Category	Description	Score
Credibility	Is the study coherent? Can findings be trusted? Does the author consider the limitation of their study or provide alternative views? Is the study peer-reviewed?	1-3
Methodology	Is the research design or methodology appropriate? Is it replicable?	1-3
Relevance	Does the study help to answer the research questions?	1-3
Overall judgment	What is the overall judgment, taking into account above?	1-3

Outputs

Each source of evidence has been screened and scored in accordance with the criteria outlined above. The evidence assessment process followed a robust screening methodology, including inclusion and exclusion criteria, to ensure the evidence collected were credible and methodologically relevant. This was essential due to the rapid nature of the evaluation process.

Relevance was then an important consideration for inclusion in the evidence base, given strong scores in credibility and methodology. Any source of evidence that was deemed to lack relevance, despite scoring highly on credibility and methodology, scored a low overall judgment score and will not be included in the evidence base for the feasibility study. As a rule of thumb, any piece of evidence with a score in overall judgement of 1 was not included.

The evidence base provides a combination of quantitative and qualitative insights in support of the research questions. Quantitative evidence was mostly drawn from official

quarterly MoJ statistics, which provides insights into the trends driving costs within the CFT justice system. These statistics include time series data on the number of claims, the number of weeks between claim and trial, and the number of parties with legal representation. Further quantitative evidence was supplied directly by the MoJ in relation to statistics on high value cases, providing supporting evidence for the costs of civil money claims cases with values over £10,000. Wider evidence includes ‘*The Economic Costs of Crime*’ publication from the Home Office, which estimates the mental health costs to the NHS of non-violent crime to the NHS and is quantified in monetary terms.¹⁴⁰

In total 188 pieces of evidence were assessed. A detailed breakdown by the type of evidence is provided below in Table 23:

Table 23 - Breakdown of sources

Evidence type	Direct costs	Indirect costs	Wider costs
Academic papers	48	47	18
Legal journal articles	4	1	-
Cost-benefit analysis	-	-	-
Government consultations	5	1	-
Government publication	5	4	1
Industry reports	24	37	20
Official statistics	10	2	1
Surveys	7	6	1

¹⁴⁰ The cost impacts from non-violent crimes are likely to be more relevant for the cost impacts of civil legal cases.

Findings

In summary, our review has identified a number of significant evidence gaps on the costs of legal disputes, in particular in relation to indirect and wider costs. From our evidence assessment we identified the following priorities for further research:

- Updated evidence on the direct costs that individuals face when paying to access legal services, providing an updated picture following recent reforms to legal aid
- New survey evidence which captures the indirect costs individuals face across a legal dispute, such as those costs captured in the Legal Problems and Resolution Survey, last reproduced since 2014-2015
- Evidence on the ‘monetised’ impact of indirect costs incurred in a legal dispute, including:
 - The time spent researching and engaging in a legal dispute
 - The types of emotional / mental health / stress harms that might be caused by legal disputes
 - Income / job / house / possessions that might be caused by the financial impact of a legal dispute and length of time to resolve it
 - Impacts of employment tribunals on wages
 - Updated analysis on the indirect costs of legal disputes on businesses, in particular investment impacts
- Evidence on the ‘monetised’ impact of wider ‘knock-on’ costs incurred from individuals and businesses engaging in legal disputes, including:
 - The wider knock-on consequences to health and other public service and welfare spending
 - The wider knock-on consequences to the economy
 - The wider social impacts from legal disputes

- Academic-led research that is broadly scoped, exploring broad categories of costs, which goes beyond the assessment of particular types of costs in distinct case types
- Use of a consistent framework for identifying and appraising costs, with a common nomenclature and distinct cost categories.

These gaps, particularly in relation to the monetary impact of indirect and wider costs, become more pronounced when examining the costs that are incurred across specific types of legal disputes.

In light of these evidence gaps, we found there to be relatively limited opportunities to provide a direct quantification and monetisation of distinct sets of indirect and wider costs from the CFT justice literature alone. Our work has, however, uncovered a range of promising methodological approaches for appraising similar costs from broader fields such as crime and healthcare, that could be feasibly applied to legal disputes.

We identified a range of analytical methods available, focusing on potential analytical approaches that are more readily available to monetise the indirect and wider impacts of legal disputes. We worked with MoJ to identify two areas for further study – the potential health impacts from legal disputes, and the potential wider economic costs from legal disputes. These impacts have formed the basis for this discussion paper.

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