

Title: Prisons and Courts Bill: Civil Enforcement – Provision for AEOs and a fixed deduction scheme in the High Court IA No: MoJ030/2016/RTA RPC Reference No: RPC-3575(1)-MoJ Lead department or agency: Ministry of Justice Other departments or agencies: HM Courts and Tribunal Service	Impact Assessment (IA)			
	Date: 22/02/2017			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
	Contact for enquiries: Shirley Benson Shirley.Benson@justice.gsi.gov.uk			
Summary: Intervention and Options				RPC Opinion: Validated

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
-£0.23m to -£0.68m	-£1.52 to -£4.56m	£0.2m to £0.5m	In scope	Qualifying provision

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

The Government is committed to improving access to, and the efficiency of, civil justice. It is a key element of fair access to justice that creditors with an established claim should be able to pursue it through a straightforward and accessible system and, if necessary, enforce the judgment by the most appropriate means. The present system of enforcement has a number of weaknesses which have been identified as failing creditors and, in some circumstances, debtors. The Ministry of Justice (MoJ) is considering a range of proposals to improve the enforcement process including improvements to the choice of enforcement methods for the creditor when there is non-compliance with a judgment or order.

What are the policy objectives and the intended effects?

To align the processes for administrative enforcement across the County Court and High Court jurisdictions, the policy objective is to permit the High Court to make Attachment of Earnings Orders (AEOs) in relation to judgment debts on the same basis that the County Court can make such orders, and not just in relation to maintenance orders. The intention is to create a simpler service offering a single set of choices for the user. We also want to enable the fixed deductions scheme to be used in the High Court to calculate the rates of deductions for AEOs in relation to judgment debts in the same way that that scheme will be used in the County Court, once the County Court provisions have commenced.

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

Option 0: Do nothing

Option 1: To extend the ability of the High Court to make AEOs in relation to judgment debts on the same basis that the County Court can make such orders, and not just in relation to maintenance orders; and enable the use of the fixed deductions scheme in the High Court.

Option 1 is the preferred option as it best meets the government's policy objectives.

Will the policy be reviewed? There is no plan to review the policy.				
Does implementation go beyond minimum EU requirements?			No	
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister  **Date** 22/02/17

Summary: Analysis & Evidence Policy Option 1

Description. To extend the ability of the High Court to make AEOs in relation to judgment debts on the same basis that the County Court can make such orders, and not just in relation to maintenance orders; and enable the use of the fixed deductions scheme in the High Court.

FULL ECONOMIC ASSESSMENT

Price Base Year 14/15	PV Base Year 16/17	Time Period Years 10	Net Benefit (Present Value (PV)) (£)		
			Low:	High:	Best Estimate: -£0.23m to -£0.68m

COSTS (£)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low		£0.18m	£1.1m
High		£1.7m	£10.2m
Best Estimate	Not Quantified	£0.37m to £1.1m	£2.3m to £6.8m

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

To estimate the costs and benefits of this measure, two scenarios (a. and b.) are considered in this Impact Assessment.

- HMCTS would face an annual gross cost of around £81k for scenario a) and £242k for scenario b). These comprise of (i) lost writ of control fee income, (ii) cost of staff admin and County Court bailiffs involved in AEOs in the High Court.
- Creditors would face a gross cost of around £88k for scenario a) and £264k for scenario b) from the cost of AEO fees.
- High Court bailiffs would face a gross cost of around £112k for scenario a) and £336k for scenario b), due to (i) no longer receiving fees from debtors for different stages of the enforcement process, and (ii) no longer receiving compliance fees. These costs are considered to be cost-neutral in NPV calculations.
- Employers would face a gross cost of around £199k for scenario a) and £589k for scenario b), due to the administration time required processing AEOs each month.

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

HMCTS would face system implementation costs from introducing AEOs & a fixed deduction scheme in the High Court. There will be also be potential training costs for High Court staff. Neither of these costs has been quantified.

BENEFITS (£)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		£0.15m	£1m
High		£1.4m	£9.2m
Best Estimate	Not Quantified	£0.31m to £0.92m	£2m to £6.1m

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

- HMCTS would receive a gross benefit of around £91k for scenario a) and £273k for scenario b), due to (i) less AEOs fee income, and (ii) reduced admin costs associated with issuing writs of control.
- Creditors would receive a gross benefit of around £103k for scenario a) and £309k for scenario b), due to (i) less writ of control fees owed to HMCTS, and (ii) less compliance fees owed to High Court bailiffs
- Debtors would have a gross benefit of around £112k for scenario a) and £336k for scenario b) from reduced mean bailiff costs.

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

A more effective form of enforcement will significantly improve creditor's user experience and reduce their costs. A streamlined and quicker AEOs processing service may aid debtors to clear their debts more quickly.

Key assumptions/sensitivities/risks

3.5

The above estimates are based on the following assumptions:

- The AEOs in the High Court all come from creditors that would otherwise have chosen a writ of control.
- Only the future post HMCTS Reform costs are assumed to be valid in the impact assessment, even if the legislation takes effect before HMCTS Reform is fully implemented in enforcement.
- High Court bailiffs who lose work are assumed to find alternative economic activities

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: £0.2m to £0.5m	Benefits: £0	Net: -£0.2m to -£0.5m	Yes	QRP

Evidence Base (for summary sheets)

A. Background

1. The Government is investing over a £1 billion to transform the courts and tribunals system. We will deliver a service that is just, proportionate, accessible to all and works better for everyone, from judges and legal professionals, to witnesses, litigants and victims of crime. This measure is part of a wider legislative package that underpins the court reform programme and collectively contributes to benefits of £252 million per annum at steady state from 2023-24. While most of the measures in the Bill produce significant direct savings, some do not. However, the measures are interdependent and all contribute to wider, indirect savings by streamlining processes, enabling more flexibility in judicial deployment, digitalisation, effective deployment and utilisation of our staff and estates. In short, each measure is vital for us to deliver the reform programme and associated savings as planned.
2. The civil justice system exists to provide a proportionate and effective means of resolving disputes that delivers the legal security that businesses need in order to invest, regulators to oversee markets, and citizens to enforce their rights and that guarantees that authorities obey the rule of law.
3. Currently the civil courts are responsible for handling civil disputes and issues across two main branches of operation: the County Court and the High Court. Both deal with a wide variety of cases, including money claims. It is a key element of fair access to justice that creditors who have established a legitimate claim should be able to pursue it through a straightforward and accessible system and, if necessary, enforce the judgment by the most appropriate means.
4. There are currently a number of different ways that a creditor may enforce a debt in the civil courts. In the majority of cases, it is for the creditor (usually the claimant) to choose his preferred method of enforcement. These methods of enforcement fall into two broad categories: administrative enforcement and physical enforcement. Physical enforcement generally involves the issue of a warrant or writ, which entitles an enforcement agent to attend at an address of the debtor and physically to recover money, or goods and possessions which are then sold and the debt then can be recovered from the proceeds of sale. Administrative enforcement involves some form of administrative process, generally an order of the court restricting or directing the use of the debtor's assets. While some methods of enforcement are available in both the High Court and the County Court, other forms are only available in one.
5. The present system of enforcement has a number of weaknesses which fail creditors and, in some circumstances, debtors. LJ Briggs¹ report of the Civil Court Structure Review described enforcement as the "Achilles heel" of the civil court. In his full report, he supports simplifying and harmonising the procedures for enforcement between the relevant civil courts to break down some of the existing barriers. The judiciary are supportive of these measures as they have previously had concerns about the effectiveness of current enforcement provision.

Enforcement by way of Attachment of Earnings Orders

6. One method of administrative enforcement is an Attachment of Earnings Order (AEO). In summary, this is a court order directed to a debtor's employer ("the employer") that requires (and enables) them to deduct a certain portion of the debtor's earnings to repay the debt. The amount is paid to the collecting officer as specified in the order, or as the court may decide. A centralised attachment of payments system that is based in Northampton is responsible for the collection of payments.
7. Two key issues have been identified in relation to enforcement by way of AEO. The first is that, while AEOs are one of the most commonly used methods of enforcement of a monetary judgment in the County Court, they are not directly available in the High Court for civil debts. This means that if a

¹ Civil Courts Structure Review (CCSR): <https://www.judiciary.gov.uk/civil-courts-structure-review/civil-courts-structure-review-ccsr-final-report-published/>

creditor in the High Court wishes to enforce a judgment debt by way of an AEO, the matter must first be transferred to the County Court. This adds stages to the enforcement process, which results in delay and extra resource use by both the court and the creditor.

8. The second issue concerns the current method of calculation of the rate of deduction from earnings. At present, the rate of repayment is calculated by reference to the debtor's income and necessary outgoings. This information can be obtained from the debtor by him completing a statement of means in the form of court form N56². The statement of means form is designed to obtain certain key information about the debtor which is necessary to create a workable AEO. This information consists of a number of personal, employment and financial details about the debtor, which court staff use to calculate, on a case-by-case basis, the repayment rate required by the debtor in order to repay the debt at a manageable rate.
9. There are, however, two key disadvantages with the current personalised deductions scheme. Firstly, it is dependent on the debtor co-operating and providing the information required by the statement of means. In the majority of cases, enforcement officers are required to serve the papers personally – which inevitably uses time and resources and slows down the time taken to enforce the judgment – as many judgment debtors fail to respond to postal notification.
10. Secondly, court resources are used to calculate the rate appropriate for every case. There are powers currently included in the Attachment of Earnings Act 1971 to allow for a more efficient calculation system, by way of a fixed deductions scheme, that allows for deductions to be determined without the need to calculate deductions on a case by case basis, so saving court resources. The powers were introduced by the Tribunals, Courts and Enforcement Act 2007 (TCEA), but have not yet been commenced.

B. Policy Rationale and Objectives

11. The government is committed to improving access to, and the efficiency of, civil justice. It is a key element of fair access to justice that creditors who have established a legitimate claim should be able to pursue it through a straightforward and accessible system and, if necessary, enforce the judgment by the most appropriate means.
12. The associated policy objectives for aligning the processes for AEOs in the County Court and High Court and introducing the fixed deductions scheme are as follows:
 - *For judgment creditors:* To significantly improve user experience and reduce user costs by making an effective form of enforcement more readily available.
 - *For debtors:* If the process to determine the deduction rate were to be streamlined this may lead to the courts processing AEOs more quickly.
 - *For the courts:* It is anticipated that the introduction of the fixed deductions scheme in the County Court would generate savings of public funds.

C. Affected Stakeholder Groups, Organisations and Sectors

13. The groups most affected by the options in this Impact Assessment (IA) are as follows:
 - Judgement Creditors
 - Judgement Debtors
 - HMCTS
 - Enforcement Officers

² Form N56: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=611.

D. Description of options considered

14. To meet the policy objectives two options have been considered:

- **Option 0/Base Case: Maintain the current arrangements for the use of AEOs**
- **Option 1: Extend the ability of the High Court to make AEOs on the same basis as the County Court, and not just in relation to maintenance orders; and enable the use of the fixed deductions scheme in the High Court.**

Option 0: Base Case

15. Under this option, AEOs will not be available in the High Court on the same basis as the County Court; and the High Court will not have the ability to introduce the fixed deductions scheme. This will mean that procedures for the administrative enforcement method of AEOs will not be aligned across the County Court and High Court jurisdictions to break down some of the existing barriers and will not create a simpler and more consistent service that offers court users more choice. Therefore, this would not meet the policy objectives.

Option 1: Extend the ability of the High Court to make AEOs on the same basis as the County Court, and not just in relation to maintenance orders; and enable the use of the fixed deductions scheme in the High Court.

16. The option would involve aligning the use of AEOs across the County Court and High Court jurisdictions to create a simpler and consistent service that will offer a single set of choices for the user. We will also commence the fixed deduction scheme provisions in the TCEA (this is applicable to the County Court); and introduce fixed deduction scheme in the High Court jurisdiction.
17. Under this option, employers would be instructed to deduct an amount as prescribed in a deduction table through automated processes. This would speed up the process and reduce the administrative cost. It would also provide the ability of judgment creditors to recoup monies owed to them more quickly and provide increased certainty and consistency in the implementation of enforcement orders. Currently, the time from application to the making of an AEO takes an average of 12 weeks. With the fixed deductions scheme, the MoJ estimates this could be reduced to just over 14 days.
18. If the process also becomes faster this may lead to debtors beginning to repay their debts earlier and could, in some instances, lead to debtors repaying their debts in full or repaying a higher percentage of their debt. Additionally a more efficient system could encourage a greater uptake of AEOs as a preferred method of enforcement so reducing the use of physical enforcement via a Writ of Control (WOC) which can be invasive of private and family life and be traumatising in certain circumstances. Physical enforcement can also lead debtors to have goods worth more than the debt owed removed, and debtors can be responsible for High Court Enforcement Officer (HCEO) fees on top of the debt owed.
19. While further cost/benefit analysis is needed in relation to potential savings for the courts of enabling the High Court to order AEOs for judgment debts directly, it is anticipated that the introduction of the fixed deductions scheme in the County Court would generate savings of public funds by reducing the amount of administrative time and resource in processing and evaluating the N56 form. Court staff would no longer have to project earnings and calculate a reduction rate on a case by case basis, which is potentially a significant administrative saving. It is estimated that faster processing of claims may potentially reduce any backlog of AEO cases and lead to disputes being resolved quicker, which may also lead to greater confidence in the civil justice system generally.
20. As HCEOs would normally be responsible for enforcing High Court WOCs, if some judgment creditors who would otherwise seek a WOC in the High Court now seek an AEO as an enforcement method, it is likely that there will be an increased use of County Court bailiffs. Therefore, it has been assumed that County Court bailiffs would undertake all process serving related to High Court AEOs.

E. Cost and Benefit Analysis

21. This IA identifies both monetised and non-monetised impacts on government, HMCTS and court users with the aim of understanding what the overall impact on society might be from implementing the preferred option. Because the 'do nothing' option (Option 0) is being compared to itself, its costs and benefits, and therefore its Net Present Value (NPV), are necessarily zero.
22. HCEOs would likely experience changes in demand as a result of the proposed reforms. Throughout this IA their estimated loss or gain in revenue is included in the costs and benefits sections, but is not included in the NPV calculations (this is in line with standard practice for calculating the effects of changing demand on suppliers – it has been assumed that they will reallocate their time to the next most profitable use of their services).

Option 1: Extend the ability of the High Court to make AEOs on the same basis as the County Court, and not just in relation to maintenance orders; and enable the use of the fixed deductions scheme in the High Court.

23. It is not possible to accurately estimate the number of people who might seek an AEO where they would otherwise have sought another type of enforcement order. We do not have data to inform what the take up would be, but we expect it to be low given High Court cases are for debts of at least £100,000 and the majority of WOCs in the High Court are made against individuals, so it is unlikely many debtors will have sufficient income to make an AEO a viable choice.
24. Instead, we have considered two scenarios in the primary analysis, and considered the impacts of a further increase in the number of High Court AEOs in the sensitivity analysis. These are:
- Scenario a): 800 creditors who would currently seek a WOC in the High Court now seek an AEO in the High Court. This scenario assumes that the proportion of AEOs in the High Court is around 1% of total enforcement orders in the High Court, in 14/15.
 - Scenario b): 2400 creditors who would currently seek a WOC in the High Court now seek an AEO in the High Court. This scenario assumes that the proportion of AEOs in the High Court is around 3% of total enforcement orders in the High Court, in 14/15.
25. We may also witness creditors who would otherwise use High Court administrative orders³ choosing High Court AEOs instead, but as administrative orders only currently form around 1% of High Court orders, for the purposes we have assumed that all AEOs would come from creditors that would otherwise choose writs of control. We may also witness AEOs occurring in the High Court that would otherwise be cases referred from the High Court to the County Court to seek an AEO. However, this only occurred once in 2014/15, and, as such, this negligible impact has not been considered in this IA: the vast majority of AEOs in the High Court would come from creditors who would otherwise seek a writ of control, and as such this has been the primary assumption included in the modelling.
26. Only post HMCTS reform costs are considered in this IA, even if legislation for fixed deduction scheme and AEOs in the High Court's takes effect prior to wider HMCTS reform.
27. For the purposes of this IA:
- Costs and benefits are rounded to the nearest £1,000.
 - Percentages quoted are rounded to the nearest 1%.
 - Volumes below 5,000 have been rounded to the nearest 100, whilst volumes greater than or equal to 5,000 have been rounded to the nearest 500.
 - Fixed fees have not been rounded.
 - The costs and benefits represent the annual impacts once the reforms have bedded in, which is assumed to take one year. It has also been assumed in the NPV calculations that in the first year

³ Charging orders, Third party debt orders, or Judgement summons.

50% of the expected creditors would make use of AEOs in the High Court and that this would rise to 100% in the second year.

Costs of Option 1 - Scenario a

Monetised Costs

HMCTS

28. HMCTS would no longer receive High Court WOC fee income of £66 per claim from the 800 creditors that would seek AEOs instead, reducing HMCTS income by around £53,000 per annum.
29. HMCTS would pay a total administrative cost of around £13 per AEO in the High Court⁴, which accounts for expected efficiencies attained due to, digitalisation of HMCTS services, and the impact of the fixed deduction scheme, that reduce the administration time per order to around 22 minutes. The 800 AEOs would cost HMCTS around £10,000 per annum.
30. Very few cases are currently referred each year from the High Court to the County Court⁵, so any benefits gained from no longer needing to refer these cases has been considered as negligible.
31. HMCTS would pay mean County Court bailiff costs of around £22 per AEO in the High Court, costing them around £18,000 per annum.
32. This would give a total cost to HMCTS of around £81,000 per annum.

Creditors

33. Creditors would pay £110 per AEO sought in the High Court, costing them around £88,000 per annum.

Bailiffs

34. HCEOs and civil enforcement agents⁶ would not receive fees paid by debtors for different stages of the WOC enforcement stages. Based on data collected as part of the Enforcement Reform 1 Year Review, the median bailiff costs paid by debtors per WOC was around £140⁷. The bailiff's income could be reduced by around £112,000 for the 800 WOC that would become AEOs instead. However, this is treated as cost-neutral in the NPV calculations.

Employers

35. Employers would have a gross cost of around £199,000 per annum, due to the requirement for them to process an assumed 2,400 AEOs per annum at steady state⁸, at an annual cost of £83.12 per AEO⁹.

Non-Monetised Costs

Judicial

36. There may be some negligible judicial costs to HMCTS due to AEO hearings being required in the High Court, which have not been monetised; Hearing times could be reduced by 50% due to a fixed deduction scheme, and by a further 10% due to digitalisation. As it has been assumed there would only be 800 AEOs in the High Court, we could expect there to be around 10 hearings per annum¹⁰.

⁴ See the Data and Key Parameters section for further details on this data and derivation.

⁵ There was one case recorded in the data between 2011/12 to 2014/15.

⁶ Both of which primarily sit within the private sector.

⁷ See the Data and Key Parameters section for further details on this data and derivation.

⁸ As debtors are assumed to take 3 years to clear their debts, at steady state there will always be 800×3 AEOs being processed by employers, assuming that no AEOs drop out before this 3 year period finishes. Please see the assumptions and data and key parameters sections at the end of the IA for more details.

⁹ See the data and key parameters section for details on how this cost is calculated.

¹⁰ Around 2% of AEOs orders in the County Court required a hearing, in 14/15.

Debtors

37. Some debtors may believe that their employment status may be affected by an AEO. However we consider any risk to a debtor's employment status would be outweighed by the reduction in use of other methods of enforcement which might have a bearing on their right of private and family life.
38. There may also be further system implementation costs that have not been quantified, such as AEO training costs for High Court staff.

Benefits of Option 1 – Scenario a

Monetised Benefits

HMCTS

39. HMCTS would receive AEO fee income of £110 per case, providing income of around £88,000 per annum.
40. HMCTS would no longer pay administrative costs of around £4 per WOC¹¹ for the 800 creditors that would take up AEOs instead, saving around £3,000 per annum.
41. This would provide a total benefit to HMCTS of around £91,000 per annum.

Creditors

42. Creditors would no longer pay £66 per WOC for the cases that become AEOs instead, saving creditors around £53,000 per annum.
43. Creditors would no longer pay an estimated mean amount of £63 per WOC¹² in compliance fees to bailiffs, saving around £50,000 per annum.
44. This would give a total benefit to creditors of around £103,000 per annum.

Debtors

45. Debtors would no longer pay the estimated mean bailiff costs for the 800 WOC that would proceed as AEOs instead, saving them around £112,000 per annum.

Non-Monetised Benefits

Debtors

46. The introduction of both fixed deduction scheme and AEOs in the High Court should provide a streamlined service that should enable debtors to clear their debts quicker.
47. Debtors would also possibly avoid any potentially traumatic experiences from having to deal with bailiffs or having goods physically removed from their home for High Court cases that are treated using AEOs instead.

Creditors

48. Creditors would also be able to select an enforcement method tailored to the type of debt / debtor without any restrictions, which may allow them to receive the money they are owed faster than if there was no reform.

¹¹ See the Key Data and Parameters section for details on this derivation.

¹² See the Key Data and Parameters section for details on this derivation.

Costs of Option 1 - Scenario b

Monetised Costs

HMCTS

49. HMCTS would no longer receive High Court WOC fee income from the 2,400 creditors that would seek AEOs instead, reducing this income by around £158,000 per annum.
50. HMCTS would pay a total administrative cost of around £13 per AEO in the High Court, which accounts for expected efficiencies attained due to, digitalisation of HMCTS services, and the impact of the fixed deduction scheme, that reduce the administration time per order to around 22 minutes. The 2,400 AEOs would cost HMCTS around £30,000 per annum.
51. HMCTS would pay County Court bailiffs around £53,000 per annum to help enforce AEOs in the High Court.
52. This would give a total cost to HMCTS of around £242,000 per annum.

Creditors

53. Creditors would pay £110 in fees per AEO sought in the High Court, costing them around £264,000 per annum.

Bailiffs

54. High Court Enforcement Officers and civil enforcement agents would not receive fees paid by debtors for different stages of the WOC enforcement stages, at an estimated value of £140 per WOC. The bailiff's income could be reduced by around £336,000 for the 2,400 WOC that would become AEOs instead. However, this is treated as cost-neutral in the NPV calculations.

Employers

55. Employers would have a gross cost of around £598,000 per annum, due to employers processing an assumed 7,400¹³ AEOs per annum at steady state¹⁴, at an annual cost of £83.12 per AEO.

Non-Monetised Costs

Judicial

56. There may be some negligible judicial costs to HMCTS due to AEO hearings being required in the High Court, which have not been monetised. Hearing times could be reduced by 50% due to a fixed deduction scheme, and by a further 10% due to digitalisation. As it has been assumed there would only be 2,400 AEOs in the High Court, we would expect there to be around 25 hearings per annum.

Debtors

57. Some debtors may believe that their employment status may be affected by an AEO. However we consider any risk to a debtor's employment status would be outweighed by the reduction in use of other methods of enforcement which might have a bearing on their right of private and family life.

¹³ See the data and key parameters section for further details

¹⁴ As debtors are assumed to take 3 years to clear their debts, at steady state there will always be 2,400 * 3 AEOs being processed by employers, assuming that no AEOs drop out before this 3 year period finishes. Please see the assumptions and data and key parameters sections at the end of the IA for more details.

Employers

58. There will be some potential costs for employers who would be administering the pay deductions. This could be particularly true for small businesses who may not have an established payroll team with a system already in place for dealing with deductions and whom have not previously had to administer payroll deductions. It is not possible to quantify these costs, however the expectation is that it will involve a modest amount of time to implement the deduction process initially and then a small amount of additional time to make the required monthly payments.
59. As mentioned in scenario a), there may be some staff training costs and system implementation costs that have not been quantified, such as AEO training costs for High Court staff.

Benefits of Option 1 - Scenario b

Monetised Benefits

HMCTS

60. HMCTS would receive AEOs fee income of £110 per case, providing income of around £264,000 per annum.
61. HMCTS would no longer pay administrative costs of around £4 per WOC for the 2,400 creditors that would take up AEOs instead, saving around £9,000 per annum.
62. This would provide a total benefit to HMCTS of around £273,000 per annum.

Creditors

63. Creditors would no longer pay the £66 WOC enforcement court fee for the cases that become AEOs instead, saving creditors around £158,000 per annum.
64. Creditors would no longer pay an estimated mean amount of £63 per WOC in compliance fees to bailiffs, saving around £151,000 per annum.
65. This would give a total benefit to creditors of around £309,000 per annum.

Debtors

66. Debtors would no longer pay the estimated mean bailiff costs per WOC for the 2,400 WOCs that would proceed as AEOs instead, saving them around £336,000 per annum.

Non-Monetised Benefits

Debtors

67. As discussed in scenario a), the introduction of both fixed deduction scheme and AEOs in the High Court should provide a streamlined service that should enable debtors to clear their debts quicker, and they should benefit from having less potentially traumatic experiences from having with bailiffs.

Creditors

68. As discussed in scenario a), creditors would benefit from knowing whether their debt will be recovered in full sooner, due to the streamlined processes caused by fixed deduction scheme.

This publication was archived in June 2017.

Option 1 summary.

The monetised costs and benefits of Option 1 are summarised in the table below.

The cost and benefits may not match the net exactly due to rounding.

	Costs (scenario a)*	Benefits (scenario a)*	Net (scenario a)	Costs (scenario b)	Benefit (scenario b)	Net (scenario b)
HMCTS	£10,000 in admin costs for the AEOs in the High Court	£3,000 in reduced writ of control admin costs	£10,000 net benefit	£30,000 in admin costs for the AEOs in the High Court	£9,000 in reduced writ of control admin costs	£31,000 net benefit
	£53,000 in lost writ of control fees	£88,000 in AEO fee income		£158,000 in lost writ of control fees	£264,000 in AEO fee income	
	£18,000 in County Court bailiff costs for the new AEO			£53,000 in County Court bailiff costs for the new AEO		
Creditors	£88,000 in AEO fees	£53,000 in writ of control fees no longer owed.	£15,000 net benefit	£264,000 in AEO fees	£158,000 in writ of control fees no longer owed.	£46,000 net benefit
		£50,000 in compliance stage bailiff costs no longer owed on the writs of control that become AEOs instead			£151,000 in compliance stage bailiff costs no longer owed on the writs of control that become AEOs instead	
Debtors		£112,000 saved in writ of control fees.	£122,000 net benefit		£336,000 saved in writ of control fees.	£336,000 net benefit
Employers	£199,000 net cost		£199,000 net cost	£598,000 net cost		£598,000 net cost
Total costs and benefits	£368,000 net cost	£306,000 net benefit	£62,000 net cost	£1.1m net cost	£919,000 net benefit	£185,000 net cost

E. Data, Assumptions, Risks and Sensitivities

Data

Primary data and admin costs

69. The primary data that has informed this IA is 2014/15 HMCTS operational data. This data includes volume and time spent on a variety of Business Management System (BMS) codes, which comprise the County Court management processes, and the volume of enforcement orders in the County/Family Courts. Applying estimates of the efficiencies that would be gained to the relevant BMS processes allowed us to estimate the number of admin hours that could be saved processing AEOs or WOCs.
70. There were approximately 80,000 enforcement orders in the High Court in 14/15. There were 79,175 WOC which represented 99% of all High Court enforcement orders. Around 90% of WOC (71,000) were brought against individuals.
71. In contrast, in the County Court, there were approximately 109,000 warrants of control in 14/15, which represented around 28% of the total County Court enforcement orders, and there were 85,000 AEOs, which represented 22% of the total County Court enforcement orders.
72. We used the analysis originally done to estimate the admin workload impact of the proposed HMCTS Reform initiatives to analyse further efficiencies expected on the Enforcement BMS processes as a result of HMCTS Reform initiatives. Enforcement was outside the scope for HMCTS Reform during that earlier analysis into HMCTS Reform workload impacts. However certain case types that were in scope for that earlier analysis share certain admin activities with enforcement. For example the time associated with correspondence activities were estimated to be reduced by 85% as a result of Reform initiatives. It was assumed that this would apply equally to correspondence in enforcement.
73. It is assumed that the administrative cost to HMCTS per any enforcement order including AEOs and writs of control would be around £35¹ per hour. Assuming HMCTS Reform purposed changes are implemented before this legislation comes into being, and they have the impact assumed in the HMCTS Reform business case, the administrative cost per AEO is estimated to fall from around £60.70 to £12.70 (79%), and that per writ of control would be reduced from £3.70 to £3.51 (6%).
74. It is assumed that the employer administrative cost processing each AEO would be £13.75 per hour. This is calculated using data from the Office for National Statistics annual survey of household earnings, 2016². It has been estimated that it would take employers on average just over 30 minutes per AEO per month to process an AEO, giving an annual total of 6.05 hours per AEO. This gives an average cost to employers of £83.12 per AEO (6*£13.75). The employer administration time has been estimated using evidence from Ministry of Justice payroll team that indicates they spend around 20 minutes processing an AEO each month. This average time has been increased by around 50% to account for the fact that not all debtors will be from large organisations with dedicated payroll teams, it may take longer to process the first few AEOs if the employer has not processed one before, and that some debtors may not have traditional work patterns, which could require more time to calculate the net pay each month. We do expect most debtors to be from large organisations though, due to the High Court AEOs representing debts of at least £100,000.
75. It has been assumed that employers would continue to make deductions from an employee's pay for 3 years after the first deduction is made, i.e. that the debt is cleared after three years. In the absence of data behind this assumption, the impact of it taking 5 years to clear the debt has also been considered in the sensitivity analysis section.
76. As employers will need to continue to process AEOs each month until the debt has been cleared, and as it has been assumed there are 800 or 2,400 new AEOs each year, it has been considered in

¹ It is estimated that all post reform enforcement orders in the High Court would have an admin cost of £34.72 per hour. This is calculated by considering the weighted average of admin staff salaries by grade in the County Court.

² The median weekly wages for full time staff in 2016 is given as £539, and the mean hours worked per week by full time staff in 2016 is given as 39.2. £539/39.2 = £13.75.

the costs and benefits section that at steady state employers would be processing 2,400 or 7,200³ AEOs each year. This could be an overestimate as some AEOs could be cleared or drop out for other reasons during this time, but on the other hand it may take employees longer than 3 years to clear their debts, so on balance it seems to be a reasonable assumption.

Bailiff costs

77. To provide further detail on the cost of bailiffs in the High Court, data was sourced from the Enforcement Reform 1 Year Review Report. This report assesses data received from a large number of HCEOs and civil enforcement agents⁴ to analyse the effectiveness of the Enforcement Reforms, introduced in April 2014. It found that the enforcement of WOC was successful in 33% of cases involving HCEOs, and 27% for civil enforcement agents. It has been assumed in this IA that the success of enforcement is the mean of these two proportions, (30%)⁵.
78. The Enforcement Reform 1 Year Review also found that the median amount of bailiff costs paid by debtors to HCEOs for successful cases was £292, and the median total paid for all warrants was £75 (whether enforcement was successful or not). In the absence of further detailed data, a weighted average has been taken to get the estimated cost to the debtor per writ of control. Given it has been assumed that the success of enforcement is 30%, this has been calculated as: *Mean cost to debtor per writ of control* = (30% * £262) + (70% * £75) = £140
79. Similarly, as creditors can recover all costs if enforcement of their writ is successful, but owe bailiffs a compliance fee of £90 if enforcement is unsuccessful, then for the purposes of the impact assessment the mean cost to creditors per writ of control has been estimated as: *Mean cost to creditors* = (30% * £0) + (70% * £90) = £63
80. Both of these calculations are just estimates as the data analysed in the review did not include complete coverage as submission of data was mainly voluntary, and since the data was collected shortly after the Enforcement reforms were enacted it is unlikely to represent the full impact of these reforms. However, it does provide a useful estimate for the purposes of this IA.

Key assumptions

81. For the purposes of this IA, the following assumptions have been made:
- The demand for AEOs in the High Court would come from those who would otherwise seek a WOC in the High Court. It may also be case that demand would also come from other types of High Court orders, but this is a reasonable assumption given that WOC form 99% of orders in the High Court.
 - There would not be creditors who currently obtain an AEO in the County Court who would now seek an AEO in the High Court.
 - All AEOs would progress at least to the stage where payments are deducted from salaries (i.e. there will not be any AEOs which fail to result in a payment).
 - The AEOs processes in the High Court would be the same as the post-reform digitalised AEOs processes in the County Court (although the sums involved could be far greater than in a County Court), with further efficiencies achieved through the fixed deduction scheme.
 - There are no administrative savings expected in the WOC process as a result of fixed deduction scheme. There is however an expected efficiency saving to the WOC process at the issue stage

³ 3* 800 and 3*2,400

⁴ 1.2m warrants received and closed from civil enforcement agents covering April 14 to April 15, and 32,000 High Court writs issued and closed from ten High Court Enforcement Officers Agencies

⁵ In the absence of volume data an average of these two numbers has been taken, rather than a weighted average. Given the two values are very close though a weighted average would likely be near to 30% anyway.

due to digitalisation, which has been treated as being proportional to the expected efficiency saving for AEOs at the issue stage.

- As HCEOs would normally be responsible for enforcing High Court WOCs, we assume some judgment creditors who would otherwise seek a WOC in the High Court would now seek an AEO as an enforcement method. As a consequence it is likely that there will be an increased use of County Court bailiffs. For the purposes of this IA, it has been assumed that AOE bailiff processes in the High Court would be undertaken by County Court bailiffs, rather than using HCEOs or alternative privatised functions.
- The fee for an AEO in the High Court is assumed to be the same as the fee for an AEO in the County Court, at £110 per AEO.
- The fee for a WOC in the High Court is assumed to be £66 per WOC.
- Any difference in future judicial costs for AEOs or WOCs is assumed to be negligible.
- A fixed deduction scheme would make the enforcement of an AEO in the High Court more effective.
- There is no data sharing to facilitate the use of a fixed deduction scheme.
- Creditors would not seek an AEO in the High Court and then later pursue a WOC if they were unhappy with the effectiveness of the AEO in the High Court.
- All costs and benefits outside of the NPV calculations are the steady state costs and benefits, i.e. once the reforms have had time to bed in. It has also been assumed that the volume of orders in the High Court is at steady-state, providing an overall baseline volume of claims to consider in future years.
- Only the future post HMCTS Reform costs are assumed to be valid in the IA, even if the legislation takes effect before HMCTS Reform is fully implemented in enforcement.
- It has been assumed that in 50% of High Court cases employer details are known.
- It has been assumed that the mean employer administrative cost of processing AEOs is £13.75 per hour, and it costs employers £82.12 per annum per High Court AEO. It has also been assumed that it takes 3 years for an employee to clear the debt on their AEO. Please see the Data and Key Parameters section for more detailed information on these assumptions.
- It has been assumed that the volume of AEOs each year (800 or 2,400) represents cases in which the debtor clears the debt via the AEO. Please see the Data and Key Parameters section for more details on this assumption.

Risks and Sensitivity Analysis

82. All the costs and benefits considered in this IA are proportional to the volume of WOC that could become AEOs. For example, if there were to be 50% more AEOs in the High Court than considered in scenario b) (3,600), then all the associated costs and benefits can be obtained by increasing the costs and benefits considered in scenario b) by 50%. This is given as the high estimate on the summary sheets. The respective low estimate considers there would be 50% less AEOs in the High Court than considered in scenario a) (400), and is also provided on the summary sheets.
83. This would mean creditors would receive an increased net benefit, HMCTS would have a slightly increased net benefit, employers would have increased net costs, debtors would have less bailiff costs to pay and less potentially traumatic experiences of bailiffs taking their possessions, and High Court bailiffs would receive less income, but would be free to do other profitable activities in the economy.

84. The IA assumes that the baseline volume of 80,000 enforcement orders in the High Court for 2014/15 represents the steady-state volume. However, there could be variation in the future. Increasing or decreasing this baseline volume could increase or decrease the number of expected AEOs in the High Court, which would have the same impacts considered in the paragraph above if the volume increases, and in the opposite direction if the volume decreases.
85. The savings to HMCTS of option 1 are marginal. If the AEO administrative efficiency savings are not as high as expected, it is possible that there could be a marginal cost to HMCTS rather than a marginal overall benefit. Digitalisation and fixed deduction scheme are expected to reduce the current administrative time spent on AEOs by around 80%. If the reduction is only around 55%, then it is estimated that there could be an overall cost to HMCTS rather than an overall benefit.
86. If it is assumed that High Court AEO debts would take 5 years instead of 3 years to be cleared, and assuming that none of these AEOs are cleared earlier or drop out for any other reason, then employers would continue processing an AEOs for 5 years and at steady state they would process either 4,000 or 12,000⁶ AEOs per annum under scenario a) and scenario b), respectively. This would increase the cost to employers to either £332,000 or £997,000 per annum, respectively. All other costs and benefits would remain the same. This would increase the overall negative NPV in the Option 1 summary table to £195,000 or £584,000 per annum.

E. 'One-in, Three-Out Status' (OI3O) and Rationale for Triage rating

87. This measure is a qualifying regulatory provision under Section 22(2) of the Small Business Enterprise and Employment Act 2015. It is in Scope of the Business Impact Target and has been assessed as a low cost regulatory net burden cost under OI3O. The measure is considered suitable for the fast track appraisal route as the proposal as a whole is expected to produce costs to business of less than £1m per annum gross. It is not a manifesto commitment.

Direct costs and benefits to Business

88. For those businesses with employees who are subject to an AEO, there would be new costs in complying with AEOs. This could include any payroll system costs required to make the salary deductions. We cannot quantify these potential costs, but we expect them to be modest, as described in the cost and benefit analysis section, above.
89. High Court enforcement businesses could experience a modest reduction in demand for their services and therefore revenue if there is a reduced demand for enforcing writs of control. It is unclear if this would be partly counter balanced from a new demand for process serving.
90. The direct costs to business statistics included on the summary sheets including the business net present value, the net direct cost to business per year, and the BIT score have been calculated under standard RPC convention; i.e. by considering the costs and benefits for 10 years following implementation (from 2018/19 until 2027/28). This differs to NPV calculations, where the costs and benefits have been considered until 2025/26, which has been the standard convention amongst other related IAs intended for the same parliamentary bill.

E. Equality assessment

91. An equality assessment has been published separately.

⁶ 800*5 and 2,400*5