

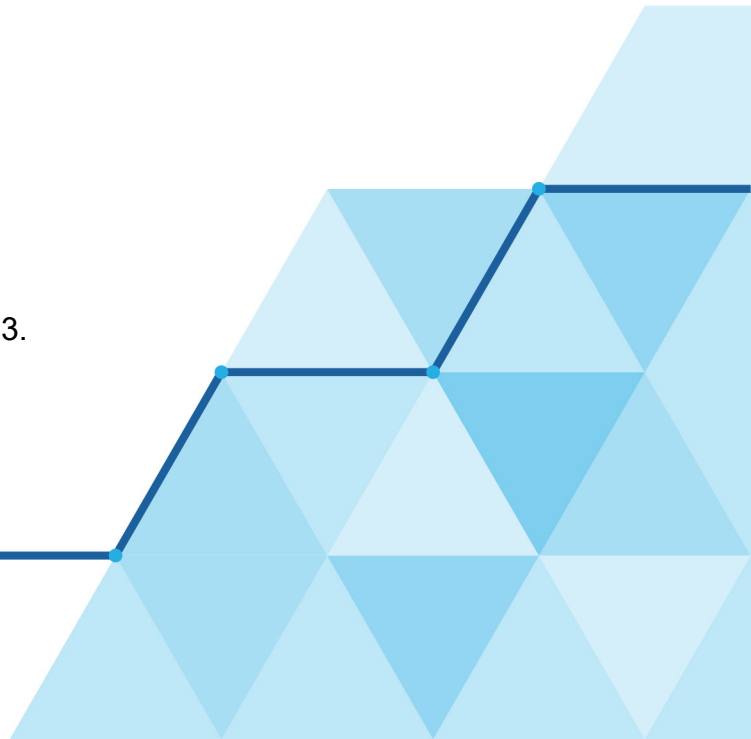


Ministry
of Justice

Court Funds Office

MoJ response to a consultation on the implementation process for applying a 30-year time limit for claims on the Unclaimed Balances fund

This response is published on 24 November 2023.





Ministry
of Justice

Court Funds Office

A consultation on the implementation process for applying a 30-year time limit for claims on the Unclaimed Balances fund

Response to consultation carried out by the Ministry of Justice.

This information is also available at <https://consult.justice.gov.uk/court-funds-office/unclaimed-balances-fund-consultation/>

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Consultation on the implementation process for applying a 30-year time limit
for claims on the Unclaimed Balances fund

Introduction and contact details

This document is the post-consultation report for the consultation paper on the implementation process for applying a 30-year time limit for claims on the Unclaimed Balances fund.

It will cover:

- the background to the consultation.
- a summary of the responses to the consultation.
- a detailed response to the specific questions raised in the consultation.
- the next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting the Office of the Accountant General (OAG) at the address below:

OAG Strategy Team
Ministry of Justice
10 South Colonnade
3rd Floor, Post Point 3
Canary Wharf
London
E14 4PU

Email: cfoubconsultation@justice.gov.uk

This report is also available at <https://consult.justice.gov.uk/court-funds-office/unclaimed-balances-fund-consultation/>

Alternative format versions of this publication can be requested from cfoubconsultation@justice.gov.uk.

Complaints or comments

If you have any complaints or comments about the consultation process, you should contact the Ministry of Justice at the above address.

Background

The consultation paper ‘Consultation on the implementation of a 30-year time limit for claims on the Unclaimed Balances fund’ was published on 7th July 2023. It invited comments on how a time limit for claims on the Unclaimed Balances fund will be applied as part of the planned updates to the Court Funds Rules 2011. The consultation was aimed at users of the Court Funds Office services, judiciary, court and tribunal services, heir hunter firms or members of the public with an interest in or views on the subject covered by this paper in England and Wales.

The proposal outlined in the consultation paper was to consider where an Unclaimed Balances (UB) account has been dormant for 30-years or more, any claim to it may now be extinguished (by virtue of the amendment to the Administration of Justice Act 1982¹). Applying a time limit for claims on the UB fund presents a significant opportunity to unlock sums of unclaimed funds which could be used for the public interest. This would mean all funds exceeding a time limit, for example those that have been dormant for 30+ years would be appropriated and surrendered to the Exchequer. This mirrors the principle that underlies *Bona Vacantia*.²

In the consultation the views were sought from the public on:

- the implementation date of the first surrender of dormant unclaimed funds of 30+ years with a minimum of three months’ notice.
- searches carried out by Court Funds Office to reunite funds with their beneficiaries are proportionate and sufficient.
- any potential modifications to the policy that we should consider on the publicity of dormancy of Unclaimed Balances.
- whether the policy would disproportionately impact individuals with protected characteristics.
- any potential modifications to the policy that we should consider in order to mitigate any disproportionate impact on individuals with protected characteristics.

The consultation period closed on 31st August 2023 and this report summarises the responses, including how the consultation process influences the final shape and further development of the policy consulted upon.

¹ Amendment made via the Finance Act 2023 (Section 350) - <https://www.legislation.gov.uk/ukpga/2023/30/section/350/enacted>

² <https://www.gov.uk/government/organisations/bona-vacantia>

The Equalities Impact Assessment (EIA) accompanying the consultation has been updated to take account of evidence provided by stakeholders and further analysis carried out during the consultation period.

A Welsh language response paper and the EIA can be found at
<https://consult.justice.gov.uk/court-funds-office/unclaimed-balances-fund-consultation/>

Responses to specific questions

One response to the consultation paper was received. This was from a group representing senior citizens. The Office of the Accountant General (OAG) have reviewed the response and analysed the suggestions provided. Please see below for details on the responses provided to each question.

Question 1. It is the intention of the Accountant General to transfer to the Exchequer all Unclaimed Balances accounts which have been dormant for 30+ years starting from April 2024. We intend to publicise the implementation date of the first removal with a minimum of three months' notice which we believe to be sufficient. Do you agree with the notice period?

The public response received was that the 3 (three) month period is not long enough for senior citizens. It was suggested that the minimum period should be 6 (six) months which would allow senior citizens more time to discuss and respond to the notice period.

Government's response

In response to the concerns raised by the consultation, the Ministry of Justice (MoJ) will extend the notice period from 3 (three) months to 4 (four) months. It is acknowledged the response suggests a notice period of 6 (six) months. MoJ has reviewed the reasonableness of this notice period and consider 3 (three) months is sufficient notice however, an extension of 1 (one) additional month has been agreed as an appropriate amendment. This additional 1 (one) month will now allow more than adequate time for individuals who may require additional support during this process. Further to this, MoJ will also provide further communications on how to register a claim in progress to ensure the relevant account is held on a temporary basis while a claim is reviewed and processed by the appropriate court.

Question 2. The Court Funds Office carries out proportionate searches to reunite funds with their beneficiaries. This is done by contacting beneficiaries on the last known address. Checks in place to track beneficiaries differ from case type to case type. Do you agree that the searches set out are proportionate and sufficient?

The public response received agreed proportionate searches are being carried out to reunite funds with their beneficiaries. The decision whether proportionate searches are being carried out is with the court and they need to be satisfied.

Government's response

As the courts are satisfied with the current process and no objections have been made by the public response, no further action will be taken in relation to this question.

Question 3a. It shall be the responsibility of the claimant to determine the 30-year cut-off date for a claim to be made. Do you agree this is a reasonable approach?

The public response received stated they felt that a large number of senior citizens do not have on-line facilities so there should be other ways for interested parties to search. i.e., Local TV – Newspapers, Letters and Local Radio must also be used.

Government's response

The location and format of the Unclaimed Balances database was not included as part of this consultation. This question was intended to address the reasonableness of responsibility of claimants to determine which accounts are nearing the 30-year cut off, not the location of its publication. For clarification on the response in respect of access, should an individual believe, they may be entitled to claim a fund, they are able to contact the Court Funds Office by phone or email, please see details below, and ask for a search of the database to be conducted on their behalf. There is a precedent for this as a similar process is being followed for Bona Vacantia, the current location and format of the Unclaimed Balances is suitable and proportionate. As there were no concerns directly raised in respect of this consultation question, no further action is required.

Court Funds Office contact details

Phone: 0300 0200 199

Email: enquiries@cfo.gov.uk

Address: Court Funds Office, Sunderland, SR43 3AB

Question 3b. The Unclaimed Balances database is publicly searchable by keywords and/or date range. Is this sufficient publicity of the Unclaimed Balances database?

Like the public response provided for Question 3a - some senior citizens do not have on-line facilities so there should be other ways for the interested parties to search.

Government's response

The location of the Unclaimed Balances database was not included as part of this consultation. This question was intended to address how the database can be utilised in its current form, not the location of its publication. There is a precedent for this as a similar process is being followed for Bona Vacantia, the current location and format of the Unclaimed Balances is suitable and proportionate. For clarification, should an individual believe, they may be entitled to claim a fund, they are able to contact the Court Funds Office by phone or email, please see details below, and ask for a search of the database to be conducted on their behalf. As there were no concerns directly raised in respect of this consultation question, no further action is required.

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Question 4. We do not anticipate this change to directly impact individuals or businesses as they relate to cases where clients have not claimed their balances and are deemed untraceable. Do you consider either yourself or your business to be adversely affected as a result of this change?

The public response received has confirmed they do not feel this change will have an adverse impact on senior citizens.

Government's response

No further action to be taken.

Question 5. Do you agree that we have correctly identified the range and extent of the equalities impacts under each of these proposals set out in this consultation?

The public response received noted access to online information by senior citizens who do not have online facilities must be considered as part of the equalities impact assessment.

Government's response

The location and format of the Unclaimed Balances database was not included as part of this consultation. As covered in prior question responses, there are alternative methods for individuals to enquire with the Court Funds Office regarding potential claims for Unclaimed Balances, this will continue to support those with limited or no online facilities. Furthermore, the Ministry of Justice will extend the notice period to allow individuals making claims more time ahead of the first date of policy implementation, this for example will provide more time to allow for postal communications on claim enquiries. As there were no concerns directly raised in respect of this consultation question, no further action is required.

Impact Assessment, Equalities and Welsh Language

Impact Assessment

An Impact Assessment has not been prepared as the consultation is not seeking views on the policy itself but instead how this will be introduced and for confirmation on the conditions of dormancy the Office of the Accountant General use.

An Equalities Impact Assessment (EIA), Annex A, was published alongside the consultation document. Post consultation an updated EIA (Annex B) has been published to reflect the change in public notice period for implementation of this policy.

Our assessment on the updated EIA is that the policy remains neither directly nor indirectly discriminatory within the meaning of the 2010 Act, as it applies in the same way to all individuals regardless of their protected characteristics; and is not considered likely to result in any particular disadvantages for account holders with protected characteristics.

Welsh Language Impact Test

A Welsh language version of this paper along with the consultation paper and the Equality Assessment is also available at <https://consult.justice.gov.uk/court-funds-office/unclaimed-balances-fund-consultation/>.

Conclusion and next steps

The Government has considered the response to the consultation carefully and the following actions have been or will be implemented as a result.

1. Whilst not directly related to the consultation questions asked, the Ministry of Justice has confirmed alternative ways individuals are able to search for potential unclaimed balances that do not require online facilities.
2. The Ministry of Justice will extend the public notice period for implementation of this new policy to 4 (four) months.
3. The Ministry of Justice will provide further communication on how to individuals can register a claim in progress to ensure the relevant account is held on a temporary basis while a claim is reviewed.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf



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