



Ministry  
of Justice

# Annex B

## Unclaimed balances – implementation of time limit on unclaimed funds

### Post Consultation Equalities Impact Assessment

## Policy Summary

1. This updated Equality Impact assessment is in response to the public consultation which took place from 7<sup>th</sup> July 2023 to 31<sup>st</sup> August 2023.
2. The Administration of Justice Act 1982 and the Court Funds Rules<sup>1</sup> give the Accountant General the authority to manage funds in court including Unclaimed Balances (UB). Therefore, the Accountant General/Ministry of Justice (MoJ) has the ability to facilitate the surrender of funds after an agreed period of dormancy.
3. Funds are held in the UB account managed by the Accountant General within the MoJ. Dormant funds should be used for public benefit and not allowed to accumulate interest in perpetuity. This is the principle that underlines Bona Vacantia.<sup>2</sup>

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<sup>1</sup> [Court Funds Rule 2011 \(legislation.gov.uk\), Part 5](#)

<sup>2</sup> 'Bona Vacantia' means vacant goods and is the name given to ownerless property, which by law passes to the Crown. Source – <https://www.gov.uk/government/organisations/bona-vacantia>

4. Unless the legislative changes are made the Accountant General cannot legally surrender the funds.
5. As part of the Finance Act 2023<sup>3</sup> the Government included an amendment to the Administration of Justice Act 1982 to set a time limit on funds paid into the Court Funds Office for civil claims which remain dormant for 30 years or more. After 30 years, the right to claim will be extinguished and the funds will be returned to the Exchequer.
6. A further secondary legislation update to the Court Funds Rule 2011 to implement the transfer of dormant UB funds to the Exchequer is due to be laid in Parliament in December 2023 subject to the Lord Chancellor's approval and HMT concurrence.
7. The point at which a fund becomes “dormant” and the checks in place to track beneficiaries differs depending on the type of account. For example:
  - **Child accounts:** Where funds are vested in the Accountant General on behalf of a child, the child has until their 19th birthday to claim payment, after which the fund is moved to the UB account. The detailed mechanics are as follows. An initial letter inviting the child to claim their fund is sent approximately four weeks before the child reaches 18 inviting them to claim their fund, and, if the client fails to claim their fund, letters are then sent to the address held on the account three months after the child reaches 18, and again at 6 months & 9 months reminding the child to apply for their fund. If they don't apply by age 19 and have given no reasons why they have not, the account is transferred to UB. If no current address is held or at any point in the process a letter comes back as “address unknown”, enquiries are made via the court and solicitors involved to find the current address. If those enquiries are successful, the process begins again with a chasing letter sent 3, 6 and 9-months after the initial letter to the new address inviting the child to claim. If no address is traced, the fund remains “live” in any event until the child's 19th birthday at which point, they will then be transferred to the UB account.
  - **Statutory Deposits:** In these cases, a search for the beneficiary is undertaken by the depositor before deposit and the funds only come to the Court Funds Office if that search is unsuccessful or if the client refuses to engage. Funds are only deposited if the relevant court is satisfied that sufficient searches have been undertaken by the depositor and the beneficiary cannot be traced or refuses to engage. No further searches are conducted by the Court Funds Office on receipt, and the funds are transferred to the UB account immediately.
  - **Other cases:** With all other account types, the funds become eligible for transfer to the UB account if there have been no transactions, including correspondence such as statements being sent which are not returned as undelivered, other than the automatic crediting of interest, for 10 years. At this point searches are completed via the court and solicitors involved to try and trace beneficiaries. If these searches are unsuccessful the account will be transferred to the UB account.

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<sup>3</sup> Amendment made via the Finance Act 2023 (Section 350) - <https://www.legislation.gov.uk/ukpga/2023/30/section/350/enacted>

## Equality Duties

8. Under the [Equality Act 2010](#),<sup>4</sup> (EA Act) when exercising its functions, the MoJ has an ongoing legal Public Sector Equality Duty (PSED) to pay due regard to the need to:
  - eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
  - advance equality of opportunity between different groups of persons who share a protected characteristic and those who do not; and
  - foster good relations between different groups.
9. The payment of due regard to the PSED needs to be considered in light of the nine protected characteristics:
  - Race
  - Sexual Orientation
  - Marriage and Civil Partnership
  - Sex
  - Religion or Belief
  - Gender Reassignment
  - Disability
  - Age
  - Pregnancy and Maternity

## Availability of data

10. We receive data on a monthly basis on the number of child and protected beneficiary accounts, with further detail on these accounts provided quarterly. However, no data on protected characteristics under PSED is sought or recorded. The number of client accounts is published in our Annual Accounts on the [www.gov.uk](http://www.gov.uk) website.

## Assessing the PSED impact

### Direct Discrimination

11. Our assessment is that the Unclaimed Balance proposals are not directly discriminatory within the meaning of the EA Act as they apply equally to all people whatever their protected characteristics; we do not consider that the proposals would result in people being treated less favourably because of a protected characteristic.

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<sup>4</sup> [http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)

## Indirect Discrimination

12. Indirect discrimination occurs when a policy applies equally to all individuals but would put those sharing a protected characteristic at a particular disadvantage compared to those who do not.
13. Some of the child account holders may be negatively affected by this proposal, in comparison to our current policy. Individuals would be disadvantaged if they are not aware that they hold a CFO Account, and if they later find out, after more than 30 years that they were entitled to monies held in court on their behalf.
14. If the individual doesn't apply by age 19 and have given no reasons why they have not, the account is transferred to UB. As per the proposed policy change the UB fund will be transferred to the Exchequer after 30 or more years of dormancy and any claims received by the CFO after the 30-year dormancy period will be rejected. This may be viewed by the claimant as deprivation or control of possession by the state in violation of ECHR A1P1 considerations (see paragraph 13 above).
15. Assets belonging to people who lack the capacity to manage their own financial affairs, mainly where the Court of Protection (CoP) has appointed someone else to manage their affairs may be negatively affected by this proposal, in comparison to our current policy. Individuals would be disadvantaged if the court and solicitors involved are unable to trace beneficiaries. As per the proposed policy change the UB fund will be transferred to Exchequer after 30 or more years of dormancy and any claims received by the CFO after the 30-year dormancy period will be rejected.
16. Our assessment is that CFO has taken reasonable steps to trace the UB account holder (covered in paragraph 7) and the account is already dormant at the point of moving funds to UB account. The 30-year time limit allows sufficient time for an individual to make their claim if they have forgotten about the account based on UB information shared on the gov.uk website. It is our assessment that the inclusion of these time limits is unlikely to result in a particular disadvantage for child account holders since little, or no unfairness will result from the proposed policy update because the persons affected by it will be unaware or indifferent to their rights.
17. Separate independent assessments completed by Counsel, our GLD lawyer and Solicitor General concur with the above assessment and confirm interference, deprivation or control will not violate ECHR A1P1 if done 'in the public interest' or 'to enforce such laws [as the state] deems necessary to control the use of property in the public interest.'

## Responses to Consultation

18. A response to the consultation was that this proposal could negatively affect senior citizens who are not IT literate. However, the option of writing or telephoning the Court Funds Office for assistance in identifying unclaimed accounts remains in place. We will also introduce a measure to assist the process by increasing the notice period from

3 (three) to 4 (four) months and allowing interested parties to contact the Court Funds Office to request that accounts which are in the process of being claimed can be blocked for surrender until the claim is completed.

19. Furthermore, we consider that if there were to be any particular disadvantage for people with protected characteristics compared to those who do not share the protected characteristic as a result of the Unclaimed Balance proposals, these would be a justified and proportionate means to achieve our legitimate aim of managing unclaimed balances fund for public benefit.

## **Discrimination arising from disability and duty to make reasonable adjustments**

20. We will continue to make reasonable adjustments for account holders with disabilities.
21. In compliance with MoJ best practice we will be making accessible versions of the consultation documents available online for consultees with disabilities.

## **Harassment and victimisation**

22. We do not consider that the policy will give rise to harassment or victimisation within the meaning of the Equality Act.

## **Advancing equality of opportunity**

23. Consideration has been given to how the Unclaimed Balances policy impacts on the duty to advance equality of opportunity.
24. We do not consider that this policy will negatively impact on the duty to advance equality of opportunity.

## **Fostering Good Relations**

25. We do not anticipate that the policy will have a particular impact on tackling prejudice between those who do and do not share a protected characteristic.

## Conclusion

26. Following feedback from the Public Consultation on the notice period to publicise the implementation date of the first removal of dormant UB accounts, the Ministry of Justice (MoJ) will extend the notice period from 3 (three) months to 4 (four) months. MoJ has reviewed the reasonableness of this notice period and whilst it considers 3 (three) months to be sufficient time, in light of the feedback received, it has agreed to a 1 (one) month extension to allow the public who may require additional support during this process additional time to respond.