



Ministry
of Justice

Annex A

Unclaimed balances – implementation of time limit on unclaimed funds Equality Assessment

Policy Summary

1. The Administration of Justice Act 1982 and the Court Funds Rules¹ give the Accountant General the authority to manage funds in court including Unclaimed Balances. Therefore, the Accountant General/Ministry of Justice (MoJ) has the ability to facilitate the surrender of funds after an agreed period of dormancy as long as the legislative changes are approved.
2. Funds are held in the UB account managed by the Accountant General within the MoJ. Therefore, the MoJ has the ability to facilitate the surrender of funds after an agreed period of dormancy. Dormant funds should be used for public benefit and not allowed to accumulate interest in perpetuity. This is the principle that underlines Bona Vacantia.²
3. Unless the legislative changes are made the Accountant General cannot legally surrender the funds.

¹ [Court Funds Rule 2011 \(legislation.gov.uk\), Part 5](https://www.legislation.gov.uk/ukpga/1982/20/section/5)

² '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. As part of the Finance Bill introduced into Parliament in March 2023, the Government has 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. The Administration of Justice Act 1982 amendment is going through Parliamentary approval and expected to receive Royal Assent by summer 2023 to become law.
5. A further secondary legislation update to the Court Funds Rule 2011 is planned later this year (2023) to implement the transfer of dormant UB funds to the Exchequer. The proposed measure will be retrospective i.e., time elapsed before commencement will count towards the 30-year vesting period.
6. The point at which a fund becomes “dormant” differs depending on the type of account, with checks in place to track beneficiaries which also differ from case type to case type. 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 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.

Equality Duties

7. Under the [Equality Act 2010](#),³ (EA Act) when exercising its functions, the MoJ has an ongoing legal 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.
8. 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

Sources of Information

9. The main source of information used for this analysis is the data on client accounts held in the Court Funds Office.
10. We have also consulted the following for impact assessment of policy change on European Court of Human Rights (ECHR) protocol:
 - a. Legal opinion received from Counsel on implementation of 30-year time limit.
 - b. Solicitor General agreement received on 10 March 2023 to the proposal that funds paid into court should be transferred to the Consolidated Fund where they are unclaimed for at least 30 years and any conditions prescribed by the Court Funds Rules have been satisfied.

³ http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf

Availability of data

11. 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 website.

Equality considerations

12. ECHR Article 1, Protocol 1 (A1P1) considerations:

- (1) Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- (2) The preceding provisions shall not, however, in any way impair the right of a state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

13. PSED duty considerations as per paragraph 7 and 8 above.

Affected Groups

14. We do not have data on the following protected characteristics of individuals:

- Race
- Sexual Orientation
- Marriage and Civil Partnership
- Sex
- Religion or Belief
- Gender Reassignment
- Pregnancy and Maternity

We are therefore unable to undertake a quantitative assessment of the equalities impacts on these groups but welcome responses to our equality related questions.

Assessing the PSED impact

Direct Discrimination

15. Our initial 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.

Indirect Discrimination

16. 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.
17. 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.
18. 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 12 above).
19. Our assessment is that CFO has taken reasonable steps to trace the UB account holder (covered in paragraph 6) 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.
20. 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.
21. 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.

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

22. We will continue to make reasonable adjustments for account holders with disabilities.

23. 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

24. 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

25. Consideration has been given to how the Unclaimed Balances policy impacts on the duty to advance equality of opportunity.

26. We do not consider that this policy will negatively impact on the duty to advance equality of opportunity.

Fostering Good Relations

27. 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.

28. We will continue to consider the equalities impacts in relation to the implementation of these policies and update our equality statement in light of the consultation responses.