



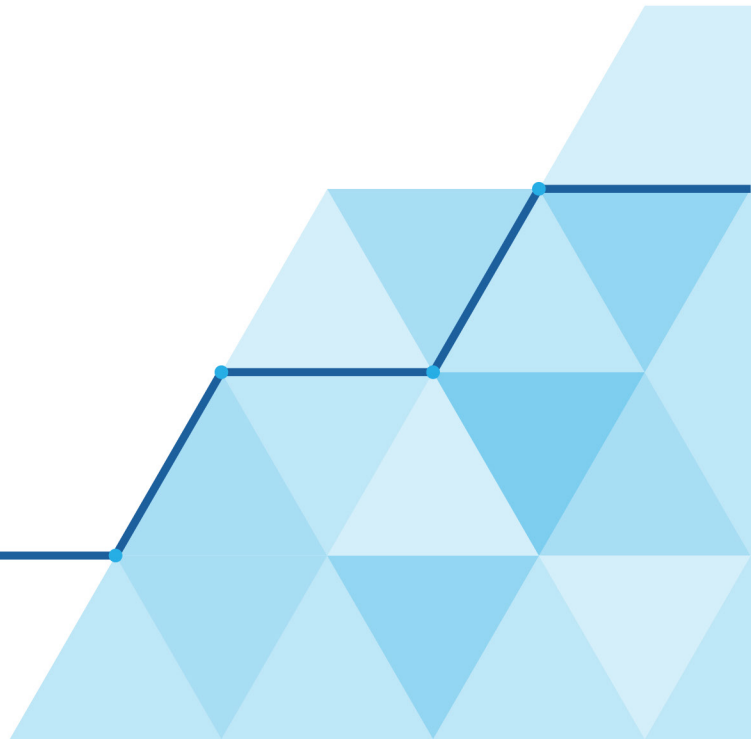
Ministry
of Justice

Court Funds Office

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

This consultation begins on 07 July 2023

This consultation ends on 31 August 2023





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

A consultation produced by the Ministry of Justice. It is also available at <https://consult.justice.gov.uk/court-funds-office/unclaimed-balances-fund-consultation>

About this consultation

To: This consultation is aimed at users of the Court Funds Office, courts and tribunals, the legal profession, the judiciary, heir hunters and general public with an interest in the Unclaimed Balances held as funds in court.

Duration: From 07/07/23 to 31/08/23

Enquiries (including requests for the paper in an alternative format) to: OAG Strategy Team
Ministry of Justice
10 South Colonnade
3rd Floor, Post Point 14
Canary Wharf
London E14 4PU
Email: cfoubconsultation@justice.gov.uk

How to respond: Our preference is that you complete the consultation online on <https://consult.justice.gov.uk/court-funds-office/unclaimed-balances-fund-consultation> or send us completed consultation feedback form via email to cfoubconsultation@justice.gov.uk.

Alternatively, please send your response by 31 August 2023 to:

OAG Strategy Team
Ministry of Justice
10 South Colonnade
3rd Floor, Post Point 14
Canary Wharf
London E14 4PU

Email: cfoubconsultation@justice.gov.uk

Response paper: A response to this consultation exercise will be published in due course at: <https://consult.justice.gov.uk/>

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Introduction

This paper sets out the consultation 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 is 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 consultation paper will last for 8 weeks and will close on 31 August 2023.

A Welsh language version of the consultation paper is also available at <https://www.gov.uk/government/consultations/a-consultation-on-the-implementation-process-for-applying-a-30-year-time-limit-for-claims-on-the-unclaimed-balances-fund>.

Background

The Court Funds Office (CFO) administers funds which are vested in the Accountant General of the Senior Courts under section 38 of the Administration of Justice Act 1982 and does so subject to rules (presently the Court Funds Rules 2011 (S.I. 2011/1734) made under subsections (7) to (9) of that section. As with any financial institution the CFO holds dormant funds which are referred to in this consultation as “Unclaimed Balances”. There is presently no provision as to the retention of funds which are paid into court, but which are not claimed, and in the absence of a person coming forward to claim such funds, they will remain in the CFO in perpetuity. This contrasts with the Government Legal Department’s Bona Vacantia¹ process where estates where there are no known beneficiaries are forfeited to the Crown 30 years after the date of death of the deceased.

Current Policy on Unclaimed Balances

Unclaimed Balances (UB) are dormant funds where the beneficiary cannot be traced, fails to claim the funds or is unknown. At a defined point when there have been no transactions on the account other than the automatic crediting of interest, generally 10 years, they are deemed to have become dormant if, after attempts are made by the Court Funds Office to trace the beneficiary, the search is unsuccessful. Where these searches are unsuccessful, the funds are transferred to the Unclaimed Balances Account.

¹ ‘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>

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:

1. **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 out, 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 four weeks before the child reaches 18, and, if no claim is received within 3 months of the child turning 18 a letter is then sent to the address held on the account. Further letters are sent at 6 months and 9 months if no claim is received, asking the child to apply for their fund. If they don't apply by the time they turn 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 in the case to find the child's current address. If those enquiries are successful, the process begins again with chasing letters sent after 3, 6 and 9 months (after the initial letter) inviting the child to claim. If no address is traced, the fund remains “live” in any event until the child's 19th birthday.
2. **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.
3. **Other cases:** With all other account types, the funds become eligible for transfer to the UB account if there have been no transactions, other than the automatic crediting of interest, for 10 years. At this point searches are completed via the court and solicitors involved in the case to try and trace beneficiaries. If these searches are unsuccessful the account will be transferred to the UB account.

There are many reasons why CFO client funds become dormant, but typically it is because the client cannot be traced after all reasonable efforts have been made. The most common cause is when the client's circumstances have changed, and the CFO have not been informed (e.g., the client is deceased, changed address) or where the funds are deposited as unclaimed.

Legislative Framework

Rule 36 of the Court Funds Rules 2011

Rule 36 allows the Accountant General to transfer funds to an Unclaimed Balances account:

“36.—(1) The Accountant General may transfer an unclaimed fund in court to an account of unclaimed funds.

(2) Subject to paragraph (3), a fund in court shall be treated as unclaimed if:

(a) it has not been dealt with for ten years other than:

(i) being credited with accrued interest or dividends; or

(ii) by a compulsory dealing in securities; or

(b) the Accountant General is, at any time, satisfied that all reasonable steps have been taken to trace the person entitled to the fund in court and that person cannot be traced.

(3) Where a fund in court is held on behalf of a child and the child’s date of birth is known, paragraph (2)(a) shall not apply until the child’s 18th birthday”

The legislation under which the rules are made (the Administration of Justice Act 1982), requires these funds to be held in perpetuity. This contrasts with the principle of Bona Vacantia, whereby when someone dies with no will and no known family, their property passes to the Crown 30 years after the date of death.

Unclaimed Balances Fund Management – Policy Update

Scope of Policy Change

Where an Unclaimed Balance 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 1982 explained below). As a result, the Accountant General is looking to change the Court Funds Rules to set out how any transfer will be managed. 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 underlines Bona Vacantia.

There is a financial cost to the taxpayer associated with the on-going management of dormant accounts by the Court Funds Office. A time limit for claims on the UB fund will help reduce the financial burden on the taxpayer of the management of dormant funds.

What we have done so far

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. This Administration of Justice Act 1982 amendment is going through Parliamentary approval and is expected to receive Royal Assent by summer 2023 to become law. Once Royal Assent has been given, the Court Funds Rules 2011 will be amended to introduce the mechanisms for implementing the change.

Where we need to go further – this consultation

This consultation is open to the public and seeks to gather views on how the Accountant General will manage the process of applying a time limit on funds paid into the Court Funds Office for civil claims which remain unclaimed for 30 years or more and returning the funds to the Exchequer.

We will carefully consider your views and feedback on our proposed policy changes on the Unclaimed Balances fund. We will also continue to consult civil justice partners such as the Court of Protection, the Office of the Public Guardian, His Majesty's Courts and Tribunals Service, their agencies, the judiciary, and a range of professionals.

The views collected through this consultation will help inform the secondary legislation changes that have been planned for December 2023.

Questionnaire

We would welcome responses to the following questions set out in this consultation paper. Please provide qualitative and quantifiable evidence to support your views.

- 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?**
- 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 as follows:**
 - a. For child accounts, an initial letter inviting the child to claim their fund is sent approximately 4 weeks before their 18th birthday, and, if no valid claim is received, a letter is then sent to the address held on the account three months after the child reaches 18, and again at 6 months & 9 months asking 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 then transferred to the Unclaimed Balances. If no current address is held or at any point in the process a letter comes back as "address unknown", enquiries are then made via the court and solicitors involved to find the current address. If those enquiries are successful, the process begins again with chasing letters sent after 3, 6 and 9 months (after the initial letter) inviting the child to claim. If no address is traced, the fund remains "live" in any event until the child's 19th birthday.**
 - b. For statutory deposit 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 Unclaimed Balances account immediately.**
 - c. Other – with all other account types, the funds become eligible for transfer to the Unclaimed Balances account if there have been no transactions, 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 Unclaimed Balances account.

Do you agree that the searches set out above are proportionate and sufficient?

- 3. A search database for Unclaimed Balances is available on <https://www.gov.uk/find-court-money> for the public and any other interested parties to search. The information held is updated at the beginning of every month. We intend to publicise the dormancy start date of each account on the Unclaimed Balances page on <https://www.gov.uk/find-court-money>.**
 - a. 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?**
 - b. The Unclaimed Balances database is publicly searchable by keywords and/or date range. Is this sufficient publicity of the Unclaimed Balances database?**
- 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? Please provide qualitative and quantifiable evidence to support your views.**
- 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? Please give reasons and supply evidence of further equalities impacts if you believe otherwise.**

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	<ul style="list-style-type: none"> • Academics • Associations • Solicitors • Governmental departments/agencies (e.g., Judiciary, Court of Protection, HMCTS) • Member of the public • Heir Hunter • Voluntary organisations <ul style="list-style-type: none"> • If yes, how best describes your organisation (e.g., national, local, community, 'by and for')? • Other
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Our preference is that you complete the consultation online on <https://consult.justice.gov.uk/court-funds-office/unclaimed-balances-fund-consultation> or send us completed consultation feedback form via email to cfoubconsultation@justice.gov.uk.

Alternatively, please send your response by 31 August 2023 to:

OAG Strategy Team
Ministry of Justice
Office of the Accountant General
3rd Floor, Post Point 14
10 South Colonnade
Canary Wharf
London E14 4PU

Email: 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.

Extra copies

Further paper copies of this consultation can be obtained from this address, and it is also available on-line at <https://consult.justice.gov.uk/>.

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

Publication of response

A paper summarising the responses to this consultation will be published in due course. The response paper will be available on-line at <https://consult.justice.gov.uk/>.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

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.

Equalities

An Equality Assessment to support this consultation has been prepared. See the Equality Assessment at Annex A.

Our assessment is that the policy is not directly or 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. We are also seeking response as part of this consultation exercise if there are potential modifications, we should consider to mitigate any unexpected impact.

Welsh Language Impact Test

A Welsh language version of the consultation paper and the Equality Assessment is also available on <https://www.gov.uk/government/consultations/a-consultation-on-the-implementation-process-for-applying-a-30-year-time-limit-for-claims-on-the-unclaimed-balances-fund>

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 that can be found here:

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



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Alternative format versions of this report are available on request from cfoubconsultation@justice.gov.uk.