Ministry of JUSTICE

Equality Impact Assessment Initial Screening - Relevance to Equality Duties

The EIA should be used to identify likely impacts on:

- disability
- race
- sex
- gender reassignment
- age
- religion or belief
- sexual orientation
- marriage and civil partnership
- pregnancy and maternity
- caring responsibilities (usually only for HR polices and change management processes such as back offices)

1. Name of the proposed new or changed legislation, policy, strategy, project or service being assessed.

The MOJ proposes to reform how charging orders operate in the courts, by reducing the extent of court involvement and to streamline and improve the efficiency of the processes.

2. Individual Officer(s) & unit responsible for completing the Equality Impact Assessment.

Michael Anima-Shaun, Enforcement Policy, Justice Policy Group.

3. What is the main aim or purpose of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

Aims/objectives	**Outcomes**
1. To introduce the ability for the creditor to pursue a Charging Order when the debtor is paying by instalments, even where the debtor is complying with the instalment order as provided for in S93 of the Tribunals, Courts and Enforcement Act 2007 (TCE 2007). 2. To streamline the Charging Order process by removing the automatic final hearing stage. Interim Orders will become final through the lapse of time unless the judgment debtor raises objections. In such instances the matter will be listed before a judge.	The proposed changes should improve the efficiency of applying for a Charging Order as an enforcement method, whilst still offering protection to debtors who are genuinely unable to pay. Delay in registering the final Charging Order at the Land Registry should be reduced, in those cases where no objection is raised. Streamlining of processes would free up court resources.

4. What existing sources of information will you use to help you identify the likely equality impacts on different groups of people?

   (For example statistics, survey results, complaints analysis, consultation documents, customer feedback, existing briefings, submissions or business reports, comparative policies from external sources and other Government Departments).

Users of the Civil and Family Courts are not required to provide personal information about themselves and as such MoJ/HMCTS have no data on the type of people who use the service. Consequently, at this stage we are only able to deduce the likely impacts on various groups based on statistics gathered from the Office of National Statistics (ONS), other government departments and published research papers.

Data on the general demographics and arrears of the population of Great Britain from the ONS in its Wealth in Great Britain Report 2006/2008 has enabled an assessment of the likely potential impact of the proposals on different groups. We are aware that the demographics of the general population who have fallen behind with payments could differ from those who are pursued through the courts. It is clear that there is some disparity between different parts of the population. The research above gives us an indication as to whether any of the groups surveyed could, due to higher rates of being in arrears, be disproportionately affected in general by any of the proposals.

The report notes that the prevalence of non- mortgage borrowing arrears varied considerably with age. It identifies that it was highest for households headed by someone aged 25-34 (68%), this group was also the most heavily borrowed on average, owing a mean amount of £8,000. The median showed, however, that a half owed £3,700 or less. The mean amounts owed by those aged 35-44 and 45-54 were £7,500 and £7,300; while the amounts owed among those aged 55 to 64 and 65 to 74 were £6,900 and £5,000 respectively. The report further suggests that households comprising lone parents with dependant children and households in which the head of household is unemployed are at the highest risk of falling into arrears and that the likelihood of arrears in a household were much higher (26%) where the head of household was disabled.

5. Are there gaps in information that make it difficult or impossible to form an opinion on how your proposals might affect different groups of people. If so what are the gaps in the information and how and when do you plan to collect additional information?

   Note this information will help you to identify potential equality stakeholders and specific issues that affect them - essential information if you are planning to consult as you can raise specific issues with particular groups as part of the consultation process. EIAs often pause at this stage while additional information is obtained.

Users of the Civil and Family Courts are not required to provide personal information about themselves and as such MoJ/HMTCS have no data on the type of people who use the service. Consequently, at this stage we are only able to deduce the likely impacts on various groups based on statistics gathered from the Office of National Statistics (ONS), other government departments and published research papers or individual court user questionnaires. These proposals have been publicly consulted upon recently and no additional information on impacts has been identified or highlighted in responses or feedback received.

6. Having analysed the initial and additional sources of information including feedback from consultation, is there any evidence that the proposed changes will have a **positive impact** on any of these different groups of people and/or promote equality of opportunity?

   Please provide details of who benefits from the positive impacts and the evidence and analysis used to identify them.

No positive equality impact on any of the different groups has been identified, although it is acknowledged that creditors will welcome improvements in debt collection methods.

7. Is there any feedback or evidence that additional work could be done to promote equality of opportunity?

   If the answer is yes, please provide details of whether or not you plan to undertake this work. If not, please say why.

There is no further information following consultation to suggest any additional work would promote equality of opportunity.

The proposals aim to facilitate the enforcement process and remove some of the bureaucratic hurdles that both creditors and debtors have to jump to satisfy the judgment order.

8. Is there any evidence that proposed changes will have **an adverse equality impact** on any of these different groups of people?

   Please provide details of who the proposals affect, what the adverse impacts are and the evidence and analysis used to identify them.

There could be an adverse equality impact on those groups identified in 4 above as they are likely to be pursued more rigorously for arrears. Our view is that the proposals impact on all groups irrespective of any differences between groups and the justification is improving debt collection to creditors whilst at the same time maintaining adequate protections in the court process for vulnerable debtors.

9. Is there any evidence that the proposed changes have **no equality impacts**?

   Please provide details of the evidence and analysis used to reach the conclusion that the proposed changes have no impact on any of these different groups of people.

Assessment of Impact
The changes to the processes for the application and making of charging orders aim to reduce the administrative burden on creditors in realising the sums due under a judgment order.
Permitting creditors to apply for a charging order when payments by instalments are occurring would present creditors with a new opportunity to secure repayment for their debt where previously the debtor could only pay small instalments against a large judgment debt. Similarly, streamlining the charging order process would mean that only where the judgment debtor raised an objection would the matter be listed before a judge, so reducing delay before the charging order is registered at the Land Registry.
The impact of these changes will not affect any particular group adversely. The proposals go to improving debt recovery and those with judgment debts are not necessarily from any particular minority group.

Gender
Any impact in terms of gender would be closely related to the difference in income between men and women in society as a whole. The Wealth in Great Britain report 2006/2008 report provides an analysis of the proportion of households in arrears by household type. It is reported that lone parent households with dependant children were far more likely to have fallen into arrears on one or more household bill, mortgage or non-mortgage borrowing commitments (31%). Although there is no evidence in the report to suggest the gender of this particular group, it is widely held that women form the majority of lone parent families with dependant children. In comparison, about half as many lone parent families with non-dependant children (14%) and households comprising two or more families or another household structure (15%) had been in arrears.

Disability
The Wealth in Great Britain report 2006/2008 indicates that the propensity to be in arrears on household bills, mortgage and non-mortgage borrowing by households was 26% where the household head was sick or disabled. This is nearly three times as high as those employed or self-employed which averaged 9%. However, there is no evidence to suggest that individuals with a disability and in arrears are more or less likely than those without a disability to be pursued through the courts and be subject to charging orders. In any event, the protections in place within the court process apply to all vulnerable debtors.

Age
Individuals under the age of 18 are not allowed to take out loans or credit card agreements or other hire purchase agreements, therefore, the proposals are unlikely to impact them as they are unlikely to be pursued for unpaid debts by creditors. The Wealth in Great Britain report 2006/2008 notes that the prevalence of non-mortgage borrowing arrears varied considerably with age. It identifies that it was highest for households headed by someone aged 25-34 (68%), this group was also the most heavily borrowed on average, owing a mean amount of £8,000. The median showed, however, that a half owed £3,700 or less. The mean amounts owed by those aged 35-44 and 45-54 were £7,500 and £7,300; while the amounts owed among those aged 55 to 64 and 65 to 74 were £6,900 and £5,000 respectively. The report further suggests that households comprising lone parents with dependant children and households in which the head of household is unemployed are at the highest risk of falling into arrears and that the likelihood of arrears in a household were much higher (26%) where the head of household was disabled.

Sexual Orientation / Religious Beliefs /Race
There is not enough evidence from the Wealth in Great Britain report 2006/2008 to identify the levels of arrears and thus the potential for debt collection proceedings from these groups. It is therefore not possible to assess the impact of the proposals on these particular groups.

Summary
Due to the nature of the proposals any impact on different groups will be financial, in so far as creditors will be able to apply for a charging order more easily than under the current arrangements. However creditors apply for charging orders against individuals in debt who have not responded to requests for payment or who have not settled following the judgment order. These individuals cannot be identified by gender, race, age, or other named group as personal circumstances dictate why an individual fails to pay an outstanding sum or chooses not to engage with the creditor. The proposals may lead creditors pursuing debts more rigorously due to improved methods; however debtors across all groups will continue to have safeguards and protections within the court process.

10. Is a full Equality Impact Assessment Required? Yes ☐ No ☒

If you answered 'No', please explain below why not?

NOTE - You will need to complete a full EIA if:

- the proposals are likely to have equality impacts and you will need to provide details about how the impacts will be mitigated or justified
- there are likely to be equality impacts plus negative public opinion or media coverage about the proposed changes
- you have missed an opportunity to promote equality of opportunity and need to provide further details of action that can be taken to remedy this

If your proposed new or changed legislation, policy, strategy, project or service involves an Information and Communication Technology (ICT) system and you have identified equality impacts of that system, a focused full EIA for ICT specific impacts should be completed. The ICT Specific Impacts template is available from MoJ ICT or can be downloaded from the Intranet at: http://intranet.justice.gsi.gov.uk/justice/equdiv/equal-impact.htm, and should be referenced here.

Following the consultation exercise no further information or feedback has been received to indicate an adverse equality impact on any minority group as a result of the proposals. We do not, therefore, envisage a need for a full Equality Impact Assessment at a later stage.

11. Even if a full EIA is not required, you are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts. Please provide details of how you will monitor evaluate or review your proposals and when the review will take place.

Other than Judicial Statistics, information regarding judgment debts and enforcement mechanisms are not currently collected by HMCTS, and it is difficult to envisage how it could be collected in the future. We will however, as part of the post-implementation review, monitor the effect of the changes by relying on interested parties bringing particular issues to our attention and also by surveying case reports and other literature.

12. Name of Senior Manager and date approved

You should now complete a brief summary (if possible, in less than 50 words) **setting out which policy, legislation or service the EIA relates to, how you assessed it, a summary of the results of consultation, a summary of the impacts (positive and negative) and, any decisions made, actions taken or improvements implemented as a result of the EIA.** The summary will be published on the external MoJ website. This Equality Impact Assessment relates to changes to the processes in making Charging Orders. The initial screening focused on income differences between groups. No adverse equality impacts were identified given that the proposal is targeted at creditors who wish to recover sums due from a debtor who may already be paying instalments towards the judgment debt. No further equality impacts have been identified on public consultation or otherwise. Process changes will impact on the creditor who may be able to secure payment by way of a charging order more quickly than previously where the process for application has been improved.
Name (must be grade 5 or above): Abigail Plenty
Department: Civil Justice & Legal Services Division, Access to Justice Directorate, Justice Policy Group
Date: 26 January 2012
Note: The EIA should be sent **by email to anthony.shepherd@justice.gsi.gov.uk of the Corporate Equality Division (CED), for publication.**