

Title: Whether a minimum limit should be imposed on Order for Sale applications in relation to Consumer Credit Act debts only

**Lead department or agency: Her Majesty's Court Service
Ministry of Justice**

Other departments or agencies:

Impact Assessment (IA)

IA No: MoJ 075

Date: 2 February 2012

Stage: Final

Source of intervention: Domestic

Type of measure: Other

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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Orders for sale can be used to enforce charging orders, and refer to the order for a debtor to sell assets (including property, unit trusts or stocks) following consideration by a judge. Applications for orders for sale can currently be made for debts of any value, They are not commonplace, but in some cases are used to secure relatively low value Consumer Credit Act 1974 (CCA) debts. Concerns have been raised about this, such as in the Citizen's Advice paper, 'Out of Order', which highlighted concerns about creditors using charging orders to secure originally unsecured CCA debts sold at higher premiums. Following such concerns, a Coalition commitment has been made to introduce '*more protection against aggressive bailiffs and unreasonable charging orders, to ensure that courts have the power to insist that repossession is always a last resort, and to ban orders for sale on unsecured debts of less than £25,000*'. Analysis of the consultation responses, impact on businesses and creditors, and bankruptcy threshold (£750) have led us to opt for a lower threshold of £1000.

What are the policy objectives and the intended effects?

The policy objective is to ensure an appropriate level of protection for debtors is in place (in line with the Coalition commitment), while ensuring access to credit remains affordable for individuals and businesses. The intended effect is to introduce a minimum threshold on applications for orders for sale in relation to CCA debts, so limiting creditors using this as a method of securing payment of unsecured commercial debt which falls below the threshold amount.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

Option 0: Do Nothing.

Option 1: Introduce a threshold on Orders for Sale applications in relation to CCA debts at £1,000.

In light of consultation responses, our preferred option is to implement option 1, with a threshold at £1,000. Other options for thresholds of £5,000, £10,000 and £25,000 were also considered at consultation stage. More detail on these alternative thresholds, and why they were rejected can be found on page 8 of this Impact Assessment.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** December 2013

What is the basis for this review? PIR. **If applicable, set sunset clause date:** Threshold will be reviewed periodically in light of bankruptcy level

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:.....  Date: 2 February 2012

Summary: Analysis and Evidence

Policy Option 1

Description:

Threshold on applications for orders for sale in relation to Consumer Credit Act debts at £1,000

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	NQ	NQ	NQ

Description and scale of key monetised costs by 'main affected groups'

No monetised costs have been included for this policy option. Debtors and creditors are the two main groups for whom a potential monetary impact has been identified, however, the impact will depend largely upon behavioural responses, and we do not have sufficient information to anticipate these.

Other key non-monetised costs by 'main affected groups'

Potential administrative costs on the court system to adjust to the new threshold (expected to be minimal). Debtors could suffer from more bankruptcy applications (where the threshold is currently £750) as this will be a more readily available method of recovery than enforcement (impact expected to be minimal). Creditors may lose out if they are no longer able to recover their consumer credit act debt below the threshold through an order for sale, or if the costs of alternative enforcement action (i.e. bankruptcy) are higher, and / or this action is slower and less successful. However, a threshold set at £1,000 is expected to impact upon very few orders for sale (assuming our sample of data analysed is representative of orders for sale more widely). Possible wider economic costs from less contractual certainty and enforceability. Possible wider costs from less credit offered in future, or offered at higher price.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

No monetised benefits have been included for this policy. Debtors are the main group for whom a monetary benefit is anticipated (as they may gain security against sale of their assets), however, the impact will largely depend on behavioural responses by creditors. Consultation responses did not provide detail to analyse such behavioural impacts.

Other key non-monetised benefits by 'main affected groups'

Debtors could benefit from debt repayment occurring less quickly / less completely, and may be less susceptible to threats from aggressive creditors "that they will lose their home" unless they increase their debt repayments. Potential equity benefit if debtors paying premiums for unsecured debt are more protected from orders for sale being issued against them for debts below the threshold, than others above the threshold.

Key assumptions/sensitivities/risks

Discount rate (%)

A very small number of cases are expected to be affected, hence the impacts are expected to be negligible in size. Introducing a threshold on orders for sale could lead creditors to substitute to other enforcement processes or bankruptcy in some cases. We do not know the extent of this as it would depend on behavioural responses which we cannot anticipate, however, with a threshold of £1,000 we expect this impact to be minimal. Court fees and cost recovery assumed to remain the same as currently. Assume that judicial discretion for those applications above the threshold will remain the same as currently. We do not have complete information as to the level of debt at which most orders for sale are awarded, or how many relate to Consumer Credit Act debt. We have information from a sample of 126 cases (detailed in the evidence base from 2007/08), although this information may not be representative of all orders for sale issued in 2010. Overall potential impact on legal aid, if any, is assumed not to be significant.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: £0m	Benefits: £0m	Net: £0m	No	NEUTRAL

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			England and Wales		
From what date will the policy be implemented?			May 2012		
Which organisation(s) will enforce the policy?			HMCTS (County Courts)		
What is the annual change in enforcement cost (£m)?			Not known. Expect negligible.		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: n/a	Non-traded: n/a	
Does the proposal have an impact on competition?			Yes		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: n/a	Benefits: n/a	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	Yes	17
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes	17
Small firms Small Firms Impact Test guidance	Yes	17
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	18
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	18
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	18
Human rights Human Rights Impact Test guidance	Yes	18
Justice system Justice Impact Test guidance	Yes	18
Rural proofing Rural Proofing Impact Test guidance	No	18
Sustainable development Sustainable Development Impact Test guidance	No	18

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011 where required, alongside implementing Statutory Instruments. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

References

No.	Legislation or publication
1	<u>Tribunals, Court and Enforcement Act 2007</u>
2	MoJ “Consultation on whether a minimum threshold should be imposed on Order for Sale Applications in relation to Consumer Credit Act debts only” (Feb-April 2010)
3	BIS: Call for Evidence on Credit Debt and Personal Insolvency Review (December 2010)
4	Consultation Paper: Solving disputes in the county courts: creating a simpler, quicker and more proportionate system: A consultation on reforming civil justice in England and Wales justice internet web page at http://www.justice.gov.uk/consultations/solving-disputes-county-court.htm

Evidence Base (for summary sheets)

1. Introduction

- 1.1 The Government believes that responsible creditors who are owed money and have gained judgment in a court should have the right to enforce that judgment. Equally, debtors should be protected from the oppressive pursuit of their debts.
- 1.2 Effective enforcement is crucial to both the criminal and civil justice systems. People ordered to pay a court judgment, criminal penalties and compensation awards, or to comply with the terms of a community sentence, have little or no incentive to do so if they know there is no effective means of enforcing it. Unless there is prompt and efficient enforcement, the authority of the courts, the deterrent value of penalties and public confidence in the justice system might be undermined.
- 1.3 Under the existing arrangements, following a judgment after a payment has not been received, a creditor may apply to the court to enforce the judgment. The creditor will decide which of the following court based enforcement methods they favour such as: attachment of earnings order, charging orders, third party debt orders or warrants of execution.
- 1.4 In some cases where a creditor has obtained a charging order (which does not lead to debt repayment until the debtor sells their asset)², they may also choose to make a further separate application for an order for sale. This application requests the court's permission to enforce the existing charging order by ordering the sale of the property, or other asset, either immediately, or at some point in the future if a suspended order is made (which could be subject to certain conditions). A creditor may not apply for an order for sale if the debtor is complying with an agreed instalment order.
- 1.5 This Impact Assessment focuses on orders for sale. There have been instances where orders for sale have been used as a threat by aggressive creditors, or have been issued for low value judgment debts (relative to the asset value) and therefore concerns have been raised about their use, including by Citizen's Advice Bureau (CAB), and the Office of Fair Trading (OFT). Although this practice has now been tackled by the OFT in its *Irresponsible Lending Guidance*, the concerns were particularly directed at commercial credit lenders and debt management companies, who charge raised premiums for unsecured credit. When such debts are unpaid, and are pursued through the civil courts (whether undefended or otherwise), these debts can become judgment debts which can then be secured with a charging order, and on rare occasions enforced through a subsequent order for sale.
- 1.6 Given the issues raised, there is a Coalition commitment to introduce a threshold in relation to orders for sale applications and provide protection against unreasonable charging orders. While two previous MOJ consultations indicated that a threshold was not widely favoured, the level of a threshold was not previously impact assessed so we consulted for a third time on the issue between 29 March and 30 June 2011 with varying options for thresholds set between 0-£25,000.

Background

- 1.7 The number of orders for sale issued each year is low. In 2010, approximately 510 orders for sale were granted in the County Court, against over 90,000 charging orders made. This is similar to the number of orders for sale issued in 2009, although we do not know how many were applied for in either year as data was not collated then. We do not consider any High Court data as applications to the High Court (in excess of £30,000) are above the threshold.
- 1.8 Some of the 510 orders for sale awarded could also be suspended orders – in many cases the debtor is given a final opportunity to pay (either as a one-off payment or by instalments), and so the order would be contingent on the debtor breaking this agreement. It is therefore unclear how often the case progresses to forced sale of the particular asset. The available evidence (see

² A charging order simply registers a charge on the judgment debtors' asset with the Land registry (if property) or other asset holder to repay their judgment debt when they sell the asset.

paragraph 2.9) suggests that few orders for sale may relate to sums of less than £1,000, although this data is indicative only. The fee for an order for sale is generally £80.

1.9 Applications for orders for sale are always listed for hearing before a judge, and so are subject to case by case judicial discretion and case law. In each case the judge will consider:

- The proportionality of the debt as against each of the parties' assets and commitments.
- The intention behind the purchase of the property or assets (e.g. as a primary residence, a secondary or commercial property).
- The interests of others living in the property and whether an application is made against a sole owner of one or more properties, or under the Trusts and Appointment of Trustees Act 1996 (TOLATA).
- The balance against the rights of the creditor to recover the debt and the rights of the debtor and his/her family in respect of the family home under Article 8 of the European Convention on Human Rights (right to respect for private and family life), in all the circumstances of the case.
- Consideration as to whether the judgment debtor is guilty of "contumelious neglect or refusal to pay" or whether in reality without a sale the judgment debt is unlikely to be paid.³
- Guidance on the Civil Procedure Rules, which advises judges that an order for sale is an "extreme sanction" and a "draconian step to satisfy a simple debt" and that all circumstances should be considered.
- Whether the debtor should be given a final opportunity to repay the judgment debt (as a one-off payment or through an instalment plan), and therefore whether a suspended order should be granted. This could mean the debtor may never be required to sell their asset.

1.10 Our proposed changes to orders for sale relate to improving debtor protection under certain scenarios, discussed below.

Policy Objectives

1.11 Our proposed reforms are driven by the objective to achieve a balance between creditor and debtor rights, whilst tackling the current failings identified as:

- That some debtors pay high premiums for unsecured loans which are subsequently secured, despite the premium paid.
- That some debtors are subject to the threat of an order for sale for relatively low value debts, which can cause stress and difficulties (including potentially further borrowing), particularly for vulnerable debtors.
- That some debtors end up in a situation where they are forced to sell an asset where the value of the asset is disproportionate to the debt involved, particularly if the debtor does not engage sufficiently with the court, for example not attending the hearing, making it difficult for the judge to refuse the creditor's application.
- That it may be possible to improve debtor protection whilst minimising any potential wider impacts on lending and access to credit.

1.12 As mentioned above, recent evidence shows that only a very small proportion of charging orders result in an order for sale (approx 0.5%), of which some may be suspended. Following an application, judges exercise their discretion and only grant an order for sale where it is fair and proportionate to do so in accordance with case law. We know from previous consultations that the process of applying for, calculating potential equity in, and administering the sale of a debtor's property is economically risky and many creditors are averse to applying for order for sale. It is, therefore, rare for a debtor to lose their home as a result of this combination of enforcement mechanisms. However, it is important that the Government ensures all appropriate safeguards are in place to ensure debtors do not unfairly lose their homes (or other assets) as a result of what might have been originally relatively small, unsecured borrowing.

1.13 Concerns have particularly been raised in relation to Consumer Credit Act 1974 (CCA) debts. There are no uniform rules set down in statute which are easily accessible to the consumer. Prior

³ Supreme Court Practice – Guidance on Civil Procedure Rules at para 73.10.1

to the recent amendments to the Consumer Credit Act and the guidance issued by OFT⁴, creditors were able to use the threat of an order for sale to push debtors into repaying at increased and sometimes unreasonable rates. The Citizen's Advice ("CAB") 'Out of Order' report⁵ (which was published before the OFT guidance) argued that the legal protection for consumers of commercial credit who pay higher premiums for unsecured debt is weak. They say such debtors should be protected from aggressive creditors threatening, or seeking to order sales of their property for what are sometimes disproportionate debts. They acknowledge that whilst the number of orders for sale might be low the threat or possibility of being subject to an order for sale is a more pervasive reason to make changes in this area. The Coalition commitment to introduce a threshold for orders for sale applications highlights these concerns, as have other past consultations⁶.

- 1.14 It is also the case that in some situations greater protection is required to protect vulnerable debtors, who may be intimidated by the court process and unable to represent their circumstances effectively. In these situations, it can be difficult for the judge to make an informed decision as to whether the order for sale should be granted or not. In particular, if the debtor does not attend the hearing, it can be difficult for a judge to refuse the order as it may appear that the debtor does not oppose it.
- 1.15 On the other hand, a creditor has a reasonable right to expect to be able to recover their unpaid debt. Where charging orders and orders for sale are the only means of recovering a debt for a creditor, and that creditor is denied that right whether by the imposition of a threshold or any other regulatory bar, there is the potential risk of judicial review.
- 1.16 The policy objective is to uphold the right of the creditor to recover their judgment debt whilst balancing this against the objective of protecting the debtor against aggressive creditors, and to protect them from losing their homes for disproportionate debts following judgment on a previously unsecured debt. These two objectives also need to be balanced against any potential adverse impacts on access to credit if smaller debts cannot be enforced.
- 1.17 In considering how to balance these priorities, the Government has taken into account responses to the earlier Ministry of Justice consultation⁷, the BIS call for evidence issued as part of its Review of Consumer Credit, Debt & Personal Insolvency⁸, the views of CAB⁹ and other consumer groups and our most recent consultation from 29 March -30 June 2011. The proposal to ban orders for sale on unsecured debts under a particular threshold in relation to consumer credit act debts is more specific than the previous consultations on whether limits should be imposed.
- 1.18 We only consider CCA debts in this policy proposal. This is because these creditors have already contracted for the debtor to pay raised premiums on the credit at the point of loan, and therefore have the insurance to account for non-payment of such debts. Other debts such as utility, government and local authority debts do not have such insurance. It may not be equitable for debtors with certain assets to benefit from such asset ownership while they have judgment orders registered against them for other unpaid debts (e.g. legal aid, utility bills, criminal fines, unrecovered proceeds of crimes) where no such premium has been paid.

Economic rationale for intervention

- 1.23 The conventional economic approach to government intervention is based on efficiency or equity arguments. The Government may consider intervening if there are perceived failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons

⁴ Debt Collection guidance, published July 2003. A copy of this guidance, and subsequent guidance, published in March 2010, is available at the OFT's website: www.oft.gov.uk

⁵ Citizens Advice briefing, Out of order – CAB evidence on the use of charging orders and orders for sale in debt collection, published on 25 June 2009.

⁶ These include the CAB paper mentioned above, the Ministry of Justice (MoJ) Consultation on whether a minimum threshold should be imposed on order for sale applications in relation to Consumer Credit Act debts only⁶, and the Department for Business Innovation and Skills (BIS) Call for Evidence on Credit, Debt and Personal Insolvency.

⁷ See footnote 6 above

⁹ See footnote 7 above

¹⁰ See footnote 5 above

(e.g. to reallocate goods and services to the more needy groups in society). In this case intervention would be justified primarily on equity grounds.

- 1.24 It may be unjust for debtors to lose their home for the repayment of (originally unsecured) consumer credit debts, which were sold at higher premiums than secured debts. This may especially be the case if the order for sale is for a disproportionately low value given the value of the debt. Evidence from research during 2007/08 showed that in a few instances an order for sale was issued for debts only slightly over £1,000 in value, although we do not have information as to the nature of the assets the order was for, or the circumstances under which such orders were made (including whether a suspended order was granted or behaviour by the debtor leading up to the order being made).
- 1.25 On the other hand the proposals may diminish the incentive to repay, and this may lead to creditors providing less unsecured credit in future or at a higher cost. The overall compliance cost position is also unclear, as resource savings from not pursuing orders for sale as an enforcement mechanism would be balanced by increased resources from creditors pursuing other, more draconian, actions such as bankruptcy. The proposals would be justified if the benefits in terms of improved equity outweighed the costs outlined above.
- 1.26 Whether a potential reduction in borrowing is viewed as adverse would depend upon whether the current level of borrowing is optimal. If credit is being provided too easily and if this stems from market failure then a measure which leads to credit being restricted might be beneficial. It is not possible to make an assertion around the optimal level of borrowing in this Impact Assessment.
- 1.27 Any policy with the consequence of having a significant impact on access to credit would be beyond the policy objectives. Therefore we focus on a policy change which should achieve the objective of improved equity from the debtor perspective, whilst minimising the economic impact relating to changes in lending.

Policy Proposals

- 1.28 The policy proposal is to implement a threshold of £1,000 on orders for sale in relation to CCA debts. It is considered that the benefits of threshold from additional consumer protection would outweigh any costs on the functioning of markets stemming from less contractual certainty and enforceability.
- 1.29 In considering consultation responses the force of arguments propounded by responses of frequent customers of court enforcement were taken into account, as well as numerical percentages of favoured options. Given the current restriction on regulating, particularly micro and start up businesses, we also considered the political expediency of regulating at all on this Coalition commitment, or whether the same effect could be achieved through different means.
- 1.30 We consulted thresholds of £0 (base case); £1,000; £5,000; £10,000 and £25,000.
- 1.31 The threshold of £1,000 that we intend to proceed with has been chosen for reasons outlined in the consultation responses section below.
- 1.32 As mentioned in the policy objectives, and in our consultation stage Impact Assessments, we have only considered a threshold to apply in relation to CCA debts. The threshold should therefore not apply to:
- Recovery of empty and blighted properties.
 - Utility companies which are restricted from cutting off domestic supplies (such as water, gas, electricity) are already limited in the enforcement action they can take against non-payers.
 - Community debts or Council Tax.
 - Recovery of legal aid through Crown Courts means testing.
 - Recovery of proceeds of crime.

- Bankruptcy and insolvency which is generally regarded as a more severe step than debt enforcement, and where it would not make sense to prevent trustees in bankruptcy from recovering assets against a bankrupt's property.

1.33 For any amount below the £1,000 threshold in CCA debts, an order for sale could not be applied for. The reforms apply to all forms of civil case but not to family cases and not to criminal cases. This might be all forms of civil cases where payments are owed, not just cases involving money lending.

Consultation responses

1.34 Detail of the consultation responses is set out in the main consultation response report, to which this Impact Assessment is annexed. Overall, consultation responses slightly favoured a threshold although the force of argument weighed heavier with those who did not want a threshold introduced. Taken together, abstentions and support for a threshold less than £1000 exceeded those favouring a higher threshold. There were some strong arguments given as to why a low threshold should be introduced (if there was to be one), such as the interaction with bankruptcy (outlined below), the risk of increasing use of debt purchasing companies (also outlined below), risks around the cost and availability of unsecured lending, and the rights of creditors and small businesses to recover smaller business debts.

1) Interaction with bankruptcy threshold:

The threshold for bankruptcy is currently £750. If the threshold for orders for sale was significantly higher than this level, it could result in the unintended consequences in that creditors may seek to use bankruptcy instead, in which debtors are more likely than not to lose their assets, including their family home.

Insolvency practitioners are concerned about the impact this will have on national insolvency while others are concerned about the affordability and availability of unsecured credit and the effect if more creditors were forced down the bankruptcy route. It is a policy preference that enforcement should be a stage below bankruptcy. While an order for sale application is at the discretion of a judge on a case by case basis, with primary consideration aimed at protecting the primary residence, the debtor in bankruptcy would may lose their home without the same consideration of dependents and whoever else was living there.

2) Debt management companies buying debt:

If a high threshold for orders for sale was in place, this could lead to creditors, especially debt purchasing companies, to allow a debtor's credit to increase beyond any given threshold in order to be able to enforce by order for sale. This would result in debtors accumulating unmanageably large debts before creditors take action, and being stung by high contractual interest charges added to the principal debt (i.e. a charging order can accumulate interest at both statutory rate and contractual rates). Where debt purchasing companies acquire debts for a fraction of their face value (some suggest as low as 2p in the £) the actual value of the debt to the creditor can be considerably lower than its face value, enabling the creditor to adopt this technique of buying up more debts belonging to any given debtor before enforcing them.

Affected stakeholder groups

1.35 The proposals would affect the civil courts, CCA creditors, debtors, solicitors, advice agencies, bankruptcy practitioners and the Insolvency Service.

- Civil Courts – Would be impacted in terms of the number of applications they may process (and award) for Orders for Sale, and potentially charging orders; and the effect this would have on creditor behaviour in relation to other enforcement methods, bankruptcy or insolvency. With a threshold set at £1000, it is estimated that this impact would be small as very few applications for orders for sale seem to be lower than this level.
- CCA creditors – Would be affected in terms of the options for debt enforcement they are able to pursue at levels below the threshold, and this may also impact on subsequent lending activity. To ensure that lenders are willing to lend, they have to be confident that they will get their money back. By restricting orders for sale it effectively reduces the options available to lenders

when trying to recoup money owed to them. While this may discourage them from lending in the first place and be likely to increase the cost of borrowing, it is hoped that a threshold set at a reasonably low level will have a minimal impact in this respect.

- Debtors – May no longer be subject to an order for sale although they may be subject to other debt enforcement measures (e.g. insolvency) which may make them worse off. On the other hand, debtors could benefit from no further enforcement, which would make them better off. Debtors might also be less able to borrow funds in future if creditors tighten up lending activity.
- Insolvency Service – May see an increase in activity if creditors are required to resort to bankruptcy in cases where they are no longer able to pursue an order for sale below the threshold. As the threshold is set at a comparable level to bankruptcy it is hoped that a creditor may elect for the cheaper, protected, enforcement method than for bankruptcy with all its connotations.
- Legal professionals – Might possibly be affected by a reduction in orders for sale, and an increase in work relating to other enforcement mechanisms or insolvency.
- Legal Services Commission (LSC) – The LSC administers legal aid and might possibly be affected if there is a change in demand for legal advice funded by legal aid, which could include advice provided by the not for profit sector. It is unclear whether these impacts would arise and if so, how significant they might be. Given this we have assumed that the overall impact on legal aid, if any, is unlikely to be significant.

2. Costs & Benefits

2. 1 This Impact Assessment identifies impacts of a threshold for orders for sale in relation to consumer credit act debts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing a threshold of £1,000 on orders for sale (in relation to CCA debts). The costs and benefits of each option are compared to the do nothing option.
2. 2 We include quantifications where possible, however, for some impacts we are unable to include a quantitative assessment. For these impacts we include a qualitative assessment, and provide an explanation as to why a quantified figure cannot be assigned.

Option 0: Base case (do nothing)

2. 3 Under this option, no intervention would be made, and debtors would continue to rely on the protection offered by judicial discretion, case law, recent CCA amendments and OFT guidance and monitoring. Creditors would be able to apply for an order for sale in all cases where the debt remains unpaid and where creditors have already obtained a charging order through the court enforcement procedures.
2. 4 Such applications are usually only made where a debtor's only assets are secured in property, shares or unit trusts, where the property concerned is not the primary residence of the debtor or their dependents, where the creditor is assured of sufficient equity from any sale and where court enforcement mechanisms are inappropriate or have failed. As mentioned above, orders for sale are not common, and may often be suspended rather than for immediate sale, however, data is not collected in relation to how many orders made are suspended. We also do not hold information relating to the number of orders for sale applications in the base case.
2. 5 All options are assessed relative to the base case. The costs and benefits associated with the base case are necessarily zero.

Options 1: Threshold on applications for Orders for Sale in CCA debt of £1,000

Description

2. 6 Here we consider the implications of implementing a threshold of £1,000 on applications for orders for sale in relation to Consumer Credit Act debts.
2. 7 A threshold would mean that creditors with a charging order registered for a CCA debt would be unable to apply for an order for sale unless the principal judgment debt exceeds this threshold.

2. 8 With a threshold of £1,000, this would remove any potential applications below this amount. However, for those applications above the threshold, this would not remove the requirement for judicial discretion as to whether it would be fair to award an order for sale or not given the debtor's circumstances and the judgment debt owed. It is assumed that a threshold would not affect judicial consideration of applications where the principal judgment debt is higher than the threshold.
2. 9 We do not have information relating to the total distribution of orders for sale issued in 2010, however, table 1 below shows the distribution of 126 orders for sale issued in 6 courts during 2007/08. These figures may not be representative of all orders for sale issues based on the courts chosen (the study was specifically looking into those courts which dealt with a large proportion of CCA debts), and the figures may be outdated, however it gives an indication of the potential distribution of the value of orders for sale. It is not possible to determine the proportion of orders for sale made on a suspended basis due to the way in which the data was recorded.

Table 1: Split of orders for sale awarded by amount involved from a sample of 126 cases during 2007/08

Order for sale awarded	>0 to £1k	£1k - £3k	£3k - £5k	£5k-£10k	£10k-25k	Above £25k	Total
	0%	17%	17%	25%	32%	9%	100%

2. 10 This gives some indication that a threshold of £1,000 would raise minimal impact, assuming the sample was broadly representative (and that inflation in asset prices has not been hugely significant)
2. 11 This sample of order for sale data compares to the following distribution of the value or charging orders applied for / awarded between March and September 2010.

Table 2: Split of charging order applications and orders by amount of money involved

	Null	£0	>£0 to 1£k	>£1k to £5k	>5k to 10k	>£10k to £25k	Above £25k	Total
Application for charging order	4.8%	0.6%	10.7%	35.8%	22.6%	18.8%	6.7%	100.0%
Charging order awarded	4.3%	0.6%	9.9%	34.9%	23.9%	19.8%	6.5%	100.0%

(The null column refers to those cases where no data was recorded, or because the claim was not for a precise amount)

2. 12 It can be seen that in general relatively more orders for sale are awarded at higher debt values. This is in line with a number of the respondents to the consultation who indicated that it would not be worth applying for an order for sale for sums less than £10,000, due to the costs involved of administering the sale.
2. 13 However, whilst in many instances orders for sale are for high values, there is anecdotal evidence that a number of relatively low value debts for which orders for sale are applied for, or awarded. For example, discussions across Government indicated a few instances where orders for sale have been applied for, or threatened to be applied for, for debts of less than £1,000.
2. 14 The values for which orders for sale are applied for or awarded for different types of debt may also differ. We do not have any evidence relating to whether orders for sale may be for higher or lower amounts in relation to CCA debt compared to other debts, although CCA debts could on average be lower due to the specific concerns raised in this area.
2. 15 Where an order for sale cannot be pursued in future (because it falls below the threshold), the creditor has the option of no further action (following the registration of the final charging order), or the option to seek other enforcement action, such as insolvency. However, it is considered that a threshold set at £1000 would not lead to many creditors seeking insolvency as a remedy in lieu of enforcement.
2. 16 At a threshold of £1,000, all impacts identified below are expected to be relatively small.

Costs of options 1

Costs HM Courts and Tribunal Service (HMCTS)

2. 17 The policy may impose administrative costs on the court system, particularly in relation to distinguishing between CCA debts and other debts when issuing claims in the county courts. Court clerks are typically not legally trained, and so may not easily be able to tell whether a particular debt is regulated by the Consumer Credit Act, and thus covered by the policy. Additional training may be required in order to remedy this. However, the liability for applications for orders for sale will rest with creditors or their legal representatives. If the application reaches judicial consideration and does not meet the required criteria, this could lead to adverse costs orders for the creditor.
2. 18 In terms of ongoing costs, the reforms could lead to an increased HMCTS workload depending on whether additional bankruptcy or other enforcement measures are pursued if CCA creditors are unable to apply for an order for sale. On the other hand, there could be a reduction in workload and the associated fee income if fewer orders for sale and /or charging orders are applied for. It is unclear how the overall volume of HMCTS work may be affected, however, we assume any impact will be small based on overall volumes of orders for sale issued per year and the low threshold.
2. 19 HMCTS operate a full cost recovery fees model in which court fees should cover court costs. Therefore, any change in court activity is expected to be cost neutral for HMCTS, whether there is an overall increase in court activity (if creditors divert to other enforcement methods or bankruptcy) or a decrease (if creditors do not pursue the judgment debt further). In cases where the creditor is unable to recover the debt by any other means, departmental lawyers advise there is risk of judicial review in accordance with European Convention on Human Rights (ECHR) principles. This risk will be low based on the low threshold proposed.
2. 20 We assume that there will be no change in HMCTS capacity, e.g. staff or estate, in response to any change in activity and hence there will be no capacity adjustment costs.
2. 21 Given that we assume that fees cover costs for the different types of court action, and volumes of people switching between different types of court process will be low, we assume a threshold would not have an impact on court backlogs and waiting times.

Costs to Debtors

2. 22 Depending on behavioural responses by creditors, it may be that creditors switch to other forms of enforcement, e.g. insolvency. This may result in further costs on debtors through additional court and legal fees, which may be added to the judgment debt. At present debtors are more likely than not to lose their assets, including their family home, when made bankrupt.
2. 23 As the bankruptcy level is £750, creditors could use bankruptcy proceedings to enforce debts between £750 and £1,000. It is not possible to quantify how frequently this may occur, however, it is assumed that this impact will be low due to the low differential between the two values, and the costs to creditors of the bankruptcy route.
2. 24 The cost to debtors also depends on Government policy - the Government has recently announced that it will be launching a consultation on increasing the petition debt levels for creditors in bankruptcy proceedings. Whilst acknowledging that bankruptcy is the appropriate debt remedy tool in certain circumstances, the view is that it should not be used by creditors as a 'threat' to a consumer where relatively modest levels of debt are involved. The current level of £750 has not been changed since 1986 and the Government believes that to be able to threaten someone with bankruptcy for such a small amount is disproportionate.
2. 25 Any additional cost to debtors would depend upon the change in the volume of debt enforcement overall, as well as how legal and court fees in other enforcement methods or bankruptcy compare to those for orders for sale.
2. 26 Debtors might also be subject to reduced lending in future, or to an increased cost of lending as a result of increased amounts of bad debt for creditors.

Costs to Creditors

2. 27 Creditors may lose out if they are no longer able to recover their CCA debt below the threshold through an order for sale, which in some circumstances may have been the most efficient avenue for creditors to take. This could mean that debt enforcement takes longer, or may be less successful in that a lower amount of judgment debt may be recovered. For creditors where reputational or equity issues are paramount, it is not expected that a low threshold will have a large impact. For other creditors, especially if the threat of an order for sale (rather than an actual order) is an effective method to recover CCA debts below the threshold, the impact could be greater.
2. 28 It is not possible to quantify this wider impact of a threshold on orders for sale in terms of debtor incentives and non-compliance. However, based on the volume of orders for sale applied for compared to other judgment debt enforcement routes, and the number of elements considered by the judge, it is considered that the threat of orders for sale may not be a significant driver in terms of overall judgment debt repayment.
2. 29 In some cases, creditors may pursue another enforcement route such as warrants of execution, attachment of earnings and third party debt orders, or pursue bankruptcy (subject to potential increases in threshold - see above). A number of respondents to the consultation paper identified the potential increase in bankruptcy proceedings as an associated risk with the introduction of a higher threshold. It was held that such a threshold would constrain businesses in terms of their ability to recover (small) trade debts legitimately owed, and as a consequence lead to an increase in bankruptcy proceedings. However, bankruptcy is an expensive process compared to other debt enforcement activities. For example, bankruptcy requires a £700 deposit, plus £220 court fee. By comparison the court fee for a warrant of execution, attachment of earnings order or a third party debt order is £100.
2. 30 In some cases, there may also be some costs which are not recoverable. This may be if legal costs are not awarded, or if the route pursued does not lead to successful recovery of the judgment debt.
2. 31 Ultimately these costs to creditors might be passed to debtors in the form of reduced borrowing for certain types of debtors, higher premiums for unsecured borrowing or reduced availability for unsecured lending. This might also represent a wider cost to society, as detailed below.

Costs to Insolvency Service

2. 32 The insolvency service may incur one-off costs as a result of adjusting to any increase in demand for their services in the short term, but this may change in light of any increase in the bankruptcy threshold of £750 (see above). The extent of a change in demand for their services will depend on behaviour by creditors, and the extent to which increases in the use of bankruptcy is a measure or not. It is not thought that the impact will be large given the threshold of £1,000.
2. 33 No ongoing net costs to the Insolvency Service have been identified, other than increased a potential increase in demand for their service. It is assumed that where the Insolvency Service provides a service, fees are charged which recoup the costs of that service, given that the Insolvency Service operates on a cost recovery basis.

Costs to Legal Professionals

2. 34 By no longer advising in relation to cases for orders for sale below the threshold, this could lead to a reduction in workload for legal professionals. On the other hand there may be increased demand for legal professionals to the extent that Consumer Credit Act creditors substitute to other enforcement methods or insolvency. The overall position is unclear, however, based on the volume of cases that would be affected, it is expected that this impact would be minimal.
2. 35 Any loss in business to legal professionals would be mirrored by the gain to debtors from no longer paying the related fees (and to creditors in relation to fees which cannot be recovered from the debtor).
2. 36 With any change in the volume of business, it is possible that legal professionals may engage in other activity relating to other types of case, or may engage in other types of work. Legal professionals may incur one-off costs as a result of adjusting to any changing pattern of demand.

Whether legal professionals are worse off as a result of these proposals would depend upon how their work profile changes. Any costs for legal professionals would be deemed a secondary impact.

Distributional costs

2. 37 At an aggregate level, debtors as a whole are likely to pay creditors less quickly, and may also repay debts less completely, as the policy proposals are taking away an enforcement option for some creditors in respect of their smaller debts. In relation to the Consumer Credit Act the creditor could be a money lending company whilst the debtor is likely to be an individual.

Equity (fairness) costs

2. 38 The original enforcement hearing would have considered whether the contract which has not been honoured was fair. In one respect, implementing a constraint on when a judgment ruling which in itself is considered fair can be enforced could lead to reduced equity. On the other hand the issue perhaps is whether the enforcement action (i.e. an order for sale) is disproportionate given the nature and size of the debt, which was unsecured. A creditor who is denied their reasonable expectation to be able to recover an unpaid debt by this method, in cases when it is the only means of recovery, may be able to seek judicial review proceedings to overturn any threshold under ECHR.

Wider social and economic costs

2. 39 It is possible that businesses may not be willing to offer unsecured loans for sums below the threshold, or may only be willing to do so at higher rates of interest (reflecting the increase in difficulty recovering such debts). This would drive the cost of lending up or restrict access to lending. This potential negative impact on lending was highlighted by a number of respondents to the consultation.
2. 40 However, based on the £1,000 threshold, it is expected that this impact will be minimal - we know that most creditors do not seek orders for sale for debts below the threshold, and also that most already price in the risk of default into the interest rates and charges on the loan. However, it is possible that at the margin there could be an impact through creditors no longer being able to enforce certain debts through the threat of an order for sale, even if the order is never applied for.
2. 41 This may be the case if the threshold has a negative impact on debtor incentives to repay the debt, with debtors being less willing to engage with creditors in the knowledge that they are limited in the enforcement options available. For example, one respondent to the consultation highlighted the prospect of a threshold encouraging some unscrupulous debtors attempting to spread their debts under a minimum threshold to avoid repayment of debt.
2. 42 It is not possible to determine exactly how access to consumer credit may be affected in future by the proposals, as it depends on debtor and creditor behaviour, and how access to bankruptcy proceedings may change in future. However, part of the rationale for choosing a low threshold is to minimise the potential negative impacts on access to credit outlined above with the other policy objectives.

Benefits of Option 1

Benefits to HM Courts and Tribunal Service (County Court)

2. 43 HMCTS would secure more fee income from any potential increase in other enforcement methods, although there may also be reduced income from a reduced volume of applications for orders for sale. The overall net position is unclear. However, as HMCTS operate a full cost recovery model, we expect no net impact on the overall HMCTS financial position.
2. 44 It is thought that a low threshold will have a minimal impact on diverting creditors to other enforcement methods based on the volume of orders for sale currently awarded.

Benefits to Debtors

2. 45 Introduction of a threshold could remove the threat of creditors forcing the sale of assets for debtors with charging orders in relation to CCA debts below the threshold and therefore reduce aggressive creditor behaviour to force up repayments.
2. 46 On the basis that all other options to pursue judgment debts remain the same as previously, debtors may benefit to the extent that their judgment debts may not be enforced as completely (e.g. if simply a charging order remains) or as quickly (e.g. if another enforcement method or bankruptcy has to be pursued).
2. 47 There may be a fee saving to debtors to the extent that no further enforcement method is pursued after the charging order, or alternatives pursued result in lower court and legal fees.
2. 48 It is not possible to quantify this impact as it depends upon debtor and creditor behaviour, however, given the low threshold it is not expected that the impacts here will be significant, particularly because creditors will still have other enforcement options with which to threaten creditors.

Benefits to Creditors

2. 49 To the extent that creditors no longer apply for an order for sale, they would potentially save on the court and legal fees, or least the associated cash flow costs relating to the fact that these fees are paid upfront, and not recouped until later.
2. 50 On the assumption that creditors pursue orders for sale because they are the most efficient way to recoup their judgment debt, a threshold could generate a net cost to creditors. However, with a threshold of £1,000 this is expected to be small.

Benefits to Insolvency Service

2. 51 The Insolvency Service is likely to experience an increase in business if Consumer Credit Act creditors substitute to bankruptcy. This may be associated with increased fee income from this activity. This gain to the Insolvency Service would be mirrored by the loss to debtors from paying any additional insolvency fees. Insolvency Service fees are assumed to relate to the costs of their services hence the net financial position for the Insolvency Service should be neutral.

Benefits to Legal Professionals

2. 52 It is possible that legal professionals may experience an overall increase in business from the increase in other enforcement processes or insolvency, even once the reduction in business associated with orders for sale is taken into consideration. Any impact on legal professionals is a secondary impact.

Distributional benefits

2. 53 At an aggregate level, debtors as a whole are likely to pay creditors less quickly, and may also repay debts less completely, as the policy proposals are taking away an enforcement option for some creditors. In relation to consumer credit act the creditor is a money lending company whilst the debtor is likely to be an individual.

Equity (fairness) benefits

2. 54 Debtors pay higher premiums for unsecured debts, due to their nature of not being secured against an (immovable) asset. To the extent that implementing a threshold prevents those debtors who have paid a premium for this unsecured debt having an order for sale issued against them, this could represent an equity benefit.
2. 55 The threshold could generate an equity benefit through addressing the issue of proportionality (size of debt in relation to value of property) in a way which is not currently set out for either debtors or creditors. This will assist with debtors whose principal judgment sum is below the threshold from suffering threats from aggressive creditors that they will lose their homes unless they increase their payments. While this is currently addressed by recent OFT Guidance on Irresponsible Lending,

where the creditor has no intention of issuing an application for an order for sale, it will set out more clearly in statute the minimum limit for which this can be effected and thus offer better protection for debtors.

2. 56 There could further fairness benefits through preventing vulnerable debtors having to proceed with the court process for an order for sale in situations where they are unable to engage effectively with the court, and manage their finances in relation to a (suspended) order for sale.

Wider social and economic benefits

2. 57 It may be that unsecured Consumer Credit Act lending is currently above the optimum level. If this is the case, it may be that a threshold that would restrict this lending, or increase its cost could represent a benefit. However, as mentioned above it is not possible to determine in this Impact Assessment whether this is the case or not.
2. 58 The proposals are not expected to generate wider social and economic benefits. Such wider benefits might in theory arise as a result of debtor-related behavioural responses (eg reduced crime) or as a result of reduced enforcement generating savings elsewhere (eg reduced state benefits paid to debtors from government bodies).

Options 1: Summary of key assumptions

2. 59 The following key assumptions apply to Option 1:
- Introducing a threshold on orders for sale could lead creditors to substitute to other enforcement processes or bankruptcy in some cases. We do not know the extent of this, or how behavioural responses could change with different thresholds, but the impact of a threshold at £1000 is thought to be low.
 - Overall court cost recovery and operational efficiency would not be affected.
 - Court capacity (including staff and estate) is assumed not to change.
 - Assume that judicial discretion for those applications above the thresholds will remain the same as currently.
 - Legal professionals assumed to adjust to changing pattern of demand
 - We do not have complete information as to the level of debt at which most orders for sale are awarded, or how many relate to consumer credit act debt. The available data is detailed on page 11 of this Impact Assessment. It is roughly estimated that government debt comprises about 15% of order for sale applications.
 - The volume of cases affected by these proposals is not known, although is expected to be a very small number.
 - No assumptions are made about whether current levels of CCA lending are optimal.
 - We have assumed that the overall impact on legal aid, if any, is unlikely to be significant.

Summary of One In One Out position

2. 60 This option is out of scope of the One In One Out rule as it relates to individual enforcement action.

Summary of impact on business

2. 61 The overall impact on business has been assessed as minimal, as the change proposed by this policy does not impose any new regulatory requirements on businesses - it simply affects when particular enforcement processes can be applied for.
2. 62 To the extent that businesses are creditors there could be a negative impact from policies which provide additional debtor protection, however, debtors who are businesses may gain. As the policies are expected to have a minimal impact on overall debt enforcement based on the level at which the threshold will be introduced, we consider that the impact on the overall rate of debt enforcement will be minimal.

3. Enforcement and implementation

- 3.1 The responsibility of enforcing a judgment debt remains the judgment creditor's. Action on failure to comply with a court-based enforcement method by a judgment debtor is a matter for the judgment creditor should they wish to continue pursuing recovery of a particular judgment debt.
- 3.1 Compliance with a judgment order would continue to be the responsibility of judgment debtors. As long as the judgment debtor meets the conditions of a judgment order or instalment payments agreed and continues to engage with the creditor if difficulties or changes in circumstances occur, the need for the creditor to seek an order for sale is obviated. Should the judgment debtor default, the creditor may apply to the court for an order for sale (but as case law & TOLATA protects jointly owned, primary residences and those with dependents resident, this is only likely in cases concerning single owned properties, stocks, unit trusts or funds in court or secondary properties or land where the creditor can be assured of sufficient equity to cover the costs of the sale).

4. Specific impact tests

1) Statutory equality duties

- 4.1 An Equalities Impact Assessment, signed off by the policy Director is annexed.

2) Economic impacts

i) Competition

- 4.2 It is not anticipated that the proposals would give rise to competition concerns. However, lenders and creditors may rethink their lending policies. They would either move towards lending on a secured basis only; or they might raise interest rates on unsecured lending to make provision for the increased number of 'bad debts' that they would be unable to effectively pursue. Some people would, as a result, find their access to credit restricted and those with access to credit would be paying higher interest to compensate for, and effectively subsidise, defaulters.
- 4.3 To the extent that some firms specialise in small loans (and therefore would be likely to be impacted by a threshold), this could have an impact competition if these firms now have to charge higher premiums than their competitors (with a more diversified lending base) as they could have a larger proportion of their lending that they would be unable to effectively pursue.
- 4.4 Based on the low threshold chosen, it is considered that these impacts are likely to be small.

ii) Small firms

- 4.5 It is not anticipated that these proposals would have a disproportionate impact on small businesses. To the extent that small firms are lenders, who cannot now enforce a charging order below the threshold, there could be an adverse impact but this is predicted to be rare due to the numbers thought to opt for orders for sale below the £1000.

iii) Exemption from Micro Businesses moratorium

- 4.6 Part 4 enforcement processes are out of scope of the micro business exemption moratorium for the following reasons:
- Specific enforcement action is excluded from the application of the micro-business exemption moratorium.
 - Cost impacts are assessed as neutral and these impacts neither fall on small or micro businesses.
 - Part 4 enforcement proposals aim to streamline court rules and court procedures which are not in themselves regulation (albeit that they could result in secondary costs to business).

3) Environmental impacts

4.7 There are no environmental implications associated with the proposals.

i) Greenhouse gas assessment

4.8 There are no greenhouse gas implications associated with the proposals.

ii) Wider environmental issues

4.9 There are no wider environmental implications associated with the proposals.

4) Social impacts

i) Health and well-being

4.10 There are no health and well-being implications associated with the proposals.

ii) Human rights

4.11 The Ministry of Justice considers that the proposal engages Article 8 (respect for the private and family life of individuals, home and correspondence) and that it is compatible with the Convention. Imposition of a charge pursuant to this clause would be compatible with Article 8(2), as this is in the pursuit of a legitimate aim, (to protect the rights and freedoms of the creditor and to provide security for his judgment debt), and necessary in a democratic society as proportionate to the legitimate aim. It would not be possible for an order for sale to be made where a debtor is not in default under the instalments order, (and therefore, in the absence of default, the debtor would not lose his home), and the debtor would be able to apply to the court for the charging order to be discharged under section 3(5) of the Charging Orders Act 1979.

4.12 Secondly a restriction on a creditor by way of imposed threshold may be in contravention of Article 6 if that creditor, who has a reasonable right to expect to be able to recover their debt, has no other means of recovering that debt. The threshold may therefore be judicially reviewed in such cases. Where the threshold is set at a lower level however, the issues of proportionality come into play and it is not thought that this risk is more than negligible.

iii) Justice system

4.13 The justice impacts are outlined in the main body of the Impact Assessment.

iv) Rural proofing

4.14 There are no rural proofing implications associated with the proposals.

5) Sustainable Development

4.15 There are no sustainable development implications associated with the proposals.

Annex 1: Post Implementation Review (PIR) Plan

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];

This proposal has been subject to consultation and public response for implementation is positive. Our delivery plan involves developing and implementing secondary Regulations and operational mechanisms, and at the same time as the operational mechanisms are being developed, putting in any post implementation review arrangements.

Review objective:

The post implementation review will analyse the impact in terms of efficiency of process and user feedback. It will also check there is no negative impact on access to justice.

Review approach and rationale:

This reform has now received ministerial authority to be implemented. Subject to any revision at regulations consultation stage evaluation will take place 3 years post consultation. We shall evaluate the effectiveness of the above intended benefits post implementation by a combination of methods. We shall use Her Majesty's Court Service's National Statistical information published in Judicial Statistics, supported by other operational statistical information. Working Groups will also continue to form a key role in monitoring the impact of the new court based enforcement changes. We may also consider questionnaires, if they are appropriate to obtain qualitative or additional quantitative information which assists with the analysis of the impact of our proposals.

Baseline:

As set out in option 0 – do nothing.

Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]

- Improvement of customers' perception of services available to ensure effective enforcement.
- Improved safeguard for debtors against disproportionate pursuit of amounts owed (the charging order proposals should assist with this element).
- Reports from advice centres of fewer debtors being threatened with losing their homes for disproportionately smaller CCA debts (ie below the threshold).

Monitoring information arrangements:

Court user feedback will be monitored through correspondence from the public and Parliamentary Questions. HMCTS Civil and Family Operations also provide Civil Enforcement Policy with feedback from the queries they have received from court staff and users. Judicial statistics also provide indications of court user behaviour

Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]