

Title: Impact assessment for the consultation on whether to introduce Information requests and orders Lead department or agency: Ministry of Justice Other departments or agencies:	Impact Assessment (IA)
	IA No: MoJ 78
	Date: 29 March 2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
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Summary: Intervention and Options

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

The Government is committed to improving access to, and the efficiency of, civil justice. It is crucial that creditors who have established a legitimate claim should be able to pursue it through a straightforward and accessible system and, if necessary, enforce the judgment by the most appropriate means. The present system of court based enforcement has a number of weaknesses which have been identified as failing both creditors and in some circumstances debtors. The main weaknesses relate to a lack of accurate and up to date information about debtors and the length of time current processes take to reach fruition. Unless there is prompt and effective enforcement the authority of the courts, the authority of the court order and public confidence in the justice system might all be undermined.

What are the policy objectives and the intended effects?

The main policy objectives of the proposed reforms - to implement information requests and orders, legislated for in Part 4 of the Tribunals, Courts & Enforcement Act 2007 (TCE Act) - are to make it easier for creditors to enforce their debt through better information about the type of enforcement to pursue, and through better information about the debtor. This should improve judgment debt repayment outcomes, and to lead to greater confidence in the civil justice system. At the same time we will aim to protect genuine debtors complying with judgment debts from the aggressive pursuit of their debts.

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

Option 0: Do nothing

Option 1: Implement provisions in the TCE Act '07 relating to information requests and orders. This includes the option for creditors to make an application about how best to enforce their debt, and the subsequent ability for the court to request information from government departments (an information request) or from individuals (an information order), if this will help deal with the creditor's application. This was legislated for in Sections 95 – 105 of the TCE Act '07.

Our preferred option is Option 1 as this would meet the policy objectives.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed May 2014
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

Ministerial Sign-off For final proposal 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: 22.02.2011

Summary: Analysis and Evidence

Policy Option 1

Description: Implement provisions from TCE Act '07 relating to information requests and orders

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					
Description and scale of key monetised costs by 'main affected groups'					
<p>Costs of establishing an information gateway with HM Revenue & Customs and ongoing costs to operate this. The set-up cost is estimated at approximately £500,000, with ongoing costs estimated at approximately £50,000 per annum. However, this cost applies to both information requests and orders, and finding the debtor's current employer in relation to attachment of earnings orders. Therefore, it should therefore not be double counted if both proposals are to be implemented.</p>					
Other key non-monetised costs by 'main affected groups'					
<p>Costs to HMCS of providing the new services, matched by fees charged so net costs neutral overall Debtors pay debts more quickly and more completely Debtors cover costs of operating new services Increase in court workload, potentially impacting the backlog and waiting times Costs to other government bodies, individuals and businesses from disclosing information Potential reduction in bailiff workload for Orders to Obtain Information and Attachment of Earnings notices where information can be gained directly from other third parties (HMRC/DWP)</p>					
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'					
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>Creditors receive payment more quickly and potentially more completely Wider economic benefits from greater contractual certainty and enforceability Gains to equity and fairness Debtors avoid operating costs of orders to obtain information and need to attend at court where these are no longer pursued</p>					
Key assumptions/sensitivities/risks					Discount rate (%)
<p>Court fees and cost recovery assumed to stay the same for enforcement processes Court fee for information requests and orders assumed to cover costs Bailiffs and legal professionals assumed to adjust to changing pattern of business demand HMCS costs and fees for new processes higher than for orders to obtain information Distributional implications unclear No fee paid to third parties to respond to information requests or orders, with the exception of HMRC Judgment order volumes expected to rise, order to obtain information volumes expected to fall Volume of cases subject to new processes uncertain Assume no wrongful disclosure of information by court staff</p>					
Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):		In scope
New AB: n/a	AB savings: n/a	Net: n/a	Policy cost savings: n/a		Yes/No

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?			01/05/2012		
Which organisation(s) will enforce the policy?			HMCS (Civil Courts)		
What is the annual change in enforcement cost (£m)?			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?			No		
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

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

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	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	Yes	
Justice system Justice Impact Test guidance	Yes	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. 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

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	<u>Tribunal, Courts and Enforcement Act 2007</u>
2	
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

1. Introduction

Background

- 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 systems might all 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 The UK does not operate an open network of data-sharing between government departments. There is no court service by which creditors are able to receive advice from the court regarding the best method for them to enforce a judgment order, or request the court to require additional information to be provided about the debtor from third parties. Instead the creditor needs to rely on information collated at the point of contract or subsequently or where the debtor's circumstances have changed, apply to the court for an order to obtain information, which may involve a hearing involving the debtor. The order to obtain information process is largely dependent upon the debtor's compliance and honesty and, although backed up by committal powers for non-compliance, allows those debtors who seek to avoid paying their debts or disclosing information about their circumstances to do so with little independent verification. For this reason it is suffering declining use by creditors.
- 1.5 The provisions in Sections 95 – 105 of the TCE Act 2007 include legislation which would allow creditors to apply to the court for information about the best course of action to recover their judgment debt, and the subsequent ability of the court to request information from an individual or another government department if it would help deal with the creditor's application.
- 1.6 These reforms apply to all forms of civil case but not to family or criminal cases, except those which have been transferred into the county court for enforcement. They relate to all cases where judgment debt has been awarded but the debtor has not yet paid the judgment debt. This might be all forms of civil case where payments are owed.

Policy Objectives

- 1.7 Fairness concerns are driving our proposed reforms. If the Government does nothing then the current information problems would continue to apply. However this would not address the present failings that judgment debt repayment can be potentially sporadic and easy to evade, and confidence in the justice system might not improve. We cannot say whether or not the problem would worsen, since this would require predicting future behavioural changes between the disparate groups involved in court processes. We have assumed, however, that the problems are unlikely to rectify themselves, since this would probably already have happened over the course of time.

Policy Proposals

- 1.8 We propose implementing the Part 4 of the TCE Act '07 in relation to information requests and orders.

- 1.9 This would include the option for creditors to make an application about how best to enforce their debt, and the subsequent ability for the court to request information from government departments (an information request) or from individuals (an information order), if this will help deal with the creditor's application.
- 1.10 By implementing Part 4 of the TCE Act '07 in relation to information requests and orders, the Government believes that it can provide a simpler, and more effective process of enforcement by:
- Improving the ability of responsible creditors to recoup monies owed to them more quickly and / or more successfully.
 - Ensuring that the court is helpful in relation to enabling court users to select the most appropriate court service or route when pursuing judgment debt.
 - Provide the court with an independent means of verifying debtor's means and circumstances which may lead to more debtors' early compliance with judgment orders.
 - Provide a means of closing loopholes which currently allow debtors to evade paying their judgment debts.

Economic rationale for intervention

- 1.11 The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough 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 (e.g. to reallocate goods and services to the more needy groups in society).
- 1.12 In this case, the intervention would be justified on fairness grounds. Improved enforcement of contracts and of judgments should lead to an improvement of fairness on the premise that the initial judgment order hearing would have considered if the contract itself was fair and should be enforced, and would have applied a reasonable repayment profile given the debtor's financial position. Improved enforcement of a ruling which itself was fair should lead to an improvement in fairness.
- 1.13 The proposals enable the information needed to enforce the judgment order to be obtained in a potentially more efficient way than currently. If fewer resources were required to obtain the same information then there would be a gain in productive efficiency. Alternatively there may be an efficiency gain if the information was obtained much more quickly, and if the value of doing so outweighed any increased resources involved.
- 1.14 The proposals might also be justified if they enabled knowledge held by the court to be disseminated more efficiently, in particular knowledge about how to enforce a judgment debt most effectively. This may enable creditors to select the most appropriate court service.
- 1.15 The extent of any court information service would need to be considered carefully, especially as there is a government data-sharing gateway set-up cost; and if the running costs for this service would be covered by court fees. In particular private sector legal professionals may also be able to provide the same advice, and the case for government intervention in an area where the private sector could operate would need to be carefully justified.
- 1.16 A process to facilitate creditors pursuing enforcement action when a judgment debt is owed may lead to more cases being fully enforced, and enforced more quickly, with wider economic benefits for the operation of markets and for contractual certainty.

Affected key stakeholder groups

- 1.17 The proposals will affect the civil courts, creditors, debtors, and third parties - employers, HMRC, other government departments, banks and individuals.

- Civil Courts – Would be impacted in terms of workload through providing advice to creditors, and through obtaining information from third parties to support this.
- Creditors – Would be impacted in terms of their ability to enforce their judgment debt, or the ease at which this could be undertaken.
- Debtors – Would be impacted in terms of the speed, or likelihood of judgment debt enforcement.
- Third parties – Will be required to coordinate with HM Courts Service (HMCS) in terms of requests for information about the debtor or their circumstances.
- Bailiffs – May see a reduced workload if they no longer need to pursue debtors for information on means or orders to obtain information notices.
- Legal professionals – Might possibly be affected by a potential increase in the volume of enforcement orders implemented.

2. Costs & Benefits

2. 1 This Impact Assessment identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing the options considered. The costs and benefits of each option are compared to the do nothing option. Impact Assessments place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised which might include how the proposals impact differently on particular groups of society or changes in equity and fairness.
2. 2 This impact assessment considers the potential impacts on those groups above if we were to implement sections 95-105 of the TCE Act '07.

Option 0: Base case (do nothing)

2. 3 Under this option, no intervention would be made. Therefore, methods to obtain information about possible enforcement processes, and obtaining necessary information about debtors would be undertaken in the same way as now. In particular, there would be no potential engagement with the court between the judgment order being awarded, and any application by the creditor to enforce this judgment debt if need be.
2. 4 All options are assessed relative to the base case. As such, the costs and benefits associated with the base case are necessarily zero.

Option 1: Implement information requests and orders

Description

2. 5 As mentioned above, if the creditor has an unpaid judgment debt, they are able to apply to the court to enforce this through the following methods: attachment of earnings order, charging orders, third party debt orders, or warrants of execution.
2. 6 If the creditor knows little about the defendant's financial situation, the only route to obtaining more information is through applying for an order to obtain information from the debtor. This is a way of finding out about the defendant's income, assets and spending, and can help creditors decide whether the debtor can afford to pay them, and which method is likely to be most effective.
2. 7 The defendant will be asked to swear an oath, or affirm, before the questioning begins. However, in reality there may be problems with obtaining information for example if the information is inaccurate. There is also the possibility that the debtor will not attend the hearing for questioning. Whilst this will result in sanctions against them, this will be in the form of a suspended committal order. As such, charges may be dropped if the defendant does attend a hearing. If this occurs, it would lead to undue delay for the creditor in commencing the enforcement process.

2. 8 Introducing the ability for creditors to apply to the court for information about action to recover debt, and the subsequent ability of the court to obtain information from third parties to support this application, would provide an alternative to creditors other than orders to obtain information. This may improve the speed and success of their debt recovery, as it would impact their ability to apply for the relevant enforcement process more quickly, or apply for an enforcement process they would not have had the information to apply for previously. However, it is likely that the fee for this service would be greater than the fee for an order to obtain information. Around 30,000 orders to obtain information were issued in the County Court in 2009.

Costs of Option 1

HMCS (Civil Courts)

2. 9 It is likely that there would be one-off costs to HMCS to update their IT systems, as a new process is being implemented. There could also be potential costs to update leaflets and information sources. These costs should be quantified in due course.
2. 10 In terms of ongoing costs, it is likely that the reforms would lead to an increased HMCS workload through the following channels.
2. 11 Firstly, the court may now undertake work to obtain additional information about debtors. This would be through the form of an information request to another government department, or an information order, to an individual. Secondly, the court would now be required to provide advice to creditors about the best form of enforcement action to take. Thirdly, there may be a potential increase in the volume of enforcement orders of different types applied for as a result of creditors having better information about their debtors.
2. 12 We assume that the additional costs to HMCS of undertaking this additional workload will be recovered through court fees. Court fees for enforcement processes are assumed not to change as a result of any change in volume, whilst the fee for creditors to apply for information about action to recover judgment debt has not yet been set, so could be set to ensure cost neutrality.
2. 13 On the other hand we expect that HMCS would experience losses in the form of reduced fee income from there being fewer orders to obtain information. As above, this cost to HMCS of reduced fee income would mirror the benefit to HMCS of reduced costs, leaving the overall position neutral financially.
2. 14 We consider that the cost of providing information via the new process might be higher than the cost of an order to obtain information, hence the fee might be higher. In addition we consider that the demand for the new processes would only partially come from existing users of the system switching from orders to obtain information.
2. 15 Whilst this potential increase in court activity is expected to be cost neutral, it may be that an increase in court activity could have a negative impact on the County Court backlog and on court waiting times. This is because we assume that HMCS court capacity would not be adjusted. If there were capacity adjustments, e.g. with additional staff or estate, then there would be one-off capacity adjustments costs e.g. from commencing new contracts.
2. 16 We assume that there would be no requirement for HMCS to pay a fee to most third parties to comply with an information request and order. These third parties might be other government bodies, other individuals or businesses which hold the relevant information.
2. 17 The exception to this is setting up a link with HM Revenue & Customs (HMRC). The intention would be to set up a formal linkage with HMRC, and if this was undertaken we would expect IT costs to be approximately £0.5 million, as well as ongoing costs of operating this linkage and covering HMRC's additional administrative costs. These ongoing costs are estimated at around £50,000 per annum. All such costs would be met by HMCS, however, could be included in the fee for an information request.
2. 18 This above cost of setting up an information gateway with HMRC would cover both setting up the link to find the debtor's current employer in the context of attachment of earnings orders, and the

more general link to information requests in this context. Therefore, this cost should only be counted once if both policy strands are implemented.

2. 19 These costs are subject to much uncertainty including because the volume of information requests is unknown.

Debtors

2. 20 A more efficient process for obtaining information about debtors is likely to lead to enforcement processes being implemented more quickly, and sometimes more successfully. This could lead to debtors beginning to repay their judgment debt more quickly in some cases, and / or more completely in others. Overall therefore, there may be an increase in the total amount paid to creditors by debtors.
2. 21 If the creditor applies to the court for information about action to recover the judgment debt, the fee for this will also be added to the judgment debt if an enforcement mechanism commences. This could represent an additional cost to some debtors through increasing the amount of judgment debt owed. The same applies in relation to other legal costs incurred by the creditor, which ultimately might fall to the debtor.

Creditors

2. 22 For creditors, there may be a cash flow implication if they pay an additional court fee to obtain information about enforcement action, and this is not recouped until the judgment debt is paid. However, as this creditor chooses whether or not to pursue this route, we assume that this cost is offset by the benefit to creditors in terms of the speed and effectiveness of debt enforcement.
2. 23 Whilst fees and costs initially incurred by creditors may ultimately be paid by debtors there may be some costs which are not recoverable in this way.

Third parties (including other government bodies and businesses)

2. 24 The reforms would lead to the requirement for third parties – government departments, organisations, businesses, or individuals – to comply with information requests and orders. As such, there could be an additional administrative burden and therefore cost to these groups which they would not be compensated for under the current proposals.
2. 25 The exception to the above is HMRC. This is because the overall package of enforcement reforms includes setting up a proposed linkage which will apply to information requests, and more specifically finding a debtor's current employer in attachment of earnings orders. As mentioned in the above cost section, the cost of setting up this link would be a cost to HMCS, and therefore there would be no additional cost to HMRC as a result of the linkage.
2. 26 Whilst this represents an inconsistency in dealing with third parties, it is anticipated that a large number of information requests would be directed to HMRC, and therefore the burden on them would be greater than on any other group.
2. 27 Third parties may consider that there is a cost in relation to data security risks and data protection. Although the systems used to transfer information and subsequently release it should meet the highest data protection standards, data protection risks (however small) would always apply to data transfers.

Bailiffs

2. 28 Bailiffs may experience a reduction in business from the implementation of information request orders. This is because they may no longer be required to enforce orders to obtain information, or enforce means forms if creditors choose to pursue different enforcement mechanisms as a result of better information about debtors. This may be associated with reduced fee income. This loss to bailiffs would be mirrored by the gain ultimately to debtors from no longer paying the related bailiff fees.
2. 29 It is possible that bailiffs may engage in other enforcement activity relating to other types of case, or may engage in other lines of work. Bailiffs may incur one-off costs as a result of adjusting to

any changing pattern of demand. Whether bailiffs are worse off as a result of these proposals would depend upon how their work profile changes. It has been assumed in this Impact Assessment that bailiffs will pursue other work of an equivalent value and would not experience any increased ongoing costs.

2. 30 Whilst the potential impact on bailiffs is expected to be small, we have identified this for the sake of completeness.

Legal professionals

2. 31 Improved information about debtors may lead to an increase in the volume of enforcement processes applied for and hence to more business for legal professionals. On the other hand there may be reduced demand for legal professionals as a result of fewer orders to obtain information and fewer associated court hearings. The overall position is unclear.
2. 32 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. 33 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. It has been assumed in this Impact Assessment that legal professionals would pursue other work of an equivalent value and would not experience any ongoing costs.

Distributional costs

2. 34 The implementation of information requests and orders may lead to some debtors paying more quickly than would previously have been the case, and some paying back more completely.
2. 35 At an aggregate level, debtors as a whole are likely to pay creditors more quickly, and may also repay debts more completely. Whether the distributional consequences of this transfer are considered to be positive or adverse would depend upon the nature of each party. For example in relation to borrowing, the creditors might be financial institutions and the debtors might be less well off individuals.

Equity and fairness costs

2. 36 The proposals are not expected to reduce equity or fairness, especially as the debtor will be informed if an information request or order is intended to be made against them.
2. 37 The original enforcement hearing would have considered whether the contract which has not been honoured was fair. Implementing more effectively a judgement ruling which itself is considered to be fair should not lead to reduced fairness.

Wider social and economic costs

2. 38 The proposals are not expected to generate wider social and economic costs. Such wider costs might in theory arise as a result of debtor-related behavioural responses (e.g. increased crime) or as a result of improved enforcement generating costs elsewhere (e.g. increased state benefits paid to debtors from government bodies).

Benefits of Option 1

HMCS (Civil Courts)

2. 39 HMCS would secure fee income relating to the new services provided. It is assumed that this would cover the costs of the service and hence that the net financial position would be neutral.

2. 40 However, HMCS may also incur fewer costs relating to orders to obtain information as fewer such orders are expected in future. Therefore, in this area there would be reduced fee income as a result and the net financial position is expected to be neutral.
2. 41 As explained, it has been assumed that court capacity will remain the same hence there would be no benefits relating to court capacity changes.

Debtors

2. 42 Debtors could potentially benefit from the reduced involvement of bailiffs, whose fees ultimately are paid by debtors.
2. 43 Debtors might also benefit from being subject to fewer orders to obtain information. The costs to the debtor of engaging in these hearings would be avoided, as would costs to the creditor which are ultimately recovered from the debtor.

Creditors

2. 44 Creditors would benefit from an increased ability to obtain information about debtors, and the most appropriate enforcement method to use. This is because it is likely to lead to enforcement processes being implemented more quickly, for example if the new information requests and orders process is quicker than the order to obtain information process, and sometimes more successfully, for example if previously not enough information about the debtor was known to enforce the most appropriate type of judgment debt enforcement.
2. 45 Overall, this could lead to debtors beginning to repay their judgment debt more quickly in some cases, and / or more completely in others. This would represent a benefit to creditors, and overall there may be an increase in the total amount paid to creditors by debtors.
2. 46 Creditors may also gain if their (unrecoverable) legal professional fees are lower under the new arrangements. Although their legal fees should ultimately be passed on to the debtor, not all of their fees might be recoverable in this way.

Third parties

2. 47 No significant on-off or ongoing benefits to third parties have been identified.

Bailiffs

2. 48 No benefits are anticipated for bailiffs.

Legal professionals

2. 49 As explained in the costs section it is unclear how the total volume of business might change for legal professionals. Any overall gain in business to legal professionals would be mirrored by the loss to debtors or creditors (if they cannot recover these from the debtor) from paying the related fees.

Distributional benefits

2. 50 The implementation of information requests and orders may lead to some debtors paying more quickly than would previously have been the case, and some paying back more completely. The overall distributional impact amongst debtors is unknown.
2. 51 At an aggregate level, debtors as a whole are likely to pay creditors more quickly, and may also repay debts more completely. Whether the distributional consequences of this transfer are considered to be positive or adverse would depend upon the nature of each party. For example in relation to unpaid business, the creditor might be a small firm and the debtor might be a wealthy individual.

Equity and fairness benefits

2. 52 The proposals are expected to raise equity and fairness, as the original judgment is assumed to be fair hence the quicker, more effective and more complete implementation of this judgment should improve fairness.

Wider social and economic benefits

2. 53 The proposals may generate wider social and economic benefits associated with the improved functioning of markets stemming from greater contractual certainty and enforceability.
2. 54 There could also be improved confidence in the court system. This could add to the above benefit to the functioning of markets as well as the social value placed on an improvement in confidence.

Option 1: Summary of key assumptions

2. 55 The following key assumptions apply to Option 1:
- Court fees are assumed to stay the same in relation to current enforcement processes as is cost recovery in relation to them.
 - Court fees for the new information requests and orders process are not yet set, however they are assumed to cover the cost of this process.
 - Costs to HMCS of the new processes and associated fees are expected to be higher for the new processes than for an order to obtain information.
 - Court capacity (including staff and estate) is assumed not to be affected by these proposals.
 - Third parties are assumed not to charge a fee to respond to information requests and orders, except HMRC.
 - Bailiffs and legal professions are assumed to incur one-off adjustment costs from their changing pattern of demand but are assumed to incur no change in ongoing costs or income once they have adjusted to undertaking a different volume of business in the area of enforcement.
 - The volume of orders to obtain information is expected to fall as some of this business substitutes to the new processes.
 - Overall demand for the new processes is unknown but is assumed to be greater than cases which switched from pursuing an order to obtain information.

3. Enforcement, Sanction and Monitoring

- 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

4. Specific Impact Tests

1) Statutory equality duties

- 4.1 An Equalities Impact Assessment signed off by the Policy Director (Nick Goodwin) is annexed.

2) Economic impacts

i) Competition

- 4.2 The proposals affect some employers more than others, in that some employers may be more likely be subject to information orders about their employers than others. However, we assume that the time (and therefore cost) of adhering to these orders is minimal, and therefore the potential competition impact is small. There is also no clear reason why certain employers in particular sectors would be more likely to be subject to information orders about their employers than their competitors.

ii) Small firms

- 4.3 There is no reason to believe that small firms would be impacted by information orders more significantly than larger firms.
- 4.4 The reforms may affect small firms which are creditors and therefore be of benefit to small firms.

3) Environmental impacts

- 4.5 There are no environmental implications associated with the proposals.

i) Greenhouse gas assessment

- 4.6 There are no greenhouse gas implications associated with the proposals.

ii) Wider environmental issues

- 4.7 There are no wider environmental implications associated with the proposals.

4) Social impacts

i) Health and well-being

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

ii) Human rights

- 4.9 There are no human rights impacts associated with the proposals.

iii) Justice system

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

iv) Rural proofing

- 4.11 There are no rural proofing implications associated with the proposals.

5) Sustainable Development

- 4.12 There are no sustainable development implications associated with the proposals.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>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];</p> <p>These proposals are subject to consultation and their implementation will depend on public response. Our delivery plan developing consulting on and implementing the secondary legislation and operational mechanisms, and at the same time as the operational mechanisms are being developed, putting in place any post implementation review arrangements.</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p> <p>The post implementation review will analyse the impact in terms of efficiency of process and user feedback. It will also check there was no negative impact on access to justice.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p> <p>These proposals are at consultation stage. It is not therefore not confirmed yet whether such reforms will 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.</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p> <p>Option 0 – do nothing</p>
<p>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]</p> <ul style="list-style-type: none">• Improvement of customers' perception of services available to ensure effective enforcement.• Speedier court processing,.• Improved debt recovery for creditors with reduced scope for debtors to avoid repayment.
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p> <p>Court user feedback will be monitored through correspondence from the public and Parliamentary questions. HMCS 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.</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p>

Add annexes here.