

## Equality Impact Assessment Initial Screening - Relevance to Equality Duties

***Before you complete an Equality Impact Assessment you must read the guidance notes and unless you have a comprehensive knowledge of the equality legislation and duties, it is strongly recommended that you attend an EIA training course.***

The EIA should be used to identify likely impacts on:

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

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

The MoJ is consulting on whether to implement a minimum limit on applications for Orders for Sale in Consumer Credit Act 1974 (CCA) debts, following the Coalition Agreement Commitment to introduce more protection against aggressive bailiffs and unreasonable charging orders and 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.

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

Samantha Toyn/Helen Magill - Enforcement Policy, Civil, Family and Legal Aid Policy Directorate.

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

Aims/objectives	Outcomes
1. The policy objective is to ensure an appropriate level of protection for debtors, while ensuring access to credit remains affordable for individuals and businesses.	1. To protect the debtor against aggressive creditors and prevent them losing their homes for disproportionately small debts through the order for sale process following judgment on a previously unsecured commercial debt.

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

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

Users of the Civil and Family Courts are not required to provide personal information about themselves and as such MoJ/HMCTS have no data on the type of people who use the service to enforce debts. Consequently, at this stage we are only able to deduce the likely impacts on various groups based on statistics gathered from the Office of National Statistics (ONS), CAFCASS, other government departments and published research papers. A survey of users of the Probate Service was conducted in 2009 and provides some further information which has been considered. Data on the general demographics and income of the population of England and Wales will enable an assessment of the likely impact of the proposals on different groups. Information has been obtained from the Office of National Statistics (ONS), the Department for Work and Pensions (DWP) and CAFCASS, which includes:

2010 Annual Survey of Hours and Earnings (ASHE), (ONS)

Households below average income, an analysis of the income distribution 1994/95 - 2007/08 (DWP)

ONS Labour Force Survey Jan- Mar 2009

Published research papers and articles 'Women in the Labour Market' ONS; 'Ethnicity Data for Jobseekers' Allowance Claimants' ONS; 'What's costs got do with it?' The impact of changing court fees on users' MoJ; 'HMCS Probate Service Survey 2009'

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

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

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

We will endeavour to gather more information during the consultation process and before we consult on the details of the proposals.

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

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

No positive equality impact on any of the different groups has been identified.

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

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

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

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

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

There are no anticipated adverse equality impacts as a result of the proposed changes.

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

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

**Assessment of Impact**

We are consulting on a variety of threshold levels, including an option for no threshold at all. A threshold would mean that creditors with a charging order registered would be unable to apply for an order for sale unless the judgment debt exceeds this threshold. With a threshold in place this would remove any potential applications below the threshold. Judicial discretion remains as to whether it would be fair to award an order for sale or not given the debtor's circumstances and the judgement debt owed. There is no data as round the values for which orders for sales are awarded, and no data as to the debtor and their circumstances. The proposal aims to safeguard debtors with unsecured Consumer Credit Act 1974 debts irrespective of personal circumstances.

**Gender (including gender identity)**

Any impact in terms of gender would be closely related to the difference in income between men and women in society as a whole. On average women's weekly earnings are lower than men's with a 12.8% gender pay gap in 2008 according to the ONS. This is due in part to the fact that more women work part time and on average part time employees receive lower hourly earnings than full-time employees. There are proportionately less women in employment than men (70% in 2008 compared to 78% of men). As women earn less on average than men and there are proportionately more men in employment it is conceivable that women will be impacted to a greater degree by any changes to the enforcement process as it is possible that women will be more likely to have unsecured and secured debts than their male equivalent. However, the changes proposed are on the level of threshold and not whether an order for sale is the appropriate enforcement method.

**Race**

There is no evidence to suggest that changes to Orders for Sale will automatically disadvantage court users from minority ethnic backgrounds. The DWP's 'Households Below Average Income Analysis 1994/5 - 2007/08' shows that households headed by someone from a minority ethnic group were more likely to have a lower household disposable income. This is particularly true of the Pakistani/Bangladeshi group with over 50% of these households in the bottom grouping of disposable household income. There may be some suggestion that minority ethnic groups may be impacted to a higher degree than other groups on grounds of income, however there is no evidence at this time to suggest that minority ethnic groups fall into debt more or less than other groups.

**Disability**

There is no evidence to suggest that the introduction of a minimum threshold will disproportionately impact individuals due to disability. The only probable link to disability is as a result of income. Disabled households tend to have a lower disposable income than non-disabled households. DWP's 'Households Below Average Income Analysis 1994/5 - 2007/8' shows 55% of disabled households in the two lower disposable income quintiles compared to 36% of non-disabled households. However there is no evidence to suggest that individuals with a disability are more or less likely to fall into debt and be pursued through the courts and be subject to an Order for Sale.

**Religion and Beliefs**

There is no information about the religion of those who are subject to judgment orders. The proposals are not expected to impact on people owing to their religion or beliefs.

**Age**

Individuals under the age of 18 are not allowed to take out loans or credit card agreements or other hire purchase agreements. The proposals are unlikely to impact on individuals under the age of 18 as they are unlikely to be pursued for unpaid debts by creditors. There is no information about the ages of individuals who fail to pay creditors and who are pursued by creditors through the courts. There is no evidence to suggest that the proposals will impact upon one particular age group more than another.

**Sexual Orientation**

There is no available information concerning the breakdown of the sexual orientation of individuals who

fail to pay their creditors. There is not any suggestion that the proposals will impact adversely on a person because of their sexual orientation.

#### Summary

Due to the nature of the proposals any impact on different groups will be financial; creditors with a charging order registered on property, shares or unit trusts registered in the UK would be unable to apply for an order for sale unless the judgment debt exceeds the threshold. Judicial discretion will remain as a safeguard as the court is obliged to consider the debtor's particular circumstances. However, individuals cannot be identified by gender, race, age or other named group because personal circumstances will dictate why an individual fails to pay an outstanding sum or chooses not to engage with the creditor. The proposals will not adversely affect any minority group. Those who are affected by the level of threshold are likely to be individuals who have tied up their assets in property or shares.

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

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

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

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

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

We will be consulting on the detail of the proposals at a later stage. We will revisit the impact assessment and the equality impact assessment at that time, but we do not anticipate that there is an adverse equality impact on any minority group as a result of the proposals. We do not, therefore, envisage a need for a full Equality Impact Assessment at a later stage.

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

Responses to the consultation paper will be monitored. Further consultation will be undertaken on the detail of the proposals and responses to that paper will also be monitored. Information regarding judgment debts and enforcement mechanisms are not currently collected, and it is difficult to envisage how it could be collected in the future. Research into minority groups that have judgment debts and orders for sale made against them will be undertaken before the next consultation to inform the EIA for that process.

12. Name of Senior Manager and date approved

You should now complete a brief summary (if possible, in less than 50 words) **setting out which policy, legislation or service the EIA relates to, how you assessed it, a summary of the results of consultation, a summary of the impacts (positive and negative) and, any decisions made, actions taken or improvements implemented as a result of the EIA.** The summary will be published on the external MoJ website.

This Equality Impact Assessment relates to proposed changes on whether to implement a minimum limit on applications for Orders for Sale in Consumer Credit Act 1974 (CCA) debts. This initial screening focused on income differences between groups. No adverse equality impact were identified given that the proposal is related at the Coalition Agreement Commitment to introduce more protection against aggressive bailiffs and unreasonable charging orders and 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.

Name (must be grade 5 or above): Nick Goodwin

Department: Justice Policy Group

Date: 18 February 2011

Note: The EIA should be sent **by email to [anthony.shepherd@justice.gsi.gov.uk](mailto:anthony.shepherd@justice.gsi.gov.uk) of the Corporate Equality Division (CED), for publication.**

# Full Equality Impact Assessment

13. Which group(s) of people have been identified as being disadvantaged by your proposals. What are the equality impacts?

14. What changes are you planning to make to your original proposals to minimise or eliminate the adverse equality impacts? Please provide details of the proposed actions, timetable for making the changes and the person(s) responsible for making the changes.

15. Please provide details of whether or not you will consult on the proposed changes, particularly with disabled people and if you do not plan to consult, please provide the rationale behind that decision.

16. Can the adverse impacts you identified during the initial screening be justified and the original proposals implemented without making any adjustments to them? Please set out the basis on which you justify implementing the proposals without adjustments.

17. Do your proposals miss an opportunity to promote equality of opportunity? If so, do you plan to take action to remedy this and if so, when? Please provide details.

18. You are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts.

Please provide details of how you will monitor/evaluate or review your proposals and when the review will take place.

19. Summary details, sign off by Senior Manager and date approved.

You should now complete a brief summary (if possible, in less than 50 words) **setting out which policy, legislation or service the EIA relates to, how you assessed it, a summary of the results of consultation, a summary of the impacts (positive and negative) and, any decisions made, actions taken or improvements implemented as a result of the EIA.** The summary will be published on the external MoJ website.

Name (must be grade 5 or above):

Department:

Date:

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