



Ministry
of Justice

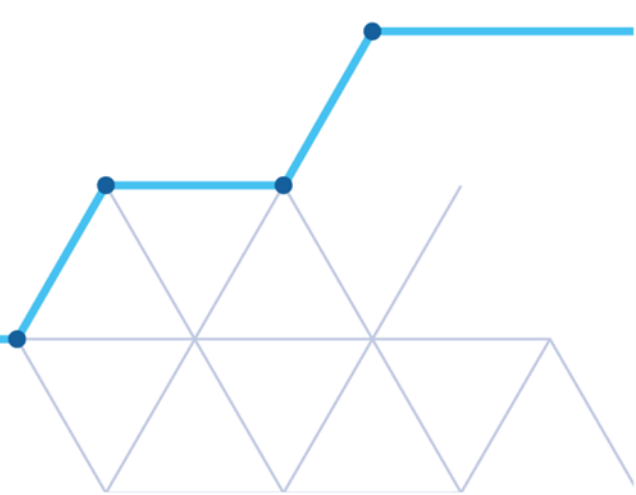
Default County Court Judgments

A consultation on ensuring the process works fairly, for both creditors and debtors

This consultation begins on 27th December 2017

This consultation ends on 21st February 2018

Protecting and advancing the principles of justice





Ministry
of Justice

Default County Court Judgments

A consultation on ensuring the process works fairly, for both creditors and debtors

A consultation produced by the Ministry of Justice. It is also available at <https://consult.justice.gov.uk/>

About this consultation

- To:** Bodies representing the interest of both debtors and claimant organisations in England and Wales. This list is not exhaustive.
- Duration:** From 27/12/17 to 21/2/18
- Enquiries (including requests for the paper in an alternative format) to:** Civil Procedure and Enforcement Team
Ministry of Justice
102 Petty France
London SW1H 9AJ
Tel: 020 3334 6146
- How to respond:** Please send your response by 21st February 2018 to:
ccjreply@justice.gov.uk
3rd Floor, Post point 3.32
Ministry of Justice
102 Petty France
London SW1H 9AJ
Tel: 020 3334 6146
- Response paper:** A response to this document exercise is due to be published in May 2018 at: <https://consult.justice.gov.uk/>

Contents

Foreword	3
Executive summary	4
Introduction	5
Default County Court Judgments	7
Improving public information	10
Policy proposal for removing an entry from the Register of Fines, Orders and Judgments	13
The problem of County Court Judgments being served to an old address	14
Annex A – Statistical Data	16
Annex B – Glossary of Terms	18
About you	19
Contact details/How to respond	20
Impact Assessment	22
Equality issues	23
Consultation principles	25

Foreword



The Government has embarked upon a major reform programme across the courts and tribunals in England and Wales. We already have a world-renowned justice system but our vision is for a truly modern system that is swifter, more accessible and easier for everyone to use.

Among other things this means ensuring that people bringing cases to court, or who may be defending a case, understand their rights and responsibilities and the options that are open to them, through a programme of legal education, better signposting tools and the creation of a single online system for starting and managing cases across the justice system.

The Government announced in December 2016 that it would seek views on improving the process currently in place by which businesses or individuals who are owed money seek to recover it through the County Court in England and Wales. This followed concern about the potential adverse impact of a County Court judgment on individuals who, unaware that a judgment had been made against them, found months or years later that their credit rating had been damaged.

It is inevitable that, sometimes, people are unaware that they are subject to a County Court judgment, but there is concern that in some cases this may be happening because creditors deliberately use addresses for debtors that they know to be old. This deprives debtors the chance to defend the claim and having to suffer the consequences of possible enforcement as creditors use this as leverage for future debt recovery.

Since last year's announcement the Ministry of Justice has engaged with a wide range of stakeholders from the advice sector, the debt management sector and from other Whitehall departments to look at ways to protect consumers better, including protecting their credit ratings from being damaged.

This consultation paper proposes some changes to the current court process where we think it needs to be made fairer for those who owe money. It looks at how we can improve the information available to consumers to help inform them of their rights and responsibilities so that they are better informed about court claims for debt. And it seeks views on whether the present process is being abused by some creditors.

Dominic Raab MP

Minister of State for Justice

Executive summary

Against a background of reform in the courts and tribunals, the Ministry of Justice wants to ensure that the process for debt recovery strikes the right balance between the legitimate right of a business or individual to pursue a money claim and the right of the debtor to know (as far as is reasonably possible, following attempts by the creditor to engage with the debtor), of any claim against them and have the chance to defend that claim.

A creditor can apply to the County Court to recover money they are owed. This is known as making a court claim. A County Court judgment is a judgment made by the County Court against a debtor when they have failed to pay money they owe. Where the defendant fails to respond to the court claim and has not filed a defence to the claim the Court will make a judgment called a 'default judgment' on application of the claimant. (The process for recovering a debt through the County Court is set out in greater detail in the Background section of this paper).

The failure of the defendant to respond may be because they are deliberately avoiding payment. But it may be because they are unaware of the claim.

Once made, a judgment is entered on the Register of Fines, Orders and Judgments where it will stay for six years. The Register may later be examined by a lender to whom the defendant goes for a loan. The presence of a judgment against a person on the Register may stop them getting the loan for example.

Ministry of Justice officials have discussed the current process around County Court judgments, including concern that some creditors may be deliberately using incorrect addresses, with a wide range of stakeholders representing the advice sector, claimant organisations and government departments. This engagement has been immensely helpful in pointing the way forward.

This consultation broadly does three things.

First, it sets out proposals for informing consumers of their rights and responsibilities, for example what they should do to keep creditors updated with their contact details.

Second, it seeks views on a policy option to improve matters for defendants by the removal of an entry on the Register of Fines, Orders and Judgments when a defendant settles the claim immediately once a judgment is brought to their attention, provided they satisfy the court that they were not previously aware of the judgment.

Third, it seeks data on instances where a County Court judgment has been entered against a debtor without their knowledge, where a claim has been sent to an old or otherwise incorrect address as a result of deliberate flouting of the court rules by a claimant.

Introduction

In this consultation paper the Ministry of Justice is interested in views as to the effectiveness and appropriateness of the current processes for money claims issued in the County Court. Of particular interest, will be views from respondents on limiting the circumstances in which an individual may have a judgment made in default against them without their knowledge.

In the light of responses to this consultation, the Government will consider whether any changes are needed to the current arrangements and ask the Civil Procedure Rules Committee, which govern processes in the civil courts, to consider any changes.

Any changes to current procedures, following consultation, would inevitably apply to all money claims, whether they arise from, say, a claim for lack of payment for a new fridge or television or are brought by a parking company seeking to enforce a parking infringement on private land. Both use the same process. Respondents sharing their experiences with us are therefore requested to make clear the type of claim they are referring to.

The paper is aimed in particular at those who have had experience of County Court judgments, whether as defendants or claimants, and bodies representing the interests of claimants or defendants, but responses will be welcome from anyone interested in the subject matter.

This paper has been sent to:

- **Judicial and Legal bodies** including the:
 - Association of District Judges,
 - Bar Council,
 - High Court Masters Group,
 - HM Council of Circuit Judges,
 - Law Society,
 - Senior judiciary through the Judicial Office for England and Wales,
 - Treasury Solicitor.
- **Consumer Bodies and Stakeholder groups** including:
 - Advice Services Alliance,
 - Arrow Global, Automobile Association,
 - British Motorists Protection Association,
 - British Parking Association, Cabot Financial,
 - Casehub,
 - Citizens Advice,
 - Civil Justice Council,
 - Civil Court Users Association,

- Commission for Racial Equality and business organisations like the Confederation of British Industries,
- Credit Services Association,
- Disability Rights Commission,
- Equifax,
- Experian,
- Equal Opportunities Commission Federation of Small Businesses,
- International Parking Community,
- Money Advice Service,
- Money Advice Trust,
- National Association of Student Money Advisers,
- National Consumer Council,
- Pay Plan,
- Parking Eye,
- Personal Support Unit,
- Registry Trust.
- Southern Water,
- Stepchange,
- This is Money,
- Which? and other stakeholder groups including OFGEM, OFWAT.
- **Other Government departments and bodies:** including the:
 - Department for Communities and Local Government
 - Driver Vehicle Licensing Agency,
 - National Assembly for Wales

Default County Court Judgments

Background

The civil justice system aims to ensure that processes are in place which enable individuals and businesses to recover money they are owed in an efficient and timely manner, whilst also protecting the rights of those who owe money.

The current process for recovering monies owed is described below.

Pre-Claim stage

All reasonable steps should be taken to encourage settlement of the debt so as to avoid court action, but this will depend on communication being possible between claimant and defendant.

Service of the claim

Where court action is necessary, the general principles governing service (i.e. the process of communicating/providing notice of proceedings to the defendant) of documents in legal proceedings are contained in Part 6 of the Civil Procedure Rules. The claimant provides the court with an address for service of the claim. This will be the defendant's usual address if known, or last known address where the claimant does not know the current address (even if the defendant has moved) or where the defendant has not provided a current address. The Rules do not require the claimant to ensure or prove that a claim is received by the defendant, the premise being that it is the responsibility of the defendant to update creditors with their new address and/or having their mail redirected.

At the same time claimants, in civil proceedings, must sign a statement of truth i.e. that the claimant believes the facts stated in the claim form are true. This includes the names and addresses of the parties. Anyone who deliberately provides false information may be subject to contempt of court proceedings, and if contempt is proved the penalty is imprisonment or a fine.

A claimant must take "reasonable steps" to ascertain the defendant's current address. Where the claimant is unable to ascertain the defendant's current address, the claimant must consider whether there is an alternative place or method by which the claim may be served with the permission of the court. If the claimant is unable to ascertain either the defendant's current address or an alternative method of service, the claim may be served on the defendant's last known address.

Default judgments

Following issue of a claim form to the defendant, the defendant has 14 days to reply to the claim (or 28 days if they return an acknowledgment of service requesting further time to file a defence). Provided the correct procedure has been followed, the claimant can obtain

a judgment in default if the defendant has not responded or filed a defence within the 14 or 28-day period.

Having a claim set aside

When the existence of a judgment becomes known to a defendant at a later date, they have a right to apply to the court to set it aside. The process is contained within Part 13 of the Civil Procedure Rules

The court must set aside a default judgment entered incorrectly where the defendant has:

- paid the whole amount owed before the date judgment was entered
- filed an acknowledgment of service and a defence within the time limits, or
- submitted a defence within the time limit.

The court may set aside a default judgment if the court considers:

- that the defendant has a real chance of a successfully defending the claim; or
- there is some other good reason why the judgment should be set aside.

The court may not consider it appropriate to set the judgment aside on the basis of the claim form not being received by the defendant because it was sent to the last known address if the defendant does not have a real prospect of successfully defending the claim. However, an application to set judgment aside may be successful if:

- the defendant can prove they gave the creditor their new address;
- the claim was not made following the Rules, for example, the papers were not sent to neither their usual or last known address; or
- the post office returned the claim papers as they were not able to deliver them (for example if the address does not exist).

The Register of Judgments, Orders and Fines

When a court makes a default judgment, the record of that judgment will remain on the Register of Judgments, Orders and Fines for six years, whether or not the debt is paid from the Registrar. (To note that where the debt has been paid, but after the 28 days, the Register is marked as “satisfied”).

Data

Around 1.4 million County Court money claims were issued in the financial year 2016/2017, of which the majority were ‘specified money claims’ – in other words, unlike in a personal injury case (where the exact amount of any damages to be paid has to be assessed by the court), the claimant seeks to recover a specific sum of money.

There were over 1.1 million County Court judgments in 2016/2017, of which the vast majority – 85% – resulted in a default judgment. The remainder were judgments made by

the court following engagement by the defendant, such as admitting to the debt but disputing the amount owed.

Statistical data is at **Annex A** and a definition of the terms used in this paper can be found at **Annex B**.

The data on specified money claims suggests that there is a significant proportion of defendants who receive the claim form and choose not to defend the claim. They may not defend a claim because they:

- do not know what to do;
- know money is owed but decide to let things take their course;
- are unable to understand the information they receive, perhaps through issues of literacy or language;
- think there may be no consequence if they take no action;
- think they do not owe the money;
- are poorly advised in person or through unreliable information on the web; or
- may not be aware of the claim against them if an out of date or otherwise incorrect address has been used by the claimant.

Failure to defend a claim will inevitably lead to a judgment being entered in default against the defendant.

Almost all the case studies cited on unfair County Court judgments centred on unpaid parking charges incurred in private residential or business car parks. Currently the government promotes a system of self-regulation by private parking companies. The Department for Communities and Local Government (DCLG) is reforming parking practices and has already taken steps to tackle rogue private parking operators, including banning wheel clamping and towing. DCLG is fully aware of the concerns related to County Court judgments that follow parking charges and is considering how they can deliver standardised practice across all parking companies, eliminating unfair charges and reducing the instances of claims where the consumer may be unaware of a parking charge being applied.

Improving public information

Since the financial crisis ten years ago household debt has risen again. Society is increasingly mobile, with people moving address more often or living in one location and working somewhere else. There is also an increase in short term tenancies, so people are changing addresses more often. This increases the risk of consumers not always updating their address with creditors when they move, or greater reliance on email addresses rather than postal addresses.

An increasing number of people are banking and entering credit agreements digitally so consumers may assume that the need to update postal addresses or other personal information with creditors/suppliers is not necessary.

This changing landscape and evidence that a high percentage of defendants do not engage with the court when receiving either the claim or the default judgment highlights the need for an information campaign to tell consumers how to avoid a County Court judgment.

Earlier this year the Ministry of Justice engaged with a range of stakeholders from the advice sector, the debt management sector and from across government to look at ways to:

- protect consumers from court claims being sent to an old address;
- verify addresses before a claim is issued by the court; and
- protect people's credit scores from being damaged if they resolve outstanding debts quickly.

The Government aims to ensure that the public are aware of their rights and responsibilities in relation to County Court judgments, for example the need to keep their contact details updated with suppliers of goods and services so that correspondence is sent to the correct address.

Our stakeholder roundtable meetings identified that the current system is working for most claimants and defendants, but there is always room to review and improve the process to further protect the rights of all parties. The stakeholders who attended the MoJ events identified that one of the areas that could be improved is the provision of information to consumers and the need for key messages to be presented to them consistently.

Our stakeholders told us there is no centralised, trusted, source of information for consumers on County Court judgments. Nor is there advice on the benefits of checking credit scores regularly. Whilst there is some information to consumers such as guidance on consumer property websites recommending what to do when moving address and on debt management websites about managing debt, there is no link to a government source of information, and it may be that consumers are not receiving a consistent message.

To address this, the Government has committed to improving public awareness of what to do to avoid a County Court judgment and the potential consequences of one.

The Government thinks that in improving public information it needs to cover the following ground.

First, we will notify the public about how they can protect themselves against receiving a County Court judgment. As well as the importance of consumers:

- notifying a change of address;
- ensuring DVLA has an up to date address; and
- engaging with creditors.

Additionally, we will look at:

- how and why to notify others of a change of address;
- what a County Court judgment is and steps for consumers to take when they receive claim papers;
- how to challenge a County Court judgment;
- an explanation of the damage a County Court judgment can do to an individual's credit rating; and
- checking their own credit history to establish if they have any outstanding claims.

Question 1: Are there any other key messages that would be valuable to consumers? If so, what are they?

Our stakeholder events suggested that any new public information should:

- explain and encourage responsible behaviours which will help protect personal financial wellbeing and prevent County Court judgment being issued where consumers may be unaware of the judgment;
- create an information resource with clear guidance for individuals; and
- provide a consistent message to consumers from a trusted source, with companies and stakeholders encouraged and expected to refer consumers to this source.

Question 2: Are there any other aims or responsible behaviours the improved public information should include, and why?

The Government will aim to improve public information by:

- producing a clear, simple and comprehensive source of information, working with advice organisations and other stakeholders;
- promoting this advice through Government channels with signposting to the central government source;
- encouraging other organisations to communicate and support this advice and signpost people to the Government information; and
- engaging with other government departments to create a source of information and to enable cross referencing of the information.

Question 3: Are there any other actions the Government could take to improve public information that are not included in this paper? Please give details.

Question 4: How can the advice sector and claimant organisations ensure that the industry actively signposts consumers to a government source of information?

The Government wants to make sure that information reaches vulnerable consumers, such as those who may have poor literacy, mental health issues and/or learning disabilities.

Question 5: What options should be available to help people who are vulnerable or have difficulty accessing information get the guidance they need?

Policy proposal for removing an entry from the Register of Fines, Orders and Judgments

Where a default judgment is made in a claim it is registered in the statutory Register of Fines, Orders and Judgments. The court will send the defendant a copy of the judgment, which also sets out the steps a defendant can take to set aside or pay the judgment.

The judgment will remain on the register for six years, but if the defendant pays the full amount owed within 28 days the entry will be removed from the Register. If, however, it is paid after 28 days the entry in the Register will remain but will be marked 'satisfied' when the claimant informs the court.

The information on the Register is used by banks and other lenders to assess credit worthiness and by other business or individuals to assess the risk of persons they may wish to do business with. This is the point at which defendants may become aware they have a judgment against them.

Currently, not receiving the claim is not a defence and the judgment would not be set aside on that basis alone. If, however, the defendant has a defence (for example, that the money was not owed at all) and can establish that the documents were served at an address where the defendant could not have been aware of the claim, the court will consider the application to set the judgment aside.

Our proposal is to provide that a judgment may be moved from the Register where:

- the court is satisfied that the defendant was unaware of the claim/judgment when originally issued/entered
- the court is satisfied that the defendant has only just become aware of the claim and judgment
- the defendant immediately pays in full

Thus, the defendant would be placed in the same position as a defendant who received the judgment and paid within 28 days of receiving it.

Question 6: Do you agree with this proposal? If you do not, please explain your answer.

Question 7: How should a defendant satisfy the Court that they did not have prior knowledge of the County Court judgment?

Question 8: Does the current six-year period for County Court judgments remaining on the Register strike the right balance between, on the one hand, ensuring that people do not experience excessive detriment from past debts, while on the other ensuring that banks and other lenders have the information they need to decide who to lend to?

Question 9: Should other steps be taken to alert a person that a default judgment has been entered against them? If so what are they, and who should take them?

The problem of County Court Judgments being served to an old address

'Service' is the term used to describe the formal process by which documents in legal proceedings are brought to the attention of the defendant.

Prior to 2005, the County Court served the claim form by post. If the claim was returned to the court as not delivered, the claimant was sent a notice of non-service. The claimant would then have to serve the claim themselves and provide the court with a certificate of service. This was expensive for claimants, often requiring them to employ a process server (an individual who personally delivers court documents) and subject to abuse by defendants seeking to frustrate legal proceedings.

After a consultation in 2006, the Civil Procedure Rules were amended to provide that the court would continue to send a notice notifying the claimant that the claim form had been returned, but a notice of non-service was not issued. This notification may prompt the claimant to effect service themselves, or check the address for service if they doubt whether the defendant has received the claim form before taking further steps.

Other changes made in 2008 included changes to the general principles governing service of documents, which are in Part 6 of the Civil Procedure Rules. Rule 6.9 sets out the provisions for service of claim. Where a defendant has not provided an address for service, a claimant may provide the defendant's last known or usual address. The CPR does not require the claimant to ensure or prove that a claim form is received by the defendant. The CPR provides that where the claim form is served by the court, and returned to the court undelivered, the court will notify the claimant that the claim form has been returned (CPR 6.18) the claim form will be deemed served provided the appropriate steps for service have been followed.

It is the defendant's responsibility to ensure that the correct address is known to those who provide them with goods and services and to whom they may owe money. We propose to help defendants discharge this responsibility by providing better public information.

Where the claimant is unable to ascertain the defendant's current postal address, the claimant may apply to the court for service at an alternative place. This may include service via an email address if the claimant and defendant have been in communication via those means and the court agrees this is appropriate.

A claim is served on the defendant by the court using the address provided by the claimant. In providing information to the court, the claimant confirms the accuracy of the details in the claim form, including the address, by signing a declaration known as a statement of truth. Anyone who deliberately provides false information may be held in contempt of court which may ultimately result in a fine or imprisonment. The valid service of the claim gives the defendant the opportunity to respond to the claim and is dependent on businesses and consumers keeping their public records up to date and/or ensuring that any post is redirected by the defendant to their correct address.

There has been concern that a County Court judgment may be made against defendants who, because the claimant used an old address, do not know about the County Court judgment and find months or years later that their credit rating is damaged.

Before we review the current policy, we would like to know your views on the current process for service of claims to an address.

Question 10: Do you have experience of, or information about, County Court judgments that have been entered against a debtor without their knowledge where claimants are deliberately using an old address? If you do, please give details

Question 11: How can this be avoided?

Annex A – Statistical Data

Table 1: Claims issued in England Wales from 2005/06 to 2016/17

Financial Year	Number of county court claims	Of which;	
		Number of specified* money claims	Number of unspecified** money claims
2005/06	2,022,709	1,471,139	149,000
2006/07	2,109,826	1,571,569	144,399
2007/08	1,910,510	1,363,521	144,711
2008/09	1,976,434	1,421,559	166,575
2009/10	1,706,212	1,190,672	181,335
2010/11	1,561,132	1,047,562	191,857
2011/12	1,465,669	957,923	176,019
2012/13	1,391,867	891,132	174,634
2013/14	1,512,633	1,021,957	148,419
2014/15	1,566,879	1,114,540	144,357
2015/16	1,595,257	1,153,551	146,537
2016/17	1,880,781	1,445,342	144,801

* Specified claim – where the claimant specifies the actual amount of debt.

** Unspecified claim – a claim where the claimant leaves the amount of the claim to be determined by the court

The remaining number of claims relates to non-money claims e.g. mortgage and landlord possession

Source: Table 1.2 – Civil Justice Statistics Quarterly, January to March 2017 (quarterly figures combined to give financial year totals)

Table 2: Judgments made in England Wales from 2005/06 to 2016/17

Financial Year	Total number of CCJs	Number which were default judgments	%
2005/06	
2006/07	
2007/08	
2008/09	
2009/10	936,442	746,144	80%
2010/11	774,307	619,123	80%
2011/12	732,365	595,603	81%
2012/13	647,638	531,629	82%
2013/14	711,274	591,740	83%
2014/15	869,389	739,221	85%
2015/16	877,921	745,235	85%
2016/17	1,138,124	972,986	85%

'..' – Figures not available for these years

Source: Table 1.4 – Civil Justice Statistics Quarterly, January to March 2017 (quarterly figures combined to give financial year totals)

Table 3: Number of Applications and CCJs set aside in England and Wales, for financial years 2011/12 – 2016/17

Year	Applications to set aside	CCJs set aside
2011/12	60,136	45,238
2012/13	40,814	32,402
2013/14	39,097	29,331
2014/15	33,636	25,587
2015/16	33,930	25,461
2016/17	44,326	33,671

Source: Data extracted from the county court case management system, CaseMan.

Annex B – Glossary of Terms

(Money) claim – An individual or business can apply to a County Court to claim money owed to them by making a money claim through the court.

Claimant – An individual or business who issues court proceedings.

County Court – the County Court deals with civil (non-criminal) matters. Civil court cases arise where an individual or a business seeks to recover money due to them for a wrongful act or omission

County Court Judgment – A judgment or order of the County Court.

Civil Procedure Rules – The Civil Procedure Rules are the rules of civil procedure used by the Court of Appeal, the High Court of Justice and the County Court in civil cases in England and Wales. Sometimes referred to as the ‘CPR’ or the ‘Rules’.

Debt – Monies owed, for example for goods and services or in relation to utility bills, credit cards, bank loans and parking charges.

Default judgment – a binding court order in favour of either party based on some failure to take action by the other party. Most often, it is a judgment in favour of a claimant when the defendant has not responded to a claim.

Defendant – A person or business against whom a claim is issued for monies owed.

DVLA – Driver & Vehicle Licensing Agency.

Enforcement – If a claimant obtains a court judgment in their favour and the other party fails to comply, the claimant may choose to enforce the judgment to recover payment of monies owed from the defendant.

Register of Judgments, Orders and Fines – a register kept on behalf of the Lord Chancellor containing details of certain judgments made in the County Court and High Court of England and Wales.

Setting aside a judgment – cancelling a judgment or order or a step taken by a party in the proceedings.

Service – steps required by rules of court to bring documents used in court proceedings to a person’s attention.

Specified money claim – a claim for a fixed ‘specified’ amount of money owed to a claimant, as distinct from a claim for example for damages for personal injury, where the court will decide the amount to be awarded if the claim is successful.

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself

Full name	
Job title or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

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

Contact details/How to respond

Please send your response by 21st February 2018 to:

Ministry of Justice
Civil Procedure and Enforcement Policy
Floor 3
102 Petty France
London SW1H 9AJ

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Extra copies

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

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

Publication of response

A paper summarising the responses to this consultation will be published in May 2018. The response paper will be available on-line at <https://consult.justice.gov.uk/>.

Representative groups

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

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that

confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

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

Impact Assessment

An impact assessment has not been undertaken, as the cost to business is expected to be both low and out of scope of the Government's regulatory framework. The aim of the consultation is to seek views on the default County Court judgment process and how it may be improved and to outline proposals for improving public information.

Equality issues

Section 149 of the Equality Act 2010, the Public-Sector Equality Duty (PSED), provides that:

“A public authority, must in the exercise of its functions, have due regard to the need to-

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this [the 2010] Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and those who do not share it.”

Paying ‘due regard’ needs to be considered against the nine “protected characteristics” under the Equality Act 2010 – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.

Equality considerations

Direct discrimination

The proposed improvements to public information and seeking views on the current arrangements for default County Court judgments are not directly discriminatory as they do not treat people less favourably on account of their protected characteristic.

Indirect discrimination

Based on the limited data available, we believe the proposed improvements to public information and seeking views on the current arrangements for default County Court judgments are not indirectly discriminatory as they do not particularly disadvantage people with a protected characteristic.

Discrimination arising from disability and duty to make reasonable adjustments

We do not anticipate that any proposals will give rise to discrimination arising from disability or to the need for reasonable adjustments to be made.

Harassment and victimisation

We do not consider there to be a risk of harassment or victimisation as a result of these proposals.

Advancing equality of opportunity

Consideration has been given to how these proposals impact on the duty to advance equality of opportunity by meeting the needs of claimants who share a particular characteristic, where those needs are different from the need of those who do not share that particular characteristic. We consider that the proposals in this consultation provide a significant opportunity to advance equality of opportunity in this context through consulting on how we can better serve vulnerable consumers in receipt of a claim. Additionally, consumers are better served by improving public information and ensuring that those who owe money and are subject to a claim are provided with information on their rights and responsibilities and on the potential impacts on their credit ratings of not responding to a claim.

Fostering good relations

Consideration has been given to this objective that indicates it is unlikely to be of particular relevance to the proposals.

Conclusion

This consultation sets out proposals for informing consumers of their rights and responsibilities and seeks views on the effectiveness and appropriateness of the current processes for claims issued in the County Court. It also considers whether the current system needs to be changed and if there should be more onus on claimants taking all reasonable steps to ensure the defendant is made aware of the matter before a claim is issued by a County Court

We cannot at this stage predict the outcome of the consultation. We hope that the responses to the consultation will provide evidence of how public information on County Court judgments will benefit all consumers (both claimants and defendants) and we will in due course consider the outcome of the consultation in relation to the equalities implications from a range of perspectives.

Question 12: Do you think we have correctly identified the range and extent of the effects of these proposals on those with protected characteristics?

Question 13: If not, are you aware of any evidence that we have not considered as part of our equality analysis? If so, what is the effect of that evidence on our proposals?

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>



© Crown copyright 2017

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

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