

Including claimant data on the Register of Judgements, Orders and Fines

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Sent via email to: claimantdataconsultation@justice.gov.uk

1. UK Finance (“UKF”) is the collective voice for the banking and finance industry. Representing more than 300 firms across the industry, we act to enhance competitiveness, support customers and facilitate innovation.
2. We welcome the opportunity to respond to the Ministry of Justice (MoJ) open consultation on including claimant data on the register of Judgements, Orders and Fines maintained by the Registry Trust (RTL).

Executive Summary

3. We are supportive of the principle that claimant details are reported on the register of judgements.
4. We recognise the benefits that an ability to quickly and accurately identify the claimant details could have for:
 - a. Consumers in identifying the claimant without needing to contact the court.
 - b. Debt advice sector when arranging a debt solution and engaging creditors. This would increase efficiency for the advice sector and the courts in accessing the required claimant information.
 - c. Regulators and policy makers in analysing and assessing regulatory activity and policy outcomes.
5. We do not however have any evidence that the provision of the claimant details will have a material direct impact on lending decisions. Lenders will typically consider the value and date of an outstanding judgement in their decisioning, and it is questionable whether a claimant name would, of its own, be empirically predictive of a different outcome in a lending decision.
6. The proposed benefits will be most efficiently realised if the claimant data provided to RTL is easily accessible. We consider that this would be best achieved if the information was accessed by the credit reference agencies (CRAs) and reported on a customers’ credit file. The process and costs to deliver this have however not been considered as part of the consultation.

Consultation Questions

Q1. Do you agree that the names of claimants of County Court and High Court money judgements should be included on the Register of Judgements Orders and Fines in England and Wales (Yes / No)?

a) If not, what are your reasons?

7. Yes, we agree that the name of claimants should be included on the Register for England & Wales.

Q2. Do you agree that the proposal would have the benefits that are set out in this paper at paragraph 18 a and b?

a) Do you think the proposal would help creditors to make more informed lending decisions (as set out at paragraph 19)?

b) Do you think the proposal would have additional benefits?

8. Benefit 1: Help consumers who have had a default County Court judgment made against them and do not know who the claimant is and find that information easier:

- a. We agree these benefits could be achieved through the publication of claimant data.
- b. The individual could have quicker and easier access to the details of the claimant, rather than needing to contact the court involved to obtain the details. This can introduce efficiencies for the individual and the courts. It can also introduce significant efficiencies for the debt advice sector, where claimant (creditor) details are required where a debt solution for the individual is to be proposed. We understand that the debt advice sector expend a lot of time and resource contacting the courts for this information.
- c. Access to the claimant data could help individuals to satisfy the debt and report the satisfaction to the court, which would be subsequently notified to the Register.
- d. The MoJ should however consider the potential process as to how the Claimant details will be accessible in an efficient and cost effective way (or free to the debtor and debt advice sector). If only the Register is updated to include the claimant data, the individual would need to pay for a search to obtain that information. The efficiency of obtaining the claimant name would be subject to a cost (£6 for a single search of the England & Wales register). If the data held by the Registry Trust is accessed by the main credit reference agencies, and the CRAs publish the claimant name details on the individuals credit file, the availability and efficiency of obtaining the claimant details would not necessarily be subject to any costs (where an individual could obtain a free statutory credit report once per year) or potentially access a free credit file report from a CRA through another CRA option. If the information is reported on the customer file at the CRA, a debt adviser (where authorised by the customer) would also be able to access that information efficiently.
- e. The benefit for the individual will be contingent on accurate and recognisable reporting of the claimant name details.

9. Benefit 2: Provide regulators, policy makers, academics and debt advisors with information about claimant behaviour which may inform their regulatory activity or policy decisions.

- a. We agree that the reporting of claimant data has the potential to deliver these benefits.
- b. The ability to deliver benefits will be dependent upon:
 - i. how the claimant data can be accessed, e.g. either from the Registry Trust or a separate third party such as a CRA (see comments under para 8.d above)
 - ii. The quality and consistency of the claimant name details provided by the courts for accurate interpretation.

10. Benefit 3: help lenders to make more informed credit decisions

- a. We do not have any evidence that the provision of the claimant details will have a material direct impact on lending decisions.
- b. The Register provides a factual record that the court has agreed that a debt is outstanding and must be repaid. The existence of the outstanding debt will be a consideration in a lenders creditworthiness assessment. (e.g. FCA CONC 5.2A.7 R

requires a firm to base a creditworthiness assessment on information obtained, where appropriate, from a credit reference agency).

- c. The presence of a CCJ is not typically a factor that lenders will consider in isolation. Lenders will typically analyse the **value** and **date** of a CCJ in their decision and scorecard development. The CCJ information would be considered alongside other information, such as credit information held at a credit reference agency.
- d. Lenders cannot see who the lender of other credit facilities is on the data that is received from a CRA – the lender details are anonymised. The provision of the claimant details would need to be analysed to identify if the claimant name is predictive, but in the near term we would not see the claimant name having a material impact on the lending decision.
- e. If the lender wished to understand more about a CCJ, that information could be sought from the individual direct. The background behind the CCJ as well as the claimant details might then be an additional factor in a manual lending decision or an appeal. There would be benefits if the claimant name were included on the customer credit file that is provided by CRAs.

Q3: Do you have any concerns that the publication of this data poses any disadvantages and/or risks to either the claimant or the defendant Yes/No?

a) If so, what are the disadvantages and/or risks?

b) What steps do you think could be taken to mitigate these concerns?

- 11. We have no evidence or fact base to make a comment on this question.
- 12. Members raised the following aspects should be considered by the MoJ as part of their consultation process.
 - a. Personal safety of the claimant, where their details are available in the public domain to people, where previously this would only be known to the debtor.
 - b. Anecdotal comments that fraudsters prey on financially vulnerable individuals acting as bailiffs / collection agents to demand repayment. For a fraudster to have access to the true claimant details, it could make fraudulent demands appear more plausible. Conversely if the fraudster did not know the name of the claimant, but the customer does, that could help to avoid fraud.

Q4: Do you agree that the data published about claimants should be limited to the name of the creditor listed on the court claim form (as set out at paragraphs 20, 21, 22 and 23)

a) If not, please set out what further data about the claimant you think it would be helpful to publish on the Register and explain why?

- 13. Yes, we agree that the data published should be limited to the name of the creditor listed on the court claim form.
- 14. To improve the effectiveness and efficiency of the analysis of claimant data, the MOJ should consider introducing prescribed requirements on how the claimant enters their 'Full Name' details onto the court claim form consistently and accurately.
- 15. For individuals, the typical way to capture data should be aligned to CRA practices, such as specific separate fields of:
 - a. Title
 - b. First Name
 - c. Last Name

16. For non-personal claimants, the MOJ should prescribe how sole trader / partnership debts should be reported (business name and/or names of the business owners). Similarly for corporate claimants, the form should include the full name of the company.
17. Requiring a consistent and identifiable data input on the court forms would improve the effectiveness of data reporting
 - a. E.g. If Bromley Council submit a CCJ to the court, the free text format of the claimant details could result in multiple claimant details being submitted (such as LBB, Bromley Council, London Borough of Bromley, Bromley Housing etc)

Q5: *Do you agree that claimant data should only be published in respect of money judgements made in the County Court and High Court, and not to the judgments orders and fines (as set out at paragraphs 24 and 25)*

a) If you do not agree, please set out what categories of judgements, orders and fines should include claimant data on the Register and explain why this would be justified.

18. We have no strong views on this question, although if the Regulations exempt some High Court and county judgments and orders from registration, (paragraph 26 of the consultation) we agree that the claimant details would not be made public for those exempted judgements.
19. We agree that the current exemption where the money order relates to mortgage arrears should remain. However if such orders were then to be enforced, the order may be registered, including the claimant details.

Q6. *Do you agree with this assessment of the proposal's impact?*

a) If not, please set out why, including what additional costs and/or savings it might lead to.

20. We have no view of the impact assessment for HMCTS and RTL.
21. For the benefits to be realised by consumers, regulators and the debt advice sector, the operational process of how the claimant details received by RTL would be shared needs to be considered.
22. As highlighted in para 8d we consider the optimal benefit would be if the claimant details are made available through a customer credit file. The CRAs will need to be engaged to understand the change costs that would be needed to be able to receive and publish the claimant details on customer credit files. As noted in para 6 of the executive summary, the cost implications for the CRAs to be able to request, receive and report the claimant details on a customer file have not been covered in the consultation paper.
23. As highlighted in para 10, we do not currently have any evidence that the provision of the claimant information (with the associated potential problems of accuracy and consistency) will have a material direct impact on lending decisions. Whether the claimant detail is predictive in influencing lending decisions or CRA credit scores has not yet been determined. The potential cost benefit analysis associated with changes to lenders systems and processes to enable the claimant information to be accessed and included within any scorecard developments or decisioning has not been considered in the consultation. As we have highlighted in para 5 of the Executive Summary, lenders will typically consider the value and date of an outstanding judgement in their decisioning, and it is questionable whether a claimant name would, of its own, be empirically predictive of a different outcome in a lending decision.

Q7. Do you think there are any equality impacts of the proposal?

24. We have no view on this question.

Q8. Do you have any evidence that people with protected characteristics would be impacted by this proposal?

25. No, we have no evidence that people with protected characteristics would be impacted.

If you have any questions relating to this response, please contact ian.fiddeman@ukfinance.org.uk.

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