

MONEY ADVICE TRUST

BUSINESS
DEBTLINE

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Consultation Response:

Ministry of Justice Including claimant data on the Register of Judgments, Orders and Fines

Response by the Money Advice Trust

Date: January 2024

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Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2022, our National Debtline and Business Debtline advisers provided help to 140,980 people by phone, webchat and our digital advice tool with 1.87 million visits to our advice websites. In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2022 we delivered this free training to 2,780 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org.

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

We welcome the opportunity to respond to the consultation on the Register of Judgments, Orders and Fines.

- ✓ We very much support the inclusion of the names of claimants in the Register of Judgments, Orders and fines.
- ✓ This should include both County Court and High Court money judgments.
- ✓ We would expect that enhanced data capture of this nature should help lenders make more informed lending decisions, and allow for enhanced credit reference reporting.
- ✓ We would expect to see analysis of the data to allow for HMCTS and Registry Trust to publish trends in both types of judgments and types of creditor, and their industry sector.
- ✓ We believe that both the original creditor and the debt purchase company should be named.
- ✓ Failure to publish creditor addresses will inevitably result in further queries to the Court Service by debt advisers and consumers who need to know the service address of a creditor.

Responses to individual questions

Question 1: Do you agree that the names of claimants of County Court and High Court money judgments should be included on the Register of Judgments Orders and Fines in England and Wales?

Yes, we very much support the inclusion of the names of claimants in the Register of Judgments, Orders and fines for the reasons set out in the paper.

This should include both County Court and High Court money judgments as suggested in the proposals.

Question 2: Do you agree that the proposal would have the benefits that are set out in this paper at paragraph 18 a and b.

We agree that the proposals would have the benefits set out in in the paper. We would point out the benefits to debt advisers and consumers in particular, as the lack of claimant data can cause delays in advisers being able to protect their clients from creditor action under the Debt Respite Scheme (breathing space). It also causes delays to our ability to put forward debt solutions for clients such as Debt Relief Orders, debt management plans, Individual Voluntary Arrangements and bankruptcy. This can be distressing for our clients in vulnerable circumstances who face lengthy delays whilst further information and evidence is sought to enable their applications to proceed. This can result in extra interest and charges, and creditor action in the meantime.

It is also very confusing and potentially distressing for consumers who cannot easily discover the origin of a County Court judgment, for a judgment they were not aware of, perhaps from a previous address or a judgment made in error, or a claim they would have disputed if made aware of the full details.

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

We would expect that enhanced data capture of this nature should help lenders make more informed lending decisions, and allow for enhanced credit reference reporting.

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

We would expect to see analysis of the data to allow for HMCTS and Registry Trust to publish trends in both types of judgments and types of creditor, and their industry sector. This data will help inform policy decision making where it is felt that certain types of creditor are over represented in the data. It would allow for further investigation into the causes and allow for potential policy solutions to protect consumers from unmerited action from specific types of creditor where necessary.

However, please note our concerns expressed in our response to question 4 in relation to the practice of debt purchase companies including more than one debt within umbrella claims.

Question 3: Do you have any concerns that the publication of this data poses any disadvantages and/or risks to either the claimant or the defendant?

No, we do not have any concerns that the publication poses risks to defendants. In most cases, creditor claimants will be large financial services firms, utilities suppliers, and private parking firms. We cannot think of there being any disadvantage or risk for businesses from the register showing claimant names.

We do not see how they could argue against the benefits of greater data transparency that have been put forward in the paper.

For small businesses, any trading name the business is known by should be included on the register. The defendant might only know the trading name of the business rather than the names of individuals behind the business.

Question 4: Do you agree that the data to be published about claimants should be limited to the name of the creditor listed on court claim form (as set out at paragraphs 20, 21, 22 and 23)?

We can see that it would not be reasonable to publish addresses and dates of birth for all types of claimants on the register. We would particularly support the proposal that the name of the claimant should be the name of the creditor that is owed the money and not the name of any representative such as a solicitor acting on their behalf.

However, we are concerned by the proposal to only name the debt purchase company when a debt has been sold on by the original creditor. We believe that both the original creditor and the debt purchase company should be named in such cases. Individuals will generally not recognise the name of a debt purchase company and will still need to make enquiries to establish who the original creditor was, and what the debt was for. This will also cause delays in applications for debt solutions whilst the details are found.

In addition, we are aware of some debt purchase companies adding together different debts into one claim for ease of processing. We believe this practice causes confusion and lack of transparency and will limit the ability of defendants to differentiate between the debts that have been included. In particular, this could affect defendants wanting to put in Limitations Act related defences for some of the debts included in the same claim.

For HMCTS and Registry Trust, this practice could affect their ability to create meaningful statistical analyses of the types and number of debts when they are included in one umbrella claim.

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?

Failure to publish creditor addresses will inevitably result in further queries to the Court Service by debt advisers and consumers who need to know the service address of a creditor. Publication would limit the instance of further queries being made to try to discover corporate address details by individual defendants and debt advisers.

It would add to the complexity of the proposal, but would it be potentially possible to differentiate between individual sole claimants, whose addresses would not be publicly shared, and corporations and larger businesses, who surely do not need such protections to be put in place with regards to their address.

Protections might also apply on the publication of addresses where sole traders are taking action to recover debts owed to their small business.

If this type of process is not possible, we would like to see a free application procedure in place where a vulnerable claimant could ask the court not to publish their address. Perhaps this could be integrated as part of the initial claim process.

Question 5: Do you agree that claimant data should only be published in respect of money judgments made in the County Court and High Court, and not to the judgments, orders and fines (as set out at paragraphs 24 and 25)?

We support the proposals on the publication of claimant data in respect of money judgments. We believe that this data will be particularly useful in relation to identifying broader categories of claim such as the numbers of money judgments for private parking companies.

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

Whilst we understand the rationale for exempting employment tribunal decisions that affect individuals from appearing on the register, we would like to understand how such cases will be counted for broader statistical purposes.

Similarly, there will be other categories of judgments, orders and fines where claimant data is not required to be registered with Registry Trust. However, it will still be important for HMCTS to be able to count these in broader case statistics to identify the volume of such cases in the court system.

Question 6: Do you agree with this assessment of the proposal's impact?

We agree that these proposals should be beneficial to consumers and benefit the courts in relation to a reduction in the number of queries HMCTS will be required to deal with about claimant data.

Question 7: Do you think there are any equality impacts of the proposal?

We have not been able to identify any equality impacts regarding the proposal.

Question 8: Do you have any evidence that people with protected characteristics would be impacted by the proposal?

We have no evidence to put forward to show any particular disadvantage of these proposals to people with protected characteristics.

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