



## **The Civil Justice Council’s response to the Government’s consultation on “Including claimant data on the Register of Judgments, Orders and Fines”.**

**January 2024**

The Civil Justice Council (CJC) is a statutory body whose role is to keep the civil justice system under review; consider how to make it more accessible, fair, and efficient; advise on its development; and propose necessary change and research.

### **Introduction and Overview**

The CJC recognises that a County Court judgment is a key part of the process through which individuals and corporate entities enforce their legal rights and settle civil disputes. Judgments that are not paid in full within one month, and which subsequently become recorded on the Register of Judgments (“the Register”), therefore become an important resource for individuals, businesses, regulators, and lenders.

Judgments entered on the Register may often be discovered by a judgment debtor through credit checks. The judgment debtor may have been unaware of the proceedings leading to the judgment for a variety of reasons, including a previous change of address. Such a discovery may occur a substantial period after the date of judgment.

Given this, the CJC considers there is merit in claimant data being included on the Register to improve access to enforcement as an inherent aspect of the right of access to justice. Doing so may assist a judgment debtor to better understand the background to the judgment that affects them. The judgment debtor may also then be in a better position to assess their legal rights such as whether to apply to set aside such a judgment.

The CJC further accepts inclusion of claimants’ names may provide a benefit to regulators, policy makers, academics, and debt advisors. It may, for instance, give them information about the behaviour of corporate claimants, which may in turn inform their regulatory or policy decisions.

### **Distinguishing between Individual and Corporate Claimants**

In responding to this consultation, the CJC has considered carefully the potential distinction between individual and corporate claimants.

The CJC has concluded that there can be no reasonable opposition for claimants who are corporate entities being entered on the Register. If there is a judgment obtained by a corporate entity and its name is entered on the Register, a judgment debtor will be able to obtain information about that corporate entity through Companies House or that corporate entity’s own online presence. The judgment debtor will be able to do this relatively easily and without cost.

In respect of individual claimants, the CJC can see no basis for treating them differently from corporate claimants. However, there is a need to ensure that before any steps are taken to include individual claimant data on the Register, the Government conduct an appropriate

data protection impact assessment. Furthermore, steps should also be taken, as commented on below, in relation to vulnerable claimants. Subject to those steps being taken, the CJC supports publishing all claimant names on the Register to improve transparency and openness within the civil justice system.

### **Data Protection Impact Assessment**

The CJC notes that the consultation proposes a data protection impact assessment. It regards the absence of such an assessment as part of the consultation as regrettable, meaning the consultation is not able to set out the fullest picture for consultees to consider.

The CJC recommends that such an assessment is carried out and that any reform is implemented consistently with the principles set out in the Data Protection Act 2018 and the UK General Data Protection Regulation.

### **Anonymity and Vulnerable Claimants**

The consultation fails to address two significant issues.

First, it fails to address the situation where a claimant's details are subject to an anonymity order. It thus fails to specify how any reform intends to ensure that the details of such claimants are not recorded and made available on the Register, as they should not be. Where such an order is in place, there may equally be a requirement to anonymise the defendant.

Secondly, there is a wider concern in respect of vulnerable claimants. Consideration needs to be given to the question of whether and how specific classes of vulnerable claimant may 'opt-out' of the Register. This will, for instance, be of particular importance where publication poses a risk of harm to a claimant, e.g., where a claimant has been subject to past domestic abuse, where a protective injunction or order is in place, or where the claimant has a particular recognisable psychiatric condition such that publication of their name may exacerbate that condition. Similar considerations may be relevant where the claimant was a child or a protected party. This is not intended to be an exclusive or exhaustive list of examples.

### **Conclusion**

In the light of the analysis above the CJC consider that there is a case for the publication of claimants' names on the Register. Publication promotes openness and transparency in respect of civil justice. It has consequential benefits for promoting access to justice for debtors.

However, the CJC recommends that there must be mechanisms in place to protect vulnerable claimants and that it is imperative for such mechanisms to be fully brought to the attention of such claimants and their representatives at an early stage in the litigation process.