

Management of Minors' and Patients' Funds



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INTRODUCTION

The purpose of this consultation is to seek views on how the financial assets (funds) of individuals which are currently under the control of a court and managed by the Court Funds Office (the CFO) should be managed in the future.

The CFO is part of the Northern Ireland Courts and Tribunals Service (NICTS) and provides a fund management service to approximately 13,000 people whose funds are under the control of the Court. The funds held by the CFO are invested on the direction of the court in accordance with the Court Funds Rules.

There are three types of funds held by the CFO:

- **Compensation payments awarded to children as a result of civil legal action.** Where compensation is awarded to a person under 18 years of age, the court will order the funds to be held in court until the child's 18th birthday. These funds are managed on the child's behalf by the CFO.
- **Funds held for people unable to manage their own finances** (legally known as '**Patients**'). In such cases, the CFO acts under the direction of the Master (Care and Protection) to manage the patient's property and affairs. In some cases the Court will appoint a family member or other responsible person (known as a '**Controller**') to manage the person's assets outside Court but under the supervision of the Court.
- **Unclaimed money and litigation** - money held in court pending settlement of a civil court action; bail money held by the courts; or where the court holds the assets of individuals, partnerships or companies as a receiver of last resort.

The purpose of this consultation paper is to invite views as to whether it is appropriate for such funds to continue to be managed by the CFO under the protection of the court and, if so, how best the CFO can deliver that service to meet the needs of our clients.

Why is change being considered?

The Department of Justice wishes to be sure that the long-standing arrangements for the management of financial assets by the CFO are the best fit for the twenty-first century. We invite views on whether there is a better way to assist the individuals who need support in financial matters. We wish to invite views on whether the current arrangements for managing funds in court remain appropriate.

The legislation which governs how the CFO operates was enacted 40 years ago, and was based on much earlier legislation, so it would be timely to review these arrangements. There has been major change in the financial services sector since the CFO legislation was enacted, for example in terms of regulation and investment products available. To provide a modern and efficient service to our clients we believe it is now time to assess if the current arrangements support their needs.

The following sections explain in more detail why change is being considered, including:

- **An overview of the Court Funds Office.** In this section we will describe the services provided to the CFO clients and outline the oversight arrangements currently in place.
- **An explanation of the approaches taken outside Northern Ireland.** In this section we will provide a description of how court funds are managed in England and Wales; Scotland; and the Republic of Ireland.
- **Options for the future management of funds in court.** In this section we will provide details of options for the future and suggest the pros and cons of each option.

At the end of the document you will be asked to consider a number of questions in relation to proposed changes. It is important that we receive the views of interested parties and the wider public as we seek to shape future policy in this area.

1. OVERVIEW OF THE COURT FUNDS OFFICE

The role of the Court Funds Office

1.1 The CFO is the office of the Accountant General of the Court of Judicature of Northern Ireland. The primary duty of the Accountant General is to **protect** funds held in court. The legislation governing the work of the CFO is set out in Part VII of the Judicature (Northern Ireland) Act 1978, the Administration of Justice Act 1982 and the Court Funds Rules (Northern Ireland) 1979.

1.2 The investment of funds in court is under the control of the judiciary. The CFO provides administrative support to the judiciary in their oversight of the funds held in Court. The role of the CFO is to provide a fund management service for the civil courts in Northern Ireland.

1.3 The CFO staff interact with the judiciary, our external investment manager and, most importantly, the clients of the CFO, many of whom are among the most vulnerable people in our society.

1.4 At the end of financial year 2017-18, the CFO was responsible for the administration of funds totalling £298m on behalf of approximately 13,000 clients.

How are funds managed by the CFO?

1.5 The three types of funds held by the CFO are -

- **Compensation payments awarded to children (i.e. minors) as a result of civil legal action.** Where compensation is awarded to a person under 18 years of age, for example following an accident, the court will order the funds to be held in court until the child's 18th birthday. These funds are managed on the child's behalf by the CFO. At the end of financial year 2017-18, 30% of the funds managed by the CFO were those of minors.

- **Funds held for people unable to manage their own finances** (known as **'Patients'**). In such cases, the CFO acts under the direction of the High Court judicial officer called the Master (Care and Protection) to manage the patient's property and affairs. At the end of financial year 2017-18, 65% of the funds managed by the CFO were those of patients.
- **Unclaimed money and litigation** - money held in court pending settlement of a civil court action; bail money held by the courts; or where the court holds the assets of individuals, partnerships or companies as a receiver of last resort. At the end of financial year 2017-18, 5% of the funds managed by the CFO fell into this category.

1.6 The total amount held on behalf of each client is referred to as the Client's Fund. On receipt of the money that the court has directed to be lodged into court, the CFO makes an initial assessment of how the fund should be managed. The purpose of this assessment is to ensure that clients are provided with a fund management service that is appropriate to their individual needs. This assessment considers factors such as the size of the fund, the length of time the fund is likely to remain in court, and the personal circumstances of the client; for example the client may require regular access to the funds to cover the cost of care, in the case of a patient, or educational needs in the case of a child.

1.7 The CFO engages a firm of stockbrokers to provide investment management services, including providing recommendations for the investment of a client's fund. The investment manager must be registered with the financial service industry's regulatory body and the staff must be suitably qualified. The investment manager charges an annual fee based on the value of each fund invested, which is deducted from the relevant client's fund.

1.8 The information gathered by the CFO as part of the initial assessment is provided to the investment manager to enable them to provide an appropriate recommendation. If required, the client's representative will also be asked to provide further information to ensure that their needs have been fully considered.

1.9 The investment manager's recommendation for investments will be submitted to the Court for consideration. Final decisions in relation to all investments rest with the Court. If the Court approves the proposals, the investment manager is instructed to implement the Court's decision.

How are funds invested?

1.10 A court can only order funds to be invested in accordance with the provisions of the legislation under which the CFO operates. Under the Judicature Act, funds can be invested in the following ways:-

- ***A cash deposit account at a fixed rate of interest.*** The Act requires that any cash not required for the client's day to day expenses is to be lodged with the UK Debt Management Office (DMO) which is part of HM Treasury (HMT). All cash deposits lodged with DMO are completely secure and guaranteed by HMT. Under the legislation the Accountant General cannot invest cash deposits with any other financial institutions. Funds invested in the cash deposit account with DMO can be made available to the client at short notice if the need arises.
- ***Government stocks (Gilts).*** Gilts are investments issued by the UK Government. They are regarded as low risk investments, which run for a fixed period of time, and produce a guaranteed rate of return. Interest is paid on the amount of money invested and is lodged in the DMO deposit account. Funds invested in gilts can be accessed before the fixed period is over, but this may affect the return on the investment. Gilts may be held directly, or in collective funds.
- ***Stockmarket (Equities).*** Investments in stocks and shares (equities) have the potential to produce higher returns over a period of time, but also carry greater risk as the value of the investment can fall as well as increase. The CFO uses a number of collective investment funds when investing in the stock market. The aim is to achieve modest long term returns to cover the expected requirements of the client. Dividends received are lodged in the DMO deposit

account. For equities to be considered as an appropriate investment option, a fund should be expected to be managed by the CFO for a minimum of five years. Funds invested in equities can be accessed at any time.

1.11 The investment manager provides the CFO with a set of recommended investment parameters which are used when considering how a fund should be invested.

1.12 At the end of financial year 2017-18, the funds in court were held as follows:

	£m	%
Cash	98	33
Gilts	59	20
Equities	141	47
Total	298	100

The CFO oversight arrangements

1.13 The NICTS Chief Executive has administrative responsibility for the CFO in his capacity as the Accountant General of the Court of Judicature. He is supported in the discharge of his responsibilities by a committee called the Court Funds Judicial Liaison Group (JLG). The JLG is chaired by a senior Judge nominated by the Lord Chief Justice. Four other judicial members and three independent members also serve on this group. The JLG provides an oversight role in relation to the CFO and reviews investment performance and options with the investment manager. The NICTS Board receives regular reports on the performance of the CFO.

2. APPROACHES OUTSIDE NORTHERN IRELAND

ENGLAND AND WALES

2.1 Arrangements in England and Wales are similar to Northern Ireland and are based on similar legislation. The Office of the Accountant General (OAG) in England and Wales oversees the CFO for England and Wales. Day-to-day operations are contracted out to National Savings and Investments. Like the CFO in Northern Ireland, they invest clients' cash deposits with the Debt Management Office of HM Treasury.

2.2 A common investment scheme (i.e. a pooled investment fund, where clients invested in the fund have a share in the overall assets of the scheme) has been created for clients of the CFO in England and Wales. Funds which meet certain criteria, related to the value of the fund and the length of time it will be held, are invested in this scheme, which is operated by a fund manager. Due to the restrictive criteria, only a small percentage of funds are invested in the scheme, although the criteria for investment are currently under review.

2.3 In England and Wales, the Court of Protection makes decisions for people who lack mental capacity, including appointing another responsible person (referred to as a "deputy"), such as a relative, to make decisions on behalf of those individuals.

2.4 Compared with the position in Northern Ireland, a greater proportion of funds belonging to individuals who lack mental capacity are managed and invested by a person's deputy out of court, rather than being held in court. In such cases, the deputy is required to submit an annual return to the office detailing the financial transactions undertaken during the year and outlining the decisions that have been made on behalf of the individual concerned. The Court of Protection determines the level of supervision required in each case.

REPUBLIC OF IRELAND

2.5 The Accountant of the Courts of Justice in the Republic of Ireland (a senior Courts Service official) fulfils a role equivalent to that of the Accountant General in Northern Ireland.

2.6 Children's funds in court are allocated to one of five investment strategies according to the individual's requirements. There are a series of prescribed rules that determine which of five strategies are used for individual cases.

Strategy	Description of Strategy	Time Horizon Children's Funds held in Court
Cash Fund	100% cash	Less than 3 months
Euribor Plus Fund	Predominately cash instruments; the objective is to outperform the Cash Fund.	From 3 months to 3 years
Cash and Short Term Bond Fund	70% Euribor Plus Fund 30% Bond Index Fund	From 3 to 5 years
Moderate Balanced Fund	70% Euribor Plus Fund 23% Bond Index Fund 7% Equity Index Funds	From 5 to 8 years
Diversified Fund	50% Euribor Plus Fund 27.5% Bond Index Fund 22.5% Equity Index Funds	More than 8 years

2.7 Individuals who lack mental capacity are known as Wards of Court. Usually a member of the Ward's family is appointed by the court and is asked to make recommendations in relation to their affairs. Wards' funds are invested as follows:

Strategy	Description of Strategy	Time Horizon
Growth Fund	55% Equity Index Funds 15% Bond Index Fund 15% Corporate Bond Fund 15% Alternative Fund	More than 5 years

Arrangements in relation to Wards of Court are due to change on commencement of recent legislation that will eventually see the end of the Wardship procedure and the introduction of Co-Decision Makers and Co-Decision-Making agreements.

SCOTLAND

2.8 In Scotland, the Accountant of Court (AoC) is a court appointed official who supervises the administration of assets belonging to children and those incapable of managing their own affairs.

2.9 In the majority of cases, court awards made to children in Scotland are not brought under the control of the court but are paid to a parent or guardian or court appointed representative or, in certain circumstances, to the child themselves (the age of legal capacity in Scotland is 16 years). It is for the court to determine to whom the award should be paid. As a last resort, where no suitable individual is identified, a child's award may be paid to the AoC to be held until they reach 16. Where the court directs funds to be paid to a parent or guardian, or to the child, the AoC does not discharge an oversight role.

2.10 Where assets over £20k are due to be transferred to a child (for example on the death of a parent), an application must be made to the AoC for a direction regarding the conditions under which the assets must be managed which may include transfer of any cash assets to the AoC. If funds are paid to the AoC they may be lodged with an investment manager or held on deposit with a bank and held in the name of the child. Where a child's assets are not held by the AoC, the individual appointed to administer the assets is required to provide annual statements to the AoC to confirm that they are complying with the direction from the AoC. Expenditure cannot be incurred unless it has been approved by the AoC.

2.11 In Scotland, funds belonging to adults who are incapable of managing their own affairs are managed by an appointed financial guardian who is often a family member. The financial guardian must submit annual accounts to the office of the AoC for review each year.

3. OPTIONS FOR THE FUTURE: THE ROLE OF THE COURT

3.1 Children's funds are under the control of the court which made the original order for compensation (this could be the County Court or the High Court) until the child turns 18, unless the court directs otherwise. Applications for payments out of the fund for the benefit of the child (such as to pay for holidays or educational equipment) must be approved by the court.

3.2 Patients' funds are under the control of the High Court. A judicial officer called the Master (Care and Protection) appoints a responsible person (called a Controller), such as a family member, to act on behalf of the patient. If there is no suitable family member or other person to carry out this role, the Official Solicitor of the Court of Judicature (who is a lawyer employed by the Northern Ireland Courts and Tribunal Service) will be appointed Controller. The Master may direct some or all of the assets of the patient to be lodged with the CFO or managed outside the court by the Controller under the supervision of the Office of Care and Protection (OCP). Funds that are held by the CFO will only be released on the direction of the Master. The OCP carries out an annual review of each case, irrespective of whether the funds are held by the CFO or outside court.

3.3 One of the issues for consideration is whether it is better to have funds controlled and managed outside the court on behalf of those entitled to the fund, or whether it is better for the funds to be controlled by the court and the investments managed by the CFO. This is particularly relevant for children's funds, where the default position is currently to lodge the funds in court with the CFO, other than in exceptional circumstances.

3.4 Patients' funds are more likely to be held outside court under the management of a Controller. OCP currently supervises around 1,700 cases, of which around 700 have funds held in court. In addition, OCP have issued approximately 1,300 Short Procedure Orders (these are cases, usually low in value, where funds are held outside court with no further supervision by OCP).

We have identified three possible approaches for consideration.

Approach 1 – Maintain the status quo

3.5 Where a court awards compensation to a child the funds would continue to be paid into court. The CFO would continue to manage the funds in court for the child under the direction of the court until the child reaches the age of 18 years. The court would retain the power to direct a child's fund to be managed out of court, but this would only be in exceptional cases.

3.6 Funds for patients would continue to be lodged in court where no suitable family member or other person is available to act as Controller of the funds on behalf of the patient. Funds lodged in court would continue to be managed by the CFO.

Approach 2 – Only retain funds in court exceptionally

3.7 Under this option, where compensation is awarded to a child, the court would appoint a responsible adult such as a parent or guardian who would control the funds on behalf of the child. This would remove the requirement to make an application to the Court for a payment out of the fund.

3.8 It is likely under this option that the cost of making investments would be higher than those incurred when funds are managed in court by the CFO. It is estimated that the current management costs charged to the CFO clients are less than 50% of those charged to investors using a similar service on an individual basis.

3.9 Funds for patients would continue to be managed as they are today. Where a suitable family member or other person is available, they would be appointed as Controller to manage the funds. Where a suitable person is not available to act as Controller, the funds would be brought into court and managed under the supervision of the court.

Approach 3 – Set a financial threshold above which funds would be held in court.

3.10 It would be possible to design a system where funds belonging to a minor would only be held in court where the funds exceed a specified amount. Below the specified amount the fund would be paid directly to a child’s parent or guardian or other appointed representative.

3.11 In considering the appropriate threshold for investing funds in court, it is necessary to consider the level of funds held in court.

Value of fund (£)	Number of children’s cases
0-1,999	4,093
2,000 - 3,999	4,303
4,000 - 4,999	992
5,000 - 9,999	1,407
10,000 - 24,999	629
> 25,000	368
	11,792

3.12 As the majority of funds held in court on behalf of minors are in the lower range of values, a limit could be set above which the court would exercise control in only a small number of higher value cases. For example, if the limit was £10,000 this would mean that less than 10% of cases would be managed by the court.

3.13 Although a financial threshold could also be set for patient’s cases – with only cases with a fund value above that threshold coming under the control of the court – the most important consideration in a patient’s case would be whether a suitable family member or other person is available to act as Controller of the patient’s funds. Where such a person is not available to act as Controller, the funds would still require to be brought under the control of the court.

Considering the options

3.14 It is important to consider why a patient or a child cannot manage their own money and property and the extent to which the involvement of the court and CFO is necessary. The circumstances of patients and children are different. We have also already noted that in most patients cases the funds are managed by a Controller out of court while in most children's cases the funds are managed by the CFO. We want to be sure that is the right approach in both sets of circumstances.

Children

3.15 A child is considered in law to lack the capacity to take all sorts of significant decisions about their life which are ordinarily a matter for those with parental responsibility in respect of the child. It might therefore be considered that the property and money of a child need not automatically be brought under the jurisdiction of the court and could be managed by a parent or guardian on behalf of the child until they reach the age of 18. In those circumstances, it might also be expected that parents would take the views of the child into account especially if the child was of sufficient maturity. In practice however, it is the case that children's funds are mostly managed in court. The intention may be to avoid the risk that a parent may make poor investment decisions on behalf of the child or might squander the money or act otherwise than in the child's best interests. That risk however could be mitigated by requiring an annual report to the court on the use of the funds. If there was a concern in a particular case the funds could then be brought into court to be managed by CFO.

3.16 We think there is a case for saying that a parent ought in principle to be responsible for managing their child's money and property consistent with their other responsibilities to take important decisions concerning the child. There may of course be cases where regrettably the parent is not to be entrusted with this financial responsibility but such cases should be capable of being identified and the funds brought under the control of the court.

3.17 Alternatively, it would be possible to design a system combining elements of the above approaches when dealing with children's funds. As in Scotland, a financial threshold could be set, above which funds would be brought under the control of the court. Below this threshold, the funds would be the responsibility of the parent or guardian or other court appointed representative. Once paid out of court, the fund would be the responsibility of that person to manage on the child's behalf – there would be no supervisory role for the court to undertake.

3.18 In the final analysis, the key question in the case of children's funds is whether they continue to require the court's protection even where relatively small amounts are involved? If not, then an approach similar to that in Scotland seems to offer a proportionate way forward, so that the court would only become involved in the higher value cases. If, on the other hand, it is thought that children's funds require the court's protection irrespective of the size of the fund, the current arrangements – under which the funds are controlled by the court until the child turns 18 – are probably the most suitable, subject to the possible need to broaden the range of available investments. This is discussed in the next section of this paper.

Patients

3.19 Where a person (a patient) who has money or property is incapable of managing his or her own affairs, then the law provides for the court to intervene as necessary. Currently the court's role is set out in the Mental Health (Northern Ireland) Order 1986. In due course, those provisions will be replaced by those in the Mental Capacity Act (Northern Ireland) 2016. When it is brought into force, the 2016 Act will establish important principles in respect of a person's capacity to make decisions on their own behalf and, if necessary, to be supported in making decisions. It will however remain the case that where a person is unable to make a decision then there will be a role for the court in either taking the decision on that person's behalf or, alternatively, appointing a family member or friend (who will be called a Deputy instead of a Controller) to do so. In some cases it may be that a patient will never have decision making capacity in their lifetime and their funds will always be subject to management on their behalf.

3.20 We see no reason to disturb the current approach so that most patients' funds should continue to be managed outside court by someone (a Controller or under the 2016 Act, a Deputy) acting in the best interests of the patient. This approach is consistent with devolving the decision making as closely as possible to the patient and keeping direct court intervention to a minimum, subject to the ongoing safeguard that the Controller or Deputy perform their responsibilities under the supervision of the court.

4. OPTIONS FOR THE FUTURE: INTERNAL MANAGEMENT AND OVERSIGHT OF THE FUNDS

4.1 It is important to ensure that the CFO is as efficient and cost effective as possible in continuing to discharge its functions in the interests of patients and children. We have outlined below a number of areas where improvements might be made to the current procedures under which the CFO operates.

Delegation of Accountant General's functions

4.2 The Court Funds Rules allow many of the functions of the Accountant General to be discharged by a person employed within the CFO. NICTS considers it would be helpful if the Accountant General had the power to delegate his functions beyond the staff of the CFO and in particular to an investment manager.

Introduction of nominee accounts

4.3 The range of permissible investments available to the CFO is set out in legislation and has not kept pace with some more recent investment products. There is therefore a case for extending the types of investments that can be used for court funds. An example of this is nominee accounts. Nominee accounts are operated by investment managers on behalf of their clients. Investments held in this way are not held in the name of the client, but the client is registered as the beneficial owner. The investments are held separately from the investment manager's own assets, so they are protected against the possibility that the investment manager ceases trading.

4.4 The introduction of nominee holdings could be used for the investment of court funds if the legal ownership of securities could vest in a nominee company rather than the Accountant General. This would have the advantage that dividend collection, which is currently undertaken by the CFO, could be managed by the investment manager who would be able to provide a consolidated tax report for each client. The investment manager would also be able to provide advice in relation to any corporate actions such as rights issues or class actions.

4.5 NICTS considers that it would be helpful if the court funds legislation were expanded to allow funds in court to be held in nominee accounts.

Extension of the list of authorised investment types

4.6 The current legislation means that the CFO clients are unable to benefit from the full range of investment options available today because many of these options did not exist when the legislation governing funds in court was enacted. Stocks and shares ISAs are an example of this, where tax efficient investments could be made for clients with significant funds in court. In order to permit the use of stocks and shares ISAs, the legislation would also have to allow for investments to be held in nominee accounts (see paragraphs 4.3 - 4.5 above).

4.7 NICTS considers that it would be beneficial to the CFO clients if funds in court could be invested in a wider range of products than is currently permissible.

Oversight arrangements for the CFO

4.8 The Court Funds Judicial Liaison Group (JLG) currently provides an oversight role in relation to the Court Funds Office. The terms of reference of the Group are to:

- ensure the protection of funds held in court;
- advise on the framework governing the investment of funds held in court;
- oversee the investment activities of the CFO;
- consider performance reports provided by the Investment Manager.

4.9 The current membership of the JLG includes members of the Judiciary, the Accountant General, senior staff from the CFO and OCP and a number of independent members. The independent members include a representative from the Northern Ireland Consumer Council and an independent investment advisor.

4.10 The JLG was established administratively by the NICTS. The Northern Ireland Public Accounts Committee has recommended the introduction of a statutory oversight Committee with defined roles and responsibilities.

4.11 The terms of reference and membership of such a statutory oversight committee will be dependent on the outcome of this consultation and the future role of the CFO. Until such a committee is established, the JLG will continue to provide an oversight function.

Providing for discretionary investment decisions

4.12 At present, all investment decisions are made by the court on an individual basis and the investment manager is then instructed to proceed if their recommendation is approved. On occasion there can be a delay between the investment manager making recommendations and the transaction being executed. This prevents the CFO from making changes to investments quickly, which would be particularly important in volatile market conditions where investments may have to be changed at short notice.

4.13 By enabling the investment manager to take investment decisions, changes to investments could be made promptly without the need to refer to the court for approval. However, any investment decisions taken by the investment manager would only be within narrow parameters set by the court; for example, limited to minor or technical adjustments to agreed investments for the purposes of rebalancing a portfolio or utilising the annual capital gains tax allowance.

4.14 NICTS considers that it would be beneficial to the CFO clients if the investment manager was able to make minor or technical investment decisions without express court approval in each individual case provided the investment chosen falls within an agreed framework

Unclaimed funds

4.15 Unclaimed funds are monies that are held by the CFO where the rightful owner cannot be located. This could be where the beneficiary has moved outside the jurisdiction without informing the CFO or where the beneficiary is now deceased and details of next of kin are not known. The CFO is also required to accept funds in certain circumstances, where the recipient is unable to be traced by third parties; for example, where a bank has surplus funds from a house repossession but is unable to trace the beneficiary.

4.16 The accumulation of unclaimed balances has occurred because funds can only be removed by a court direction when claimed by the client or their representatives. Currently the CFO holds funds totalling over £750,000 (relating to approximately 300 cases) that are unclaimed and where the beneficial owner cannot be traced.

4.17 NICTS wish to consider alternative options for unclaimed balances. One option could be to surrender the funds to the Northern Ireland Consolidated Fund (NICF). Funds in the NICF can be used for public service in Northern Ireland. If funds were surrendered in this way, it would be important that the beneficiary would not lose their right to the fund should the beneficial owner subsequently be traced.

Allowable methods of payment

4.18 At present the Court Funds Rules allow the Accountant General to make payment by means of the Bankers' Automated Clearing System (BACS) or by crossed cheque. Other payment options are now available, such as faster payments where funds are receipted in the payee's account on the same day for accounts that accept this method of payment.

4.19 In addition, using cheques as a method of payment creates an avoidable administrative cost to the CFO and a cheque is not as secure a method of payment as a direct transfer into the beneficiary's account.

4.20 NICTS considers that the allowable methods of payment should be amended to reflect new methods of payment in the banking sector and to remove cheques as a payment option.

5. IMPACT ASSESSMENTS

5.1 Section 75 of the Northern Ireland Act 1998 requires all public authorities in Northern Ireland to have due regard to equality of opportunity between the nine equality categories and have regard to promote good relations between persons of different religious belief, political opinion or racial group. Public Authorities are also required to meet legislative obligations under the Disability Discrimination Order, particularly in the formation of public policy making.

5.2 NICTS is fully committed to fulfilling its Section 75 obligations on the promotion of equality of opportunity, good relations and meeting legislative requirements in Northern Ireland.

5.3 The options set out in this consultation have been subjected to equality impact screening. There have been no adverse equality impacts identified and initial screening has not identified any other Section 75 impacts. The full equality screening form is available on the NICTS and Department of Justice websites. Comments are also welcome on any aspect of the equality screening assessment.

5.4 Responses to this consultation will be used to refine the impact assessments referred to in the paragraphs above.

6. RESPONDING TO THIS CONSULTATION

6.1 You are invited to comment on the proposals contained in this paper. NICTS welcomes responses to the following questions:

Question 1 Do you believe that the protection provided by the court to funds held on behalf of children and patients is important?

Question 2 In relation to holding funds in court, which of the following options do you think is most appropriate?

- Approach 1 – maintain the status quo;
- Approach 2 – only retain funds in court exceptionally;
- Approach 3 – set a financial threshold limit above which funds would be held in court.

If you believe that a limit should be set, what level do you think is appropriate?

Question 3 Which of the following options do you believe would improve the operation of the Court Funds Office?

- the power to delegate the Accountant General's functions to a third party, such as an investment manager (para 4.2);
- the introduction of nominee accounts for investment holdings (para 4.3);
- extending the list of authorised investment types (para 4.6);
- making improvements to oversight arrangements (para 4.8);
- providing for discretionary investment decisions (para 4.12);
- enabling the surrender of long standing unclaimed funds (para 4.15);
- amending the allowable methods of payment (para 4.18).

Please give reasons for your answers.

Question 4 Is there anything else that you think we should consider in order to improve the service that is offered by the CFO?

6.2 Responses or requests for further information should be made in writing and emailed to CourtFundsConsultation@courtsni.gov.uk or sent by post to:

Court Funds Consultation
Northern Ireland Courts and Tribunals Services
4th Floor, Laganside House
23 – 27 Oxford Street
BELFAST
BT1 3LA

The consultation period will end at **5pm on 8 May 2019**.

6.3 Responses can be made by completing the Consultation Response Form on our website at www.justice-ni.gov.uk/consultations or by completing the template at Annex A. It is important that respondents complete all sections of the form so we know how you would like your information to be treated. Responses can also be completed via NI Direct, Citizen Space at <https://consultations.nidirect.gov.uk/>.

6.4 Responses will be analysed and we will aim to publish a summary of the responses to this consultation and the proposed way forward on the NICTS website within two months of the end of the consultation. Please note that responses will not be attributed to organisations or individuals. A list of respondents will be published including organisations as an Annex to the summary of responses. The names of individuals will only be published on the list of respondents if they provide their express consent. All information will be handled in accordance with the Data Protection Act 2018.

6.5 This document is available in alternative formats; please contact us via the postal or email addresses above or by telephone on (028) 9072 8894 to discuss your requirements.

6.6 This consultation has been circulated to the Department of Justice list of consultees, members of the Judiciary and CFO clients.

ANNEX A: RESPONSE TEMPLATE

Respondent Information Form

Please note that this form must be completed and returned with your response.

To find out how we handle your personal data, please see our Privacy Notice at <https://www.justice-ni.gov.uk/topics/courts-and-tribunals>

Responses will be analysed and we will aim to publish a summary of the responses to this consultation and the proposed way forward on the NICTS website within two months of the end of the consultation period. Please note that responses will not be attributed to organisations or individuals. A list of respondents will be published including organisations as an annex to the summary of responses. The names of individuals will only be published on the list of respondents if they provide their express consent by ticking the box below. All information will be handled in accordance with the Data Protection Act 2018.

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full Name or Name of Organisation	
Address	
Postcode	
Telephone Number	
Email address	

If you are responding as an individual, please tick the box below **if you consent** to your name appearing within the list of respondents published on the NICTS website.

If you wish to withdraw your consent between now and the date of publication, please contact the Court Funds Office at CourtFundsConsultation@courtsni.gov.uk.

Question 1 Do you believe that the protection provided by the court to funds held on behalf of children and patients is important?

Please give reasons for your answer.

Question 2 In relation to holding funds in court, which of the following options do you think is most appropriate?

- Maintain the status quo;
- Only retain funds in court exceptionally;
- Set a financial threshold above which funds would be held in court.

Please give reasons for your answer. If you believe that a limit should be set, what level do you think is appropriate?

Question 3 Which of the following options do you believe would improve the operation of the Court Funds Office?

- Power to delegate the Accountant General's functions to a third party, such as an investment manager;
- the introduction of nominee accounts for investment holdings;
- extending the list of authorised investment types;
- making improvements to oversight arrangements;
- providing for discretionary investment decisions;
- enabling the surrender of long standing unclaimed funds
- amending the allowable methods of payment.

Please give reasons for your answers.

Question 4 Is there anything else that you think we should consider in order to improve the service that is offered by CFO?

Do you have any other comments?

Name:

Organisation:

Address:

Telephone:

Email:

Date:

Please provide details of who your organisation represents and, where applicable, how the views of members were assembled.



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Justice
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