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Dear Stakeholder,

Court Funds Rules consultation

I am writing to you on behalf of the Accountant General in my capacity as Deputy Accountant General and Head of the Court Funds Office (CFO). The Accountant General is responsible for the safekeeping and administration of funds held in court by the CFO. The CFO provides investment and banking administration services for clients whose money is held under the control of the civil courts of England and Wales, including the Court of Protection.

As you may be aware, the CFO is currently undergoing a modernisation programme which will deliver long term transformation of the management of client funds by CFO. Over recent months we have been looking at ways to modernise and simplify the Court Funds Rules 1987 which govern the management and administration of funds held in court.

I would like to take this opportunity to provide you with some information on the proposals we are putting forward together with a new version of the Rules. As a key stakeholder of the CFO you are invited to comment on the draft new Rules. I would be grateful for your views on the questions raised at the end of the document and for a response by **26 April 2011**.

Yours sincerely,

Eddie Bloomfield
Deputy Accountant General of the Senior Courts

About this consultation

To: This consultation is aimed at regular users of the Court Funds Office (CFO) including members of the legal profession, the judiciary, professional and lay deputies, litigation friends and staff of CFO and Her Majesty's Courts Service (HMCS).

Duration: From 1 February 2011 to 26 April 2011.

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Introduction

1. The administration and management of funds in court is governed by the Administration of Justice Act 1982 (AJA) and secondary legislation made under powers conferred by that Act, primarily the Court Funds Rules 1987 (CFR). This paper sets out for consultation a new version of the Court Funds Rules. The existing CFR have been amended on 12 occasions, often substantially, and as a result have become unclear and confusing. The overall policy aim has been to restate, clarify and modernise the CFR rather than to alter their substantive effect.
2. We are seeking your views on this draft version of the Rules. We are interested in any general comments you may have on the draft and answers to the specific questions on page 14. The consultation will run from 1 February 2011 to 26 April 2011. Details on how you can respond are included at pages 2, 18 and 19.
3. The Court Funds Office (CFO) provides investment and banking administration services for clients whose money is held under the control of the civil courts of England and Wales, including the Court of Protection (CoP). The practice of holding funds “in-court” on behalf of litigants goes back several hundred years. Funds were originally held by individual Masters of Court, but in the eighteenth century it became apparent that a number of Masters had been using clients’ money for their own ends, investing heavily in the South Sea Company and similar enterprises which subsequently collapsed. To prevent this from happening again, an Act of Parliament was passed in 1726, creating the post now known as the Accountant General of the Senior Courts and giving him responsibility for safeguarding funds in court.
4. Today CFO, which operates as an arms length body of the Ministry of Justice, is responsible for administering £3.7bn (£3.5bn in cash and £0.2bn in securities) held in court on behalf of over 140,000 clients. The money held by CFO originates from three main sources:
 - Damages awarded to children as a result of civil legal action in a county court in England or Wales or the High Court of Justice. These assets are held on their behalf until the child reaches majority (18 years of age);
 - Assets belonging to people who lack the capacity to manage their own financial affairs where the CoP has appointed someone else to manage their affairs;
 - Cases where money is held in court pending settlement of civil court action, or on behalf of dissenting shareholders, widows and other clients whose funds are held under a variety of different statutes.
5. The majority of CFO clients are children and CoP clients. These two client groups are represented by litigation friends (children) and deputies (CoP). The law deems children, in particular, to be vulnerable and courts see their role as protecting the child’s award until they reach 18. Investment of, and access to, the child’s award is strictly controlled by the terms of the court order and of the Civil Procedure Rules 1998 (CPR). In the past, the CoP ordered its clients to hold money in court. The Mental Capacity Act 2005 now provides greater choice for the deputy. Currently only some CoP clients have to keep money at CFO, primarily where there are concerns as to alternatives.
6. Although this is an informal consultation, it is being conducted in line with the Code of Practice on Consultation issued by the Cabinet Office and falls within the scope of the Code. The consultation criteria, which are set out on page 19, have been followed. This paper does not contain an Impact Assessment (IA) as the proposals are not likely to lead to additional costs or savings for business, charities, the voluntary sector or the public

sector. If you disagree with this conclusion you are invited to send your reasons as part of your overall response to this paper.

7. If you would like us to provide you with a response to any questions or concerns you raise regarding the consultation please provide your contact details in the space provided at the end of this document. We will respond to you within two months of the consultation closure.

8. Copies of this consultation paper are being sent to:

- Admiralty Solicitors User Group
- Association of High Court Masters
- Association of Public Authority Deputies
- Association of Public Injury Lawyers
- Association of District Judges
- Brewin Dolphin
- CFO Management Board (including non-executive members)
- CFO staff
- Charles Stanley Stockbrokers
- City of London Law Society
- Civil Court User Group
- Civil Procedure Rules Committee
- Commercial Bar Association
- Council of HM Circuit Judges
- Court of Protection
- Court of Protection User Group
- Employment Appeal Tribunal
- Gerrard Investment Management Ltd
- Her Majesty's Courts Service
- Judiciary
- Law Society of England and Wales
- London Common Law and Commercial Bar Association
- London Solicitors' Litigation Association
- Ministry of Justice, Justice Policy Group
- Office of the Public Guardian
- Office of the Public Guardian User Group
- Office of the Official Solicitor and Public Trustee
- Office of the Paymaster General
- Rensburg Sheppards
- Royal Courts of Justice
- Royal Courts of Justice User Group
- Solicitors for the Elderly
- UK Debt Management Office
- Upper Tribunal

9. However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

The proposals

Structure of the new CFR

10. The structure of the existing CFR is based on the Supreme Court Funds Rules 1975 which, together with the County Court Funds Rules 1965, were revoked on implementation of the CFR. In summary, the existing CFR make provision for:

- Part I (rules 6 to 12) - what is required by the Accountant General to lodge funds in court and to pay funds out of court;
- Part II (rules 13 to 24) - lodging funds in court, including the lodgment of securities transferable by delivery and the deposit of effects;
- Part III (rule 25) - money deposited in court under order or in support of a defence of tender before claim that is accepted under Part 36 of the CPR;
- Part IV (rules 26 to 33) - two accounts (the basic and special account) and the payment of interest on those accounts;
- Part V (rules 34 to 37) - ways to invest funds held in court, including in the common investment fund;
- Part VI (rules 38 to 39) - lodgment of funds in foreign currencies;
- Part VII (rules 40 to 51) - payment, transfer and delivery of funds out of court;
- Part VIII (rules 52 to 55) - allotment, conversion and write off of securities in court;
- Part IX (rule 56) - the Accountant General to transfer excess funds (if any) to the National Debt Commissioners and for the National Debt Commissioners to transfer funds to the Accountant General if there is a shortfall;
- Part X (rules 57 to 62) - unclaimed balances;
- Part XI (rule 63) - certificates containing details about funds lodged (or not lodged) in court, unclaimed balances or any other dealing with a fund.

11. There are a number of problems with the existing structure, for example, Parts III (Appropriation), IX (National Debt Commissioners) and XI (Certificates in respect of funds in court) each contain only one rule. In addition, rules with respect to lodging funds in court and paying funds out of court are currently spread across several different Parts of the CFR making it difficult for users to understand these requirements.

12. The new CFR are structured as follows:

- Part 1: Preliminary, interpretation and general provisions
- Part 2: Depositing funds in court
- Part 3: Accounts and investments
- Part 4: Payment out of a fund in court
- Part 5: Unclaimed funds in court
- Part 6: Miscellaneous provisions

13. Question – Do you agree with the structure of the new CFR and the title of each Part?

Part 1: Preliminary, interpretation and general provisions

14. Part 1 of the new CFR contains the following rules:

- Rule 1: Citation, commencement, revocation and transition
- Rule 2: Application of the Rules
- Rule 3: Interpretation
- Rule 4: Court Funds Office
- Rule 5: Discharge of the Accountant General's functions

15. The majority of the rules contained within Part 1 are based on existing rules. A number of definitions have been removed which are no longer considered necessary or helpful and some definitions have been amended. Definitions of “funds”, “fund in court”, “investment manager” and “written request” have been added.
16. The existing CFR have been revoked. New rule 1 (citation, commencement, revocation and transition) provides that the existing CFR will continue to apply to such an extent as may be necessary for giving effect to an order, direction or request made before the new CFR come into force.
17. New rule 2 (application of the Rules) has been included to clarify which proceedings the Rules relate to. The existing CFR define “court” as including, unless otherwise specified, the Senior Courts, the Court of Protection, any county court, the Employment Appeals Tribunal and the Upper Tribunal. This has sometimes created confusion for people involved in criminal proceedings who attempt to lodge funds in court as section 1 of the Senior Courts Act 1981 states that the Senior Courts consist of the Court of Appeal, the High Court of Justice and the Crown Court. However, funds may only be lodged with CFO in civil proceedings or under enactment. New rule 2 provides that the new CFR apply to funds deposited or to be deposited in court:
 - (a) under an enactment; or
 - (b) in proceedings in:
 - (i) county courts;
 - (ii) the High Court;
 - (iii) the Civil Division of the Court of Appeal;
 - (iv) the Court of Protection;
 - (v) the Employment Appeal Tribunal; or
 - (vi) the Upper Tribunal
18. Question – Are there any other types of proceedings that should be included in new rule 2? Do you have any comments in relation to the rules in Part 1 generally?

Part 2: Depositing funds in court

19. Part 2 of the new CFR contains the following rules:
 - Rule 6: Documents accompanying deposit of funds in court
 - Rule 7: Deposit of funds at the Court Funds Office
 - Rule 8: Deposit of funds at a District Registry or county court
 - Rule 9: Deposit of cash at the Mayor’s and City of London Court
 - Rule 10: Promissory notes
 - Rule 11: Refusal to accept a deposit
20. The existing rules relating to the lodgment of funds in court are complicated and located across several rules within three separate Parts (Parts I, II and VI). Rule 6 (lodgment schedule or other authority to lodge), rule 14 (lodgment on receipt of lodgment schedule or other authority to lodge), rule 15 (lodgment on receipt of a written request) and rule 38 (dealings with foreign currencies) set out what is required in different cases for the Accountant General to lodge funds in court. The policy intention has been to streamline these requirements into one new rule (see new rule 6 - documents accompanying the deposit of funds in court).

21. New rule 7 (deposit of funds at the Court Funds Office) continues to provide that funds must be lodged directly with the CFO. New rules 8 (Deposit of funds at a District Registry or county court) and 9 (Deposit of cash at the Mayor's and City of London Court) contain exceptions to this requirement and set out the circumstances in which funds may be deposited at a county court or District Registry. These are the same circumstances as set out in the existing CFR.
22. New rule 10 (promissory notes) has been added in response to an increasing number of attempts by people to lodge promissory notes in court in lieu of money to make it clear that the Accountant General is unable to accept promissory notes as payment into court. New rule 11 (refusal to accept a deposit) sets out other circumstances in which the Accountant General may refuse to accept a deposit, including where there is any other good reason for doing so.
23. Existing rule 17 (securities transferable by delivery and deposit of effects) has not been incorporated into the new rules as the Accountant General no longer directs that securities or effects be delivered to the bank nor are there any arrangements in place with the bank to accept such a delivery. Instead, securities and effects must be delivered to CFO under new rule 7 or, in the case of securities deposited under any enactment, to a county court or District Registry under new rule 8, unless the Accountant General otherwise directs. Existing rule 18 (return of lodgment directions) has not been included for these same reasons.
24. Existing rule 22 (payment of money into a District Registry or county court) requires an officer of a District Registry or county court who receives money to give receipt for it "in the form prescribed". This provision has not been replicated as there is no such form nor is it considered appropriate for these rules to impose an obligation of this nature on the courts.
25. Question – Are the requirements for depositing funds into court clear and correct? Do you have any comments in relation to the rules in Part 2 generally?

Part 3: Accounts and investments

26. Part 3 of the new CFR contains the following rules:
 - Rule 12: Interest bearing accounts
 - Rule 13: Transfer between accounts
 - Rule 14: Accrual of interest
 - Rule 15: Investment
 - Rule 16: Investment in securities
 - Rule 17: Foreign currency
 - Rule 18: Authority to direct investment
 - Rule 19: Timing of investment
 - Rule 20: Payment of charges when dealing with securities
 - Rule 21: Conversion and allotment of securities
 - Rule 22: Securities of a dissolved company
27. The rules contained within Part 3 are, for the most part, based on existing rules in relation to interest rates and investments.
28. New rule 13 (transfer between accounts) has been included to clarify the circumstances in which the Accountant General will transfer money from a basic account to a special account and vice versa. A transfer from basic to special will not take place until the Accountant General has received a payment schedule signed and authenticated by the

court directing him to do so. Paragraph (2) of existing rule 28 (time for placing money to an interest bearing account) provides that the transfer will take place on the date that judgment is given in favour of a person under a disability or settlement of his claim is approved by the court. However, this does not work in practice as the Accountant General needs to be notified of the judgment for the transfer to take place.

29. New rule 15 (investment) sets out the range of investments available to the Accountant General. He may invest money held in court in:
 - (a) a basic account;
 - (b) a special account; or
 - (c) a common investment fund (known as the Equity Index Tracker Fund (EITF)).
30. In addition, the Accountant General may only invest in the EITF if the amount held in court is £10,000 or more and is likely to be held in court on behalf of a child or person who lacks capacity for a period of five years or more.
31. The range of investments available to the Accountant General under paragraph (1) of existing rule 34 (range of investments) are wider, enabling him to also invest in:
 - (a) any manner specified in Part I, paragraph 1 to 10 and 12 of Part II and paragraphs 2, 2A and 3 of Part III of Schedule 1 to the Trustee Investment Act 1961, as supplemented by the provisions of Part IV of that Schedule;
 - (b) investment trust ordinary shares; and
 - (c) on behalf of Court of Protection clients only, any type of share.
32. In practice, the Accountant General very rarely invests in securities outside of the EITF. The CFO currently manages non-EITF security holdings on behalf of approximately 18 children, 257 Court of Protection clients and 193 miscellaneous accounts (where securities have been ordered into court or deposited under legislation such as the Trustee Act 1925). As investments outside the EITF are uncommon and handled via a separate process to EITF investments, they generate a disproportionate level of cost and resource to administer and manage. These investments also have the risks associated with operating a specialist, but not frequently used service, given CFO staff have limited expertise in this area. From 12 August to 30 October 2009 CFO ran a consultation with key stakeholders on ways of simplifying the work and processes CFO undertakes. One of the business simplification proposals was to cease offering clients the option of investing in securities outside of the EITF. CFO received four individual responses to the proposal, all of which supported the proposal. However, the proposal was not implemented at that time because further consideration was being given to investment arrangements on behalf of all CFO clients. It has now been agreed that the EITF will remain the investment vehicle of choice for CFO clients and, as such, the new CFR will no longer allow the Accountant General to invest in other types of securities. A transitional provision has been included in the new rules (see new rule 16 - investments in securities) so that this will not affect existing clients with non-EITF security holdings.
33. New rule 18 (authority to direct investment) sets out who may provide the Accountant General with directions to make an investment. In relation to Court of Protection clients, the Accountant General must invest funds in accordance with directions from the Court of Protection, a deputy or an investment manager appointed by a deputy as is provided for by existing rule 34(5). In relation to children and protected beneficiaries (see paragraph 38), existing rule 34(2) currently provides that money subject to an order of the court may be invested in accordance with instructions received from the Public Trustee. It is accepted that it is not appropriate for the Public Trustee to do so in the future given the demerger of CFO from the Office of the Official Solicitor and Public Trustee. Instead, new rule 18(1) provides that the Accountant General must invest in accordance with the investment policy requested by the court.

34. At present, following the hearing of an application for the approval of a settlement or compromise on behalf of a child, the court will forward CFO a request for an investment decision (Form 212). The judge will indicate on the Form 212 which investment policy is to apply from one of the following four options:

- Capital growth only - where no income is likely to be required from the fund prior to majority
- Capital growth and income - where some income from the fund will be required prior to majority
- Maximum income - where regular income is required from the fund
- Place all funds on special - where there is less than £10,000 to invest and/or less than 5 years to majority or a specific request not to invest

35. On receipt of a Form 212, the Accountant General applies the investment framework (approved by the Public Trustee’s investment managers) set out in the following table unless there is a specific direction from the court to the contrary. The percentage figure represents the proportion of the award that is to be invested in the EITF¹. Money is only invested in the EITF if the child has £10,000 or more held in court or has 5 years or more until majority, unless the court otherwise directs.

	Less than 5 years to majority	5 to 6.5 years to majority	6.5 to 8 years to majority	8 years or more to majority
Capital growth only	Special	30%	50%	70%
Capital growth & income	Special	30%	30%	50%
Maximum income	Special	Special	Special	Special
Special	Special	Special	Special	Special

36. By applying this framework, the Accountant General is able to provide a consistent and equitable service for the investment of damages awards to children. The most common reason for departing from the investment framework is where the court has indicated that the beneficiary is a Muslim child and has requested that the funds be placed either on cash or invested wholly in the EITF so as to avoid earning interest.

37. An annual review is undertaken of all cases where funds have been invested in the EITF which results in a stepped reduction in the equity component as the child moves closer to majority, unless there is a specific direction not to disinvest. This reduces the equity risk given that the vast majority of children chose to take cash at majority.

38. Where the sum to be administered on behalf of a protected beneficiary (an adult who lacks capacity to manage and control any money recovered by him or on his behalf or for his benefit in civil proceedings) is under £30,000 it may also be invested in the same way as the fund of a child. In these cases, the money in court will be invested in accordance with the investment policy specified on the Form 212 although advice is always sought from an appointed broker where a portion of the award is to be invested in the EITF. Where no Form 212 has been received the money is placed to a special account. A new investment framework on behalf of protected beneficiaries will be introduced to ensure

¹ The CFO intends to review the investment framework on an annual basis so these figures may change over time.

consistency of treatment between cases. The court will indicate on the Form 212 which investment policy is to apply from one of the following three options:

- Capital growth only - where no income is likely to be required from the fund for over 10 years
- Capital growth and income - where some income is likely to be required from the fund within 5 to 10 years
- Maximum income - where income is likely to be required from the fund within 5 years

39. On receipt of a Form 212, the Accountant General will apply the investment framework set out in the following table:

Capital growth only	65%
Capital growth & income	50%
Maximum income	Special

Note - the percentage figures represent investment in the EITF

40. Existing rule 31 (treatment of transitional funds) has not been included in the new version of the rules. This rule relates to money which, less than 21 days prior to the 6th April 2007, in satisfaction of a claim –

- (a) had been paid into court in accordance with CPR Part 36; or
 - (b) had been appropriated in accordance with CPR Part 37,
- as those Parts were in force immediately prior to 6 April 2007.

41. Pursuant to existing rule 31, these funds must be placed to a basic account 21 days after the effective date of lodgment or appropriation. Any funds falling within this category have by now been placed to a basic account and paragraphs (1) and (2) of new rule 13 (transfer between accounts) will apply to transfers from the basic account to the special account.

42. It was not considered necessary to replicate existing rule 33 (withdrawal of money from an interest bearing account) which provides that money must only be withdrawn from an interest bearing account for the purpose of giving effect to a court order or in accordance with these rules.

43. Question – Is the range of investments available to the Accountant General suitable? Do you agree with the new investment framework for protected beneficiaries? Do you have any comments in relation to the rules in Part 3 generally?

Part 4: Payment out of a fund in court

44. Part 4 of the new CFR contains the following rules:

- Rule 23: Documents required for payment
- Rule 24: Payment to a representative of a deceased person
- Rule 25: Payment of funeral expenses
- Rule 26: Payment of inheritance tax
- Rule 27: Payment in respect of CPR Part 36 (offers to settle)
- Rule 28: Interest on payments
- Rule 29: Time for making payments
- Rule 30: Regular payments
- Rule 31: Method of payment

- Rule 32: Dealing with a fund in court before the receipt of a payment schedule
 - Rule 33: Refusal to make a payment
 - Rule 34: Identification of payees
45. The existing rules in relation to payment out are also spread across a number of Parts of the CFR. Rule 8 (payment schedule) and rule 11 (regular payments) are located in Part I. The majority of the relevant rules are located in Part VII. In addition, rule 25 (appropriation) in Part III makes provision for payment out where a Part 36 offer has been accepted. The policy intention has been to combine all of the rules relating to payment out of court into one Part of the new rules.
46. New rule 23 (documents required for payment) provides that the general rule is that the Accountant General shall make a payment from a fund in court if provided with a payment schedule signed and authenticated by the court. This does not apply where the request for payment is made by a deputy or under an enactment which requires specific authority for payment out (for example, money paid into court under the Road Traffic Act 1988 may only be paid out on receipt of a letter of authority from the Secretary of State for Transport). Rules 24 (payment to a representative of a deceased person), 25 (payment of funeral expenses) 26 (payment of inheritance tax) and 27 (payment in respect of CPR Part 36) also make provision for payments out of court.
47. Paragraphs (5), (5A) and (5B) of existing rule 40 (payments out of money and identification of payees) which relate to payment out to a donee under a power of attorney have not been included as a payment would not be made to an attorney without requiring a payment schedule or other authority specifically directing payment to the attorney.
48. Existing rule 42 (payment pursuant to direction of the Court of Protection) provides that where a person who lacks capacity becomes entitled to funds lodged in court, the Accountant General must pay the money to the person's deputy or carry it over to such an account as the Court of Protection or deputy may direct. This is now dealt with by paragraphs (1) and (2) of new rules 13 (transfer between accounts) and paragraph (2) of new rule 18 (authority to direct investments).
49. Existing rule 51 (specially created account) requires the Accountant General to exclude all fractions of one penny when apportioning interest received in respect of securities and transfer the aggregate of such fractions to Her Majesty's Paymaster General (HMPG). The requirement to transfer these fractions to HMPG has not been included in the new CFR as a valid reason for doing so could not be established.
50. Existing rule 54 (arrangements with the Bank over paid off securities, etc) which refers to securities deposited at the bank and securities payable on the presentation of coupons in a series has not been replicated as securities are no longer deposited at the bank.
51. Question – Are the rules in relation to payment out clear and correct? Do you have any comments in relation to the rules in Part 4 generally?

Part 5: Unclaimed funds in court

52. Part 5 of the new CFR contains the following rules:
- Rule 35: Transfer of funds to the unclaimed funds account
 - Rule 36: Disposal of unclaimed securities and effects
 - Rule 37: Converting unclaimed foreign currency
 - Rule 38: Unclaimed county court funds
 - Rule 39: List of unclaimed funds in court

- Rule 40: Payment out of the unclaimed funds account
53. Although the rules within Part 5 are based on the existing rules, a number of amendments have been made to ensure that the rules clearly reflect existing practice and procedure in relation to unclaimed funds.
54. New rule 37 (converting unclaimed foreign currency) has been added to enable the Accountant General to convert unclaimed foreign currency accounts into sterling on transfer to the unclaimed funds account.
55. New rule 40 (payment out of the unclaimed funds account) makes it clear that that the Accountant General must be provided with a payment schedule signed and authenticated by the court before making a payment out of the unclaimed funds account.
56. Question – Are the new rules in relation to unclaimed funds clear or have any steps been missed out? Do you have any comments in relation to the rules in Part 5 generally?

Part 6: Miscellaneous provisions

57. Part 6 of the new CFR contains the following rules:
- Rule 41: Information about a fund in court
 - Rule 42: Statement of account
 - Rule 43: Court's obligation in respect of deposit and payment schedules
 - Rule 44: Transfer between courts
 - Rule 45: National Debt Commissioners
58. New Part 6 contains those rules that do not neatly fit within any other parts. Alternatively, they could be moved to Part 1 (Preliminary, interpretation and general provisions).
59. Paragraph (2) of existing rule 63 (certificates of funds in court, copies of accounts etc) provides that the Accountant General may issue a copy of an account relating to a fund in court to a person who appears to be interested in the fund, which must be authenticated by the National Audit Office (NAO) if that person so requires. Discussions with NAO indicate that this provision is not used and also that it would be very difficult (and costly) to authenticate individual accounts. As such, it has not been included in the new rules.
60. Question – Should any of these rules be placed elsewhere? Do you have any comments in relation to the rules in Part 6 generally?

End of proposals

Questions and views

61. We would welcome responses to the following questions set out in this consultation paper:

- a. Do you agree with the structure of the new CFR and the title of each Part?
- b. Part 1 - Preliminary, interpretation and general provisions
 - i. Are there any other types of proceedings that should be included in rule 2?
 - ii. Do you have any comments in relation to the rules in Part 1 generally?
- c. Part 2 - Depositing funds in court
 - i. Are the requirements for depositing funds into court clear and correct?
 - ii. Do you have any comments in relation to the rules in Part 2 generally?
- d. Part 3 - Accounts and investments
 - i. Is the range of investments available to the Accountant General suitable?
 - ii. Do you agree with the new investment framework for protected beneficiaries?
 - iii. Do you have any comments in relation to the rules in Part 3 generally?
- e. Part 4 - Payment out of a fund in court
 - i. Are the rules in relation to payment out clear and correct?
 - ii. Do you have any comments in relation to the rules in Part 4 generally?
- f. Part 5 - Unclaimed funds in court
 - i. Are the new rules in relation to unclaimed funds clear or have any steps been missed out?
 - ii. Do you have any comments in relation to the rules in Part 5 generally?
- g. Part 6 - Miscellaneous provisions
 - i. Should any of these rules be placed elsewhere?
 - ii. Do you have any comments in relation to the rules in Part 6 generally?
- h. Do you believe that any of the proposals promote a greater or lesser equality of opportunity or access for any of our client groups?
- i. Do you have any questions you would like to ask us relating to these proposals?

Thank you for participating in this consultation exercise.

TABLE OF DESTINATIONS		
New rule	Title of new rule	Based on existing rule
Part 1	Preliminary, interpretation and general provisions	
1	Citation, commencement, revocation and transition	1
2	Application of the Rules	CPR 2.1
3	Interpretation	2
4	Court Funds Office	3
5	Discharge of the Accountant General's functions	4
Part 2	Depositing funds in court	
6	Documents accompanying deposit of funds in court	6, 14, 15, 38
7	Deposit of funds at the Court Funds Office	13, 16(1), (3), (4), (5)
8	Deposit of funds at a District Registry or county court	16(7), 17(4), 19
9	Deposit of cash at the Mayor's and City of London Court	19(1A)
10	Promissory notes	N/A
11	Refusal to accept a deposit	N/A
Part 3	Accounts and investments	
12	Interest bearing accounts	26, 29, 30
13	Transfer between accounts	28(2), 31(3)(iii), 45A
14	Accrual of interest	27, 32(1)
15	Investment	34(1)(i), (ii), 36(2)
16	Investment in securities	34(1)(iii), (iv), (5), 36(1)
17	Foreign currency	39
18	Authority to direct investment	34(2) to (7)
19	Timing of investment	35
20	Payment of charges when dealing with securities	48
21	Conversion and allotment of securities	52, 53
22	Securities of a dissolved company	55
Part 4	Payment out of a fund in court	
23	Documents required for payment	7(1),(3)
24	Payment to a representative of a deceased person	43
25	Payment of funeral expenses	43A
26	Payment of inheritance tax	43B
27	Payment in respect of CPR Part 36 (offers to settle)	25, 32(2), 44(2), (4), (5)
28	Interest on payments	32(3)
29	Time for making payments	N/A
30	Regular payments	11
31	Method of payment	40(2)
32	Dealing with a fund in court before the receipt of a payment schedule	49
33	Refusal to make a payment	40(5B), 40(9)(ii)
34	Identification of payees	40(9)(i) and 41
Part 5	Unclaimed funds in court	
35	Transfer of funds to the unclaimed funds account	57(1), (2), (3)
36	Disposal of unclaimed securities and effects	60
37	Converting unclaimed foreign currency	N/A
38	Unclaimed county court funds	62, 58(2)
39	List of unclaimed funds in court	58(1)

40	Payment out of the unclaimed funds account	57(6), (7), 61
Part 6	Miscellaneous provisions	
41	Information about a fund in court	63(1) and (2)
42	Statement of account	63(3)
43	Court's obligation in respect of deposit and payment schedules	8
44	Transfer between courts	6(2), 24
45	National Debt Commissioners	56

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 **26 April 2011** to:

Ben Luscombe
7th Floor
Court Funds Office
22 Kingsway
London
WC2B 6LE

DX: 149780 Kingsway 5
Tel: 020 7947 7943
Fax: 020 7073 4761
Email: Ben.Luscombe@justice.qsi.gov.uk

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available online at <http://www.courtfunds.gov.uk>

Publication of response

A paper summarising the responses to this consultation will be published within three months of the closing date of the consultation. The response paper will be available online at <http://www.courtfunds.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.

The consultation criteria

The seven consultation criteria are as follows:

1. **When to consult** – Consultations should take place at a stage where there is scope to influence the policy outcome.
2. **Duration of consultation exercise** – Consultations should normally last for at least 12 weeks with consideration given to longer timetables where feasible and sensible.
3. **Clarity of scope and impact** – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. **Accessibility of consultation exercise** – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. **The burden of consultation** – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. **Responsiveness of consultation exercises** – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. **Capacity to consult** – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Consultation Co-ordinator contact details

If you have any complaints or comments about the consultation process rather than about the topic covered by this paper, you should contact Julia Bradford, Ministry of Justice Consultation Co-ordinator, on 020 3334 4492, or email her at consultation@justice.qsi.gov.uk.

Julia Bradford
Consultation Co-ordinator
Ministry of Justice
102 Petty France
London SW1H 9AJ

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given under the **How to respond** section of this paper at page 18.