

# **A response from the Unclaimed Assets Charity Coalition to 'A UK Unclaimed Assets Scheme: a consultation'**

June 2007

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## **1. About the Unclaimed Assets Charity Coalition**

The Unclaimed Assets Charity Coalition is a group of 52 national and local charities and charity-sector umbrella bodies formed in June 2006 to ensure the charity sector's need to access lost legacy funds is considered by Government in its work on unclaimed assets. We are united by a desire to locate the assets bequeathed to its member charities in supporters' wills but which currently remain unclaimed.

The Unclaimed Assets Charity Coalition welcomes the publication of this consultation and the opportunity to respond. This submission has been circulated to all members of the Unclaimed Assets Charity Coalition for comment.

## **2. Summary of key points**

Charities are owed a significant proportion of unclaimed assets, and the current proposals provide inadequate support to charities in accessing these lost funds.

The proposed scheme is insufficient in the following ways:

- The scope of type of asset covered is too limited
- The proposed reuniting exercise will not adequately deal with unclaimed assets from deceased estates, which will form a significant proportion of the total of unclaimed assets
- The voluntary approach does not adequately meet consumers' needs for accessing all unclaimed assets owed to them

Accordingly, we recommend the establishment of a national register of unclaimed assets. Such a scheme would be of benefit to the general public. We believe the creation of a national register would also minimise the reputational risks to banks and the Government, because more effort would be made to reunite charities and members of the public with the assets they are owed. We are concerned that the current proposals would not provide sufficient opportunity for owners to access all unclaimed assets owed to them.

A national register need not be overly costly or administratively burdensome and would be more effective in reuniting account holders with assets.

Models for such a register are set out in section 5 of this submission.

### 3. The issue for charities

#### 3.1 How charities are owed unclaimed assets

*“...Unclaimed assets are monies in financial institutions that have been untouched by their owners for a considerable period of time...”<sup>1</sup>*

An unclaimed asset becomes “abandoned” when an owner or heir fails to communicate with the holder of an asset over a period of years, known as the dormancy period. The most typical reasons for assets becoming unclaimed include:

- People failing to notify financial institutions of an address change
- Customers forgetting about their investments
- Change of name by companies
- Customers making investments during their lifetimes without the knowledge of their spouse or a family member. Following their death, their heirs may be unaware of the assets left behind. This is the scenario in which charities’ legacy interest lies.

When a person dies leaving a Will, the Executor of that Will and/or the person’s next of kin can miss paperwork relating to some assets when arranging the person’s affairs. Similarly, relevant paperwork may have been destroyed or lost or simply may not exist. As a result, assets belonging to the deceased person can go unclaimed.

**If a person dies leaving undiscovered assets in this way, and has left a percentage of their estate to charity in their Will, then their chosen charities receive a percentage of an incomplete estate, and miss out on their share of the value of the unclaimed assets.**

This issue will affect a significant proportion of the existing unclaimed assets in the UK. Since efforts to release unclaimed assets in this country have always been extremely limited, we expect that the majority of such assets will have belonged to people who have now died. Since one in seven of all people that die leaving valid Wills leave legacy gifts to charity, on average five per cent of their total estate, it is reasonable to assume that charities are owed a significant proportion of the total value of unclaimed assets in the UK.

**Legacies are an extremely important source of voluntary income for the charity sector. Although other fundraising methods such as sponsored events, direct mail and ‘chugging’ receive more publicity, legacy income is, for a great many charities, by far the largest single source of voluntary income.**

In the case of one of the Unclaimed Assets Charity Coalition’s members, Cancer Research UK, 33% of all its voluntary income comes from legacies, totalling over £135 million last year. This income is crucial to Cancer Research UK’s ability to fund life-saving research into the prevention, diagnosis and treatment of cancer.

Similarly, the British Heart Foundation (BHF) relies heavily on legacy income to conduct its critical work. Some 46% of BHF’s total voluntary income comes from legacies, amounting to over £47 million last year.

Another Coalition member, Save the Children, received 21% of its total voluntary income from legacies in the last financial year – over £13 million.

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<sup>1</sup> The Commission on Unclaimed Assets

### 3.2 The total value of unclaimed assets

In order to calculate the value of unclaimed assets in the UK, the Unclaimed Assets Charity Coalition commissioned a detailed report from Capco, an independent financial services consultancy. We have used information gathered by Capco to inform our estimations.

In 1999, the size and value of unclaimed assets was conservatively estimated by The Unclaimed Assets Register (UAR) to be in the region of £15billion, distributed across a number of assets:

<b>Asset Type</b>	<b>Millions (£)</b>
Life Policies	1,000
Pensions	3,000
Shares & Dividends	3,000
Dormant Accounts	5,000
National Savings	3,000
Lotteries & Other	300
<b>TOTAL</b>	<b>£15.3bn</b>

In October 2005, the NS&I provided evidence to the Treasury Select Committee which suggested that it held around £1.8 billion in lost/unclaimed National Savings Accounts and in a recent article in the Guardian (April 28th, 2007) Jill Papworth reported that nearly £1bn in windfall shares remain unclaimed after the wave of building society and insurance company demutualisations. It is therefore evident that the market cannot be accurately measured at present.

In relation to dormant bank accounts, generally banks refuse to give any detail because they are not required to do so by law. This means that estimates are built on tenuous assumptions. Another type of unclaimed asset which is rarely mentioned in the press is the unknown value and contents of security boxes. Safe custody is centralised in bank vaults.

The problem of estimating the value of unclaimed assets is not limited to the banking industry. Unclaimed assets are an issue which extends beyond the banking industry into many other areas of financial services. At a minimum other asset classes such as contents of safe deposit boxes, stocks, mutual funds, bonds and dividends, matured or terminated insurance policies, NS&I accounts and all types of bank accounts should be included.

There are a number of difficulties in placing an exact figure on the total value of unclaimed assets, which include:

- Lack of data availability from financial institutions
- Lack of legislative framework requiring disclosure of information by financial institutions

This contrasts with the United States where legislation compels business to give accurate information on the value of unidentified assets and to surrender these assets to the State.

Estimates from Ireland suggest that as a result of the Dormant Accounts Bill the value of dormant bank accounts transferred to the Government was approximately €200 million. As a comparative measure, Ireland has a population of 4.0 million versus a UK population of 60.6 million.

### **3.3 The proportion of unclaimed assets owed to charities**

The Unclaimed Assets Charity Coalition estimates the minimum value of unclaimed assets owed to charities to be hundreds of millions of pounds. In order to reach this estimate, we have applied the following reasoning.

#### Step 1. The potential impact

Logic dictates that a very significant share of the existing total value of unclaimed assets in the UK will belong to deceased persons' estates. This is because efforts to trace holders of dormant assets in the UK have always been extremely limited.

We know that five per cent, or £1 in £20 bequeathed, of the total value of all legacies in the UK are left to charity. It follows that five per cent of the total pot of unclaimed assets in the UK can reasonably be estimated to be due to charities.

Access to these funds which are rightfully due to the beneficiaries of deceased supporters' Wills would represent a huge boost to legacy-receiving charities, many of whom are members of the Unclaimed Assets Charity Coalition, to carry out their vital charitable activities.

#### Step 2. The definition of an unclaimed asset

We use a full definition of unclaimed assets, including dormant bank accounts, unclaimed stocks and shares, and forgotten insurance and pension investments.

#### Step 3. Estimating the total value of all unclaimed assets in the UK

Estimates of the total value of unclaimed assets in the UK vary widely. This is partly since financial institutions refuse to disclose the value of the unclaimed assets they hold and partly because definitions of unclaimed assets vary.

In estimating the total value of unclaimed assets, we are therefore forced to make a number of assumptions. Our conservative estimate, using the reasoning outlined above, is that a minimum of hundreds of millions of pounds of unclaimed assets in the UK belong to charities named in the Wills of their benefactors.

## 4. Response to consultation questions

### Are the principles underpinning the scheme the right ones?

We strongly support the first two principles cited in the consultation document:

- wherever possible, to reunite account holders with the assets that are rightfully theirs;
- to provide a legal right for account holders to reclaim their money at any time.

However, we do not believe that the scheme as currently proposed does enough to ensure these principles are honoured and we are not convinced that the Treasury proposals go far enough in seeking to reunite account holders with their assets.

As an alternative, we would support the creation of a national register for unclaimed assets.

### A register would be more effective in reuniting account holders with assets

A fully searchable comprehensive public register of unclaimed assets would be likely to reunite more account holders with the assets that are rightfully theirs than the proposed reuniting exercise.

### The proposed scheme is insufficient for dealing with unclaimed assets from deceased estates

One key advantage of the national register approach is that it more easily enables access to unclaimed assets belonging to deceased persons' estates.

### A register need not be overly costly or administratively burdensome

We think that the costs of operating a national register could be more than offset by recovered inheritance tax and other forms of taxation liability, as a consequence of unclaimed assets being identified.

Even based on the most conservative BBA figure of £300 million worth of unclaimed bank and buildings society accounts, we maintain that the costs of operating a register of these assets would be significantly less than 1% of the total value at stake.

We also believe that, in the long term, a comprehensive national register of unclaimed assets is a relatively light touch approach and one that fulfils regulation principles.

### What other cost effective steps could be taken to reunite customers with their assets?

As stated above, we support the creation of a comprehensive national register of unclaimed assets that is searchable using the name and last known address of lost asset-holders. We believe that this would provide the best mechanism for ensuring, as far as possible, that assets are reunited with their owners.

**Is the proposed level of publicity the most cost effective approach?**

We estimate that up to two-thirds of existing unclaimed assets are those of deceased people. Therefore, though the proposed level of publicity would be welcome, we do not believe it would be sufficient to aid a significant reunification exercise and in particular would be insufficient for dealing with deceased persons' estates.

**The scheme aims to protect the customer - are the proposed protections appropriate and sufficient?**

No - we believe that the current proposals are not appropriate or sufficient to help to reunite customers with assets that are rightfully theirs.

**The scheme is insufficient in its scope of type of asset covered**

The scope of the current consultation is limited. There are many types of assets that remain unclaimed and bank accounts represent only a portion of these. The totality of such assets would add up to a substantial amount of money that at the moment remains in the hands of financial institutions, who are not the rightful owners.

In the US for example, legislation encompasses a multitude of assets known collectively as Unclaimed Property, the most common of which are:

- Bank accounts and safe deposit box contents
- Stocks, mutual funds, bonds and dividends
- Uncashed cashier's checks or money orders
- Certificates of deposit
- Matured or terminated insurance policies
- Mineral interests and royalty payments, trust funds and escrow accounts

We believe that the definition of unclaimed assets should be extended beyond the scope of 'dormant bank accounts' to cover other unclaimed assets and these need to be clearly defined. This would offer a fuller and more transparent solution for consumers, and could lead to the reuniting of more unclaimed assets with their rightful owners.

The success of unclaimed assets registers in other markets supports the case for key aspects to be replicated in the UK. Ireland has recently implemented legislation (Dormant Accounts Bill 2001 and the Unclaimed Life Assurance Act 2003) to re-unite individuals with their lost assets. Other countries like the US, Canada and Australia also have laws which support the release of unclaimed assets and an assets register.

**The voluntary approach is insufficient**

We are disappointed that the Government is not proposing to enforce mandatory information submission by financial institutions. Information submission to a central database would ensure that the exact amount and value of unclaimed assets would be known and would demonstrate financial institutions' transparency. We also believe that mandatory information submission would ensure consistency across the industry.

Currently, the total value of unclaimed assets in the UK is unclear. In the case of dormant accounts for example, it is known that some banks have been using money from customers' dormant accounts to bolster their profits, adding them to their

accounts after a number of years. Of course, this issue is not limited to the banking industry - there is a similar situation in the life assurance and pensions industry. The orphan funds of life assurance companies arise from either unclaimed assets, that is, no payouts when policies mature, or from under-declaration of bonuses.

**We therefore support mandatory obligations being placed on financial institutions to disclose the unclaimed assets which they hold.**

**Do you have any other comments on the suggested operating structure taking into account the principles set out in paragraph 1.5?**

Yes. We believe the principles set out in paragraph 1.5 would be best met by the creation of a national register.

### **A Comprehensive National Register of Unclaimed Assets**

The Unclaimed Assets Charity Coalition strongly maintains that the establishment of a mandatory and publicly searchable national register of unclaimed assets is the only cost-effective, workable and equitable option open to the Government in the long-term.

Such a register would ensure that consumers and their heirs were given full information to enable them to access their unclaimed assets.

The importance of the protection of consumer rights is a central theme behind the US model. According to Barbara Rice, Assistant State Treasurer for South Carolina:

*“for the most part, the States unclaimed property laws are seen by the public, and by our State legislatures, as consumer protection laws. Because the main thrust of most State programs is collection of unclaimed property from the companies holding it so that it can be returned to the rightful owners, these programs are very popular with the public ( and many of the elected officials!). In most cases the property laws are seen as pro-consumer”.*

**What are your views on the assumptions in the partial regulatory impact assessment?**

We do not agree with some of the assumptions made in the partial regulatory impact assessment, particularly the cited drawbacks of a compulsory scheme, outlined below:

*the costs for complying with and enforcing the statutory requirements would be higher than the proposed scheme, reducing the amount of assets available for distribution to the community; and*

*it could take longer to set up than the scheme as proposed. Institutions would need time to adapt their systems and time would be needed to set up a monitoring and enforcement framework. This could affect when money would be available for distribution.*

We believe that the Government should recognise the success that unclaimed asset regulation has had in other markets, for example in the US, and take lessons learnt elsewhere into account when considering a scheme for dormant assets in the UK.

**It is important to note that a large majority of UK financial institutions have US subsidiaries who have to comply; this is not an alien concept to them.**

Drawing on these institutions' US experience would help to keep the costs down and minimise the time it would take to set up a comprehensive national register of unclaimed assets in the UK.

## 5. Models for a national register of unclaimed assets

A register should be:

- (i) **Mandatory** – so that all financial institutions are required to declare the unclaimed assets they hold;
- (ii) **Comprehensive** – so that all types of unclaimed assets are included;
- (iii) **Public** – so that any individual or organisation can access the register;
- (iv) **Searchable** – including the full names and addresses and any other relevant details of asset-holders, so that charities can match the register with their legacy database and searches can be done by Executors using a selection of criteria relevant to one individual;
- (v) **Good Value** – so that beneficiaries are not excluded from accessing the register because of cost.

### How the Register would work in practice

There are two broad categories of charity legators whose names and addresses we would wish to match to an Unclaimed Assets Register: firstly, the retrospective bulk of legators who died in the years before the Register is established, and who will form the bulk of Register entries; and secondly, the new legators that are added to the Register as the process continues.

#### 1. Clearing the historical bulk of Register entries

When the Register is launched, Executors can be prompted by beneficiaries of Wills to search out any previous names and addresses of the deceased persons, because these will provide the key to locating assets on the Register belonging to the backlog of deceased unclaimed asset holders. These historical details will be available from old correspondence, solicitors' files, utility companies' bills, friends and relatives and so on.

Charities could also run their legator databases against the Register to find those assets which have remained unclaimed and to which they have an entitlement through their legators' estates. It is likely that many charities would choose to conduct a one-off search of the Register soon after it is launched.

It is probable that heirfinder agencies will establish themselves, offering to locate the beneficiaries of valuable estate assets, as has happened in the US. Charities and private individuals could choose to pay these agencies to search on their behalf. Legislation imposing a ceiling on the fees such agencies can charge may be necessary; in the US, legislation commonly sets this ceiling at 10 per cent of the value of the asset.

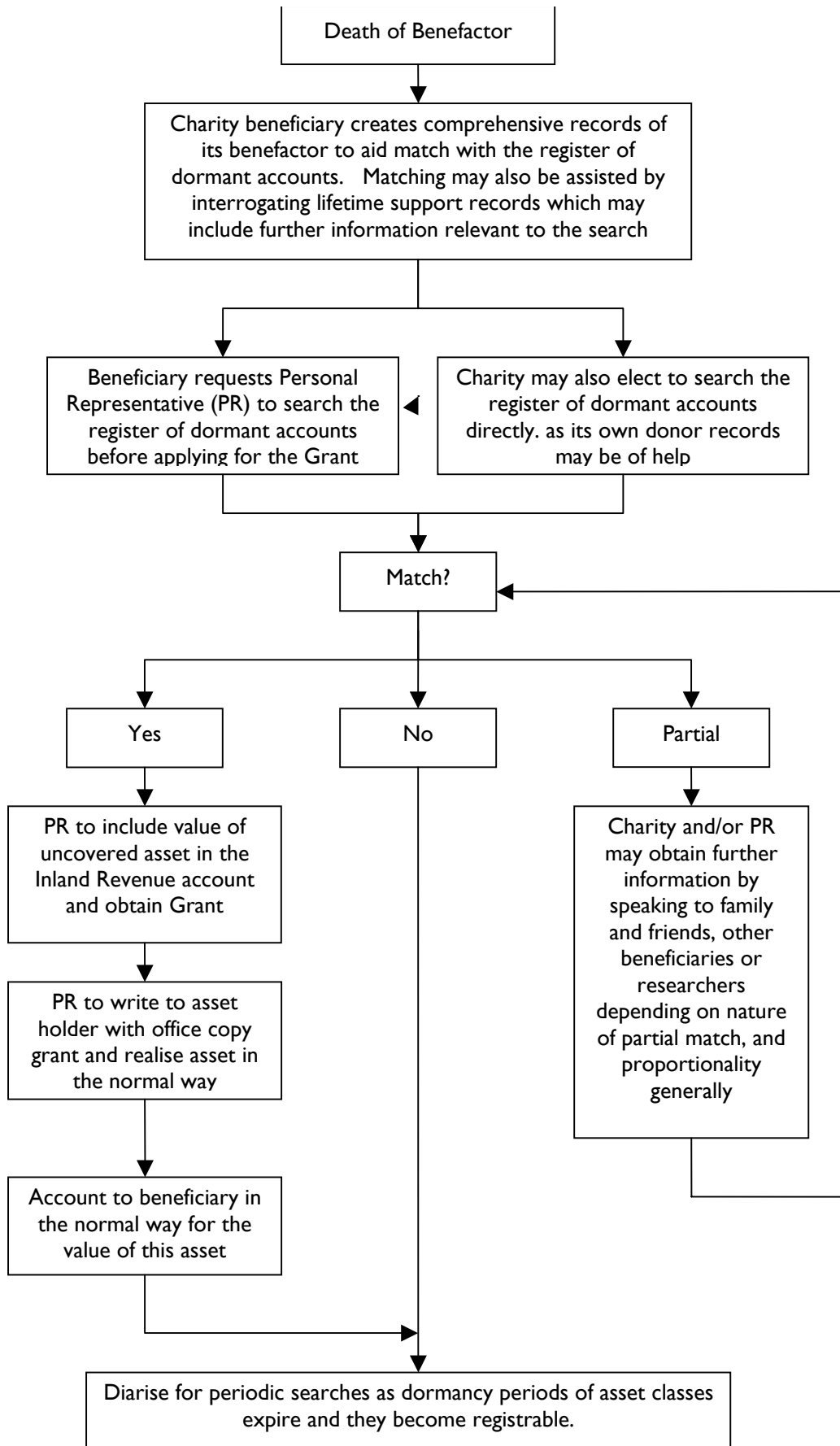
#### 2. Using the Register on a regular basis

As the length of time since the launch of the Register increases, Executors will be familiar with it and will trawl the Register for dormant assets as they administer estates, assimilating the Unclaimed Asset Register search into their normal procedures at the outset of an administration.

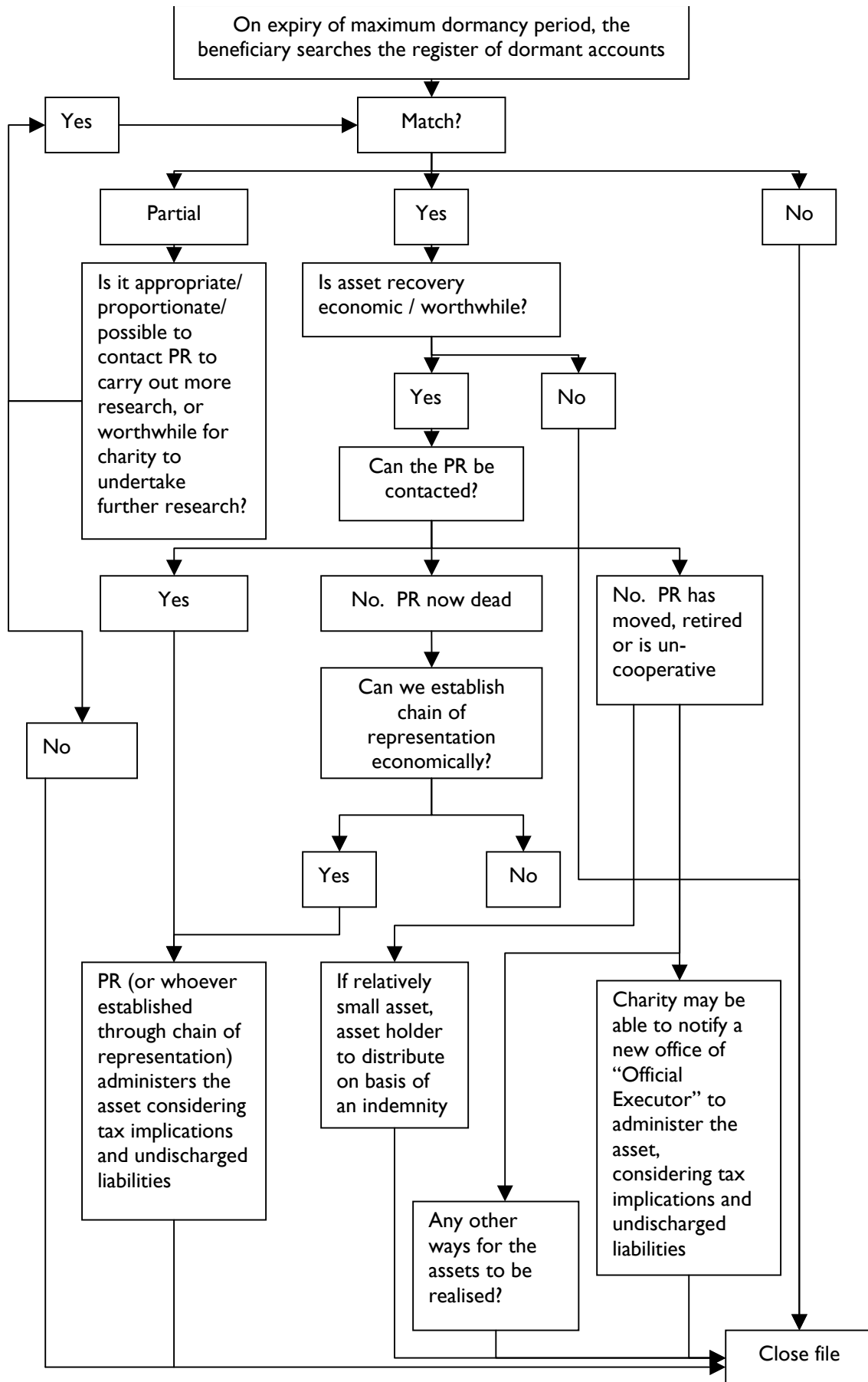
It would then rarely be necessary for a charity to interrogate the Register in the same way, but this opportunity would be still open to charities and private individuals if they so wished.

Examples of how Executors, charities and members of the general public may use the matching process are given below.

## Search of Register of Dormant Accounts at Outset of Estate



## Periodic Search on Expiry of Dormancy Periods for Asset Classes



### 3. Phased implementation of a register

The HM Treasury consultation paper covers only dormant accounts.

The Unclaimed Assets Charity Coalition acknowledges the expressed willingness of UK banks and building societies to improve their existing tracing systems in order to meet the needs of all stakeholders.

Indeed, the Coalition has been in correspondence with the British Bankers' Association and Building Societies' Association and has offered to submit a selection of our members' data so that their preliminary model can be tested.

**The overriding imperative for charities named as beneficiaries in Wills is that the assets to which they are legally entitled can be easily and cost-effectively identified and gathered in. So long as all potentially entitled beneficiaries can have confidence in the system which is established, the Unclaimed Assets Charity Coalition would be able to express its support.**

However, should the system fail to meet the all the needs of legally-entitled stakeholders, we would expect Government to take appropriate further action as a matter of priority.

From a pragmatic perspective the set-up of a national register of unclaimed assets may need to be implemented in phases due to its complexity and the required legislation. The scope of such a register will grow over time to include more asset classes, as each of these will require a slightly different approach. Ireland, for example initially focused on unclaimed dormant bank accounts (2001 Act), followed by unclaimed life assurance policies (2003 Act).

The Unclaimed Assets Charity Coalition would support a phased introduction of a central database in phases to take into account the legislation required for each asset type. We look forward to the opportunity to discuss this item in more detail.

### 4. Operating systems

A national register of unclaimed assets could be set up and maintained either by Government or a commercial organisation. It is certainly the case that there are a range of existing commercial models which could act as the foundation for a full register, thus keeping set-up costs to a minimum. The Coalition has no real preference regarding the type of operating system to be used, but we have considered the advantages and disadvantages of each. We would be delighted to discuss the practicalities of different systems in more detail.

#### **Setting up a register**

Financial Institutions would send information about the unclaimed assets they hold to a central repository of information. The following information would need to be sent: name of the client, last known address, name of the bank, and reference number. Information seekers would use a search engine that would search the database and produce results in the form of number of matches and name of the financial institution(s) where there was a match.

The advantage of having this type of repository of information is that it would serve as a 'one stop' tracing facility available for interested parties to search for unidentified assets. The database would need to be accessible via the internet.

There are a number of possible providers capable of setting up and maintaining an unclaimed assets register. A number of commercial organisations already have the capability and infrastructure in place to deliver and run similar databases. The Coalition would be happy to provide examples of such suppliers.

Alternatively, the Government could start a central database using information from the central census and information held in the electoral roll and Inland Revenue databases, which includes names and address of all individuals over the age of 18 who live in the UK.

## 5. Funding

There are a number of ways in which an unclaimed assets register could be funded.

One option would see an initial search being provided free of charge. If a match was found, the user would then be asked to pay a small fee to access the information. Only the contact details of the institution holding the asset would be given at this time. The entitled person/corporate body would then need to prove their entitlement to the asset in the normal way.

This funding model would ensure that the costs of running a register would be kept very low.

## **Circulation**

This submission will be sent to the following Ministers and officials at the Treasury:

- Rt Hon Gordon Brown MP, Chancellor of the Exchequer
- Ed Balls MP, Economic Secretary
- James Parker, Financial Systems and International Standards, Financial Regulation and Industry

We are also sending copies of this submission for information to:

At the Cabinet Office:

- Ed Miliband, Minister for the Third Sector
- Campbell Robb, Director General, Office of the Third Sector
- Ben Jupp, Director, Office of the Third Sector

At the Charity Commission:

- Dame Suzi Leather, Chair

At the Law Society Probate Section:

- Maureen Miller, Head of Business Development & Best Practice
- Tony Collinson, Head of Probate Section
- Jan Wright, former Head of Probate Section

At the Society of Trust and Estate Practitioners:

- Keith Johnston, Head of Policy & Communications
- Jacob Rigg, Head of UK Public Affairs

In the charity sector:

- Members of the Board, Institute of Legacy Management
- Lindsay Boswell, Chief Executive, Institute of Fundraising
- Liz Atkins, Director of Public Policy, National Council of Voluntary Organisations