

## **Coalition response to Enforcement Conduct Board consultation on Standards for Enforcement Work and Oversight Model – September 2024**

### **Background**

This response has been submitted by the Taking Control coalition campaign for bailiff reform.<sup>1</sup> Taking Control is a coalition of civil society and debt advice groups campaigning for independent regulation of the bailiff industry and other reforms to ensure fair and appropriate treatment of financially vulnerable people facing debt enforcement.

This response has been endorsed by and should be treated as a response by each of the following organisations:

- AdviceUK
- Citizens Advice
- Christians Against Poverty
- Community Money Advice
- Debt Justice
- Money Advice Trust
- PayPlan
- StepChange Debt Charity

The Money and Mental Health Policy Institute, while not a formal member of the Taking Control coalition, should also be treated as a signatory on this response alongside the organisations listed above.

The Institute of Money Advisers are part of the Taking Control coalition and have submitted a separate response on this occasion.

### **Introduction**

We warmly welcome the opportunity to comment on the Enforcement Conduct Board's (ECB) consultation on Standards for Enforcement Work and Oversight Model.

We are very glad to see the ECB advance its work on producing an up-to-date and comprehensive set of standards for enforcement work. These new standards should go above and beyond existing guidance and serve as an opportunity to drive positive change in the enforcement sector, with refreshed approaches to crucial areas such as professional conduct,

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<sup>1</sup> [Taking Control: the campaign for bailiff reform](#)

oversight and communications. We very much look forward to the ECB developing new standards on vulnerability and ability to pay/affordability.

As the ECB points out, the industry currently refers to standards set out across the Taking Control of Goods Regulations 2014 and the accompanying non-statutory National Standards. These are insufficient and have not kept pace with developments in thinking and progressive approaches which exist elsewhere, including the financial services and energy sectors, especially when it comes to areas such as affordability and vulnerability. Intervention to drive up standards in the sector is therefore vital and urgent. A key step is establishing a more modern, inclusive and advanced set of standards which the industry must adhere to.

This need for quick intervention is reinforced by evidence from our organisations' respective frontline debt advisers and clients, which shows that financially and otherwise vulnerable people are experiencing aggressive and unfair enforcement action at worrying levels – from rejection of reasonable repayment offers through to threatening or inappropriate behaviour.

We are very pleased that the ECB has so far been proactive in its engagement with stakeholders on this topic. We also welcome the ECB's acknowledgment that these standards must incorporate and apply to both bailiffs (enforcement agents) and enforcement firms more widely.

The Taking Control coalition strongly believes that statutory powers are needed in order for the ECB to truly become an independent and effective bailiff regulator. This move would enable the ECB to comprehensively deliver on its mandate of raising standards in the enforcement industry and ensuring everyone experiencing enforcement action is treated fairly. Without this, the ECB has no legal standing and is reliant on the support of the enforcement industry to run.

The ECB must be able to ensure enforcement firms and agents adhere to high standards. We believe it is possible for the ECB to be given powers to make and enforce standards while still retaining the power to quickly and effectively update these as needed – keeping the ECB as an agile body. The ECB could be given a general power to set and enforce rules and standards, but these themselves could sit outside legislation so that they can be set and amended by the ECB (likely following a public consultation process).

We would urge the ECB to continue to make the case for statutory underpinning in the crucial year ahead, an intention already signalled in the ECB's 2024/25 business plan.<sup>2</sup>

Noting the above context, we broadly welcome the proposals and are positive about the direction of travel signalled through this consultation, and have set out our detailed comments – including suggestions around how the draft standards could be improved – below.

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<sup>2</sup> Enforcement Conduct Board (2024), [Business Plan 2024/25](#)

## Responses to Individual Questions

### Question 1 – Do you have any feedback on the draft professional values?

As the ECB rightly acknowledges, enforcement action can have a significant impact on the lives of people who experience it – and our evidence shows that it often does in harmful ways. While enforcement action is an inherently fraught process, enforcement firms and agents should have a responsibility to mitigate potential harms amongst those experiencing enforcement action. We believe that there is substantial progress to be made in this area.

In a recent survey among StepChange debt advice clients with council tax arrears, the vast majority who experienced enforcement action via bailiffs said that it negatively impacted both their mental (95%) and physical (91%) health and wellbeing, as well as their ability to get enough sleep (94%). Four in five (80%) said it negatively impacted their ability to socialise with friends and family, while seven in ten (69%) said the same of their performance at work.<sup>3</sup>

These numbers suggest that the enforcement industry is not currently doing enough to minimise the risk of harm for those going through this experience.

What's more, our client insights show that there is a high prevalence of vulnerability among those experiencing enforcement action. To put this into perspective:

- Three in five (61%) StepChange debt advice clients who experienced enforcement action in the first half of 2024 had an additional vulnerability beyond their financial situation.
- Analysis from the Money and Mental Health Policy Institute found that more than seven in ten (73%) people in council tax arrears who have been in contact with bailiffs have experienced a mental health problem.<sup>4</sup>

We have laid out some comments relating to the draft values proposed by the ECB below:

#### **a) Act with honesty and integrity and in a way that upholds public trust and confidence in the enforcement process and in the role of enforcement agents and enforcement firms.**

We welcome this wording and the principle that enforcement agents and firms should act with honesty and integrity. We have heard from debt advice clients at our respective organisations who often tell us that enforcement agents have overstated or misrepresented the powers available to them; setting clear expectations regarding values of honesty and integrity should go some way to combatting this behaviour.

We would strongly encourage the ECB to highlight examples of good and poor practice in this area in accompanying guidance. For example, the threat of imprisonment is a contentious issue, and we've heard feedback around enforcement firms or agents overstating the likelihood of this happening, causing fear and worry for our clients. Clients have also described perceptions that bailiffs have displayed intimidating or aggressive behaviour in communications or interactions.

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<sup>3</sup> StepChange clients were asked 'How did the bailiff/ enforcement agent action impact the following, if at all?' and presented with a series of statements. 127 clients responded to this question. Fieldwork took place online between 19 June and 10 July 2024, among clients who first received debt advice between 1 May 2023 and 30 April 2024 and had council tax arrears.

<sup>4</sup> Money and Mental Health Policy Institute (2024), [In the public interest? The psychological toll of local and national government debt collection practices](#)

A member of Money and Mental Health's research community described their concerning experience of enforcement action as below:

- *"[I had] harrowing experiences of extremely threatening behaviour. [Enforcement agents] blocking my car in with their vehicle. Hammering on the door while I was having an extreme anxiety attack continuously for over an hour. Harassing my young son while he tried to get back into the house returning from school."*

Addressing incidences where misleading or incendiary language is used by enforcement agents in doorstep interactions – intentionally or otherwise – is also crucial in driving up standards. A survey of 402 debt advisers from across the free debt advice sector, conducted by the Taking Control coalition members, found that almost half (47%) of advisers surveyed said they saw bailiffs misrepresenting their powers in most or all bailiff cases they dealt with.<sup>5</sup> A further 39% said they saw this in some cases, with just 11% saying they saw this in no or very few cases.

Recent research by Citizens Advice found that 1 in 3 people (39%) who have been contacted by bailiffs during the cost of living crisis have experienced behaviours that broke the rules, including:

- threatening to break into their home (20%);
- forcing their way into their home (10%);
- dealing unsympathetically with disabilities or illnesses (19%); and
- taking goods required for their medical care or work (9%).<sup>6</sup>

More still experienced practices which go against the current standards of 'professional conduct, discretion and fairness' bailiffs are meant to follow, including being refused an affordable payment offer or receiving an intimidating phone call or doorstep visit.

These experiences can in turn result in negative coping mechanisms among those experiencing enforcement action, such as agreeing to unsustainable repayment plans, harmful borrowing actions (like borrowing from friends, family, and loan sharks, increasing overdrafts and credit card borrowing), falling behind on other bills, and cutting back on essentials such as food and energy in order to meet unaffordable enforcement-related costs.

All of this contributes to a climate of poor perceptions and low expectations of the enforcement industry, which indicates that there is a long way to go in building public trust and confidence in the enforcement process.

The ECB should consider areas where it can be more prescriptive around what constitutes threatening or intimidating behaviour and misrepresentation of powers, in order to combat this behaviour, while still allowing room for flexibility.

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<sup>5</sup> Online survey of 402 debt advisers from 7 free debt advice agencies, conducted by the Taking Control coalition in 2023. Fieldwork took place between 6 February – 10 March 2023.

<sup>6</sup> Citizens Advice (2024), [Bailiffs behaving badly: stories from the frontline](#)

A critical point here is around how enforcement employment models and payment structures currently operate, and how this incentivises poor practice by individual agents. As it stands, many bailiff firms use self-employed workers who earn commission based on their caseload, rather than as salaried employees. A Guardian investigation in 2022 highlighted an advert from a major bailiff firm, which described those with a military, police or HMP prison background as desirable candidates and offered “uncapped commission” with “realistic earnings between £35k and £65k.”<sup>7</sup>

This framing, and the practice itself, is very problematic. Evidence has demonstrated the harms that stem from such payment structures, with commission-based payments likely to affect the behaviour of agents and drive the misleading statements and aggressive tactics we hear about from clients.

There are recent examples where a regulator has intervened to root this practice and associated behaviours out – for example, the Financial Conduct Authority (FCA) banning certain providers of debt advice from receiving referral fees from debt solution providers with a view to putting a stop to the business model which incentivised debt packagers to recommend certain options that made them more money, rather than what is in the customer’s best interest.<sup>8</sup> Note also FCA guidance to consumer credit firms on staff incentives and remuneration that presents good and bad practice examples on remuneration of collections staff and the poor practice that remuneration incentives can drive.<sup>9</sup>

**b) Be accountable and responsible for your actions and the actions of those who work on your behalf.**

While having a value centred on accountability and responsibility is certainly welcome and important, this concept must extend beyond being a simple principle and translate into actual practice and implications on the ground. This value must therefore be coupled with related, clear consequences for firms and agents, including repercussions for poor behaviour and inappropriate or rule-breaking actions, for it to stand up to scrutiny.

Here we note the recent Radio 4 File on 4 documentary ‘Bailiffs behaving badly’, where journalists described an incident where an enforcement agent made unwanted sexual advances to a person experiencing enforcement action.<sup>10</sup> Not only was the enforcement agent who perpetrated this behaviour not prohibited from continuing to work in the industry, they were kept on by the same firm that had originally employed them.

There must be checks and balances in place to prevent misconduct such as this, at both a firm and individual level. It is vital that the ECB establishes clear expectations and consequences for inappropriate or rule-breaking behaviour.

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<sup>7</sup> The Guardian (2022), [‘Pay up, or it trebles’: bailiffs accused of strong-arm tactics in UK](#)

<sup>8</sup> Financial Conduct Authority (2023), [Financial watchdog bans referral fees for debt packagers to help struggling consumers](#)

<sup>9</sup> Financial Conduct Authority (2018), [FG 18/2. Finalised guidance on staff incentives, remuneration and performance management in consumer credit](#)

<sup>10</sup> BBC Radio 4 (2024), [File on 4: Bailiffs Behaving Badly](#)

In another recent example, a StepChange debt advice client whose local authority instructed bailiffs to deal with council tax arrears described how:

- *“[The bailiff] pushed me through my front door in front of my 13-year-old daughter, I made a complaint asked for footage and they said the bailiff did nothing wrong... He went through all my kitchen cupboards and drawers and took my car keys off the side, and I had to borrow £450 off a friend so he would leave. He was laughing at me and mocking me the whole time, laughing because I said I had bad mental health issues.”*

Once again, we welcome moves by the ECB to issue specific examples for agents of what could constitute an abuse of power, including threatening or intimidating behaviour. There is also space to look at what good and respectful behaviour looks like in this area, including positive examples from the enforcement sector.

**c) Carry out the enforcement process in a way that is fair and impartial, treating people with respect regardless of their background or circumstances.**

We welcome the sentiment of this proposed value. We would suggest a small but meaningful framing tweak, to read: “Carry out the enforcement process in a way that is fair and impartial, treating people in all circumstances and of all backgrounds with respect.” This edit would help shift the focus to be more inclusive and accommodating. The wording ‘regardless of their background or circumstances’ may convey a message that enforcement agents and firms do not need to consider people’s circumstances in the way they approach enforcement. This may well misalign with key messages in later standards and guidance of vulnerability.

It is important to note the inherent power imbalance which exists between enforcement firms and agents, and those who are experiencing enforcement action. This inequity requires strong and sensitive navigation by those carrying out enforcement action, which is currently all too often lacking.

We would again emphasise the high prevalence of vulnerability among debt advice clients experiencing enforcement action. This is important context for enforcement firms and agents in their engagement with those experiencing enforcement action, which is currently being overlooked in many cases.

For example, among StepChange clients who experienced enforcement action in the first half of 2024, three in five (61%) had an additional vulnerability beyond their financial situation. This includes approaching half (47%) having a mental health vulnerability and one in five (21%) with an ‘emergency issue’ vulnerability – which includes experiences of domestic violence, a recent bereavement, redundancy or dismissal from work, suicidal tendencies and having been a victim of crime.

**Figure 1: Prevalence of vulnerability among StepChange debt advice clients who experienced enforcement action in the first half of 2024**

	%
Proportion of clients with any vulnerability	61%
Mental health	47%
Emergency issue	21%
Family issues	16%
Other	12%
Health	12%
Neurological or physical	11%
Addiction	5%
Development or learning difficulty	2%
Hearing or vision impairment	1%
Housing	0.3%
Communication	0.2%

Analysis from the Money and Mental Health Policy Institute found that more than seven in ten (73%) people in council tax arrears who have been in contact with bailiffs have experienced a mental health problem.<sup>11</sup>

Our evidence suggests that the enforcement journey is currently not being undertaken in a way which supports those in financial difficulty and in vulnerable situations.

In a recent StepChange survey among clients with council tax arrears, very few clients who experienced enforcement action recalled being asked questions about their personal circumstances, including whether they were suffering from stress or mental health issues (6%), were ill, had physical health conditions or disabilities (6%) or had recently experienced a negative life event (3%).<sup>12</sup> Just 2% of respondents separately said that they felt bailiffs/enforcement agents took their personal situation into account, including any vulnerabilities (for example, health conditions or negative life events), before visiting their home for the first time.<sup>13</sup>

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<sup>11</sup> Money and Mental Health Policy Institute (2024), [In the public interest? The psychological toll of local and national government debt collection practices](#)

<sup>12</sup> StepChange clients with council tax arrears who had experienced enforcement action 'At any point, did the bailiffs/ enforcement agents check any of the following?' and presented with a series of statements. 135 clients responded to this question.

<sup>13</sup> StepChange clients with council tax arrears who had experienced enforcement action were asked 'Did the bailiffs/ enforcement agents do any of the following before visiting your home for the first time?' and presented with a series of statements. 132 clients responded to this question.

The Taking Control survey of debt advisers conducted in 2023 found that two thirds (67%) of advisers said they saw bailiffs correctly identifying people who are vulnerable (either at compliance stage or during enforcement) in very few or no cases they saw.<sup>14</sup>

An absence of reassurance and regard towards personal circumstances can leave people feeling isolated, unsupported, and less likely to feel able to act to deal with their problem debt. All of this goes to show that the enforcement sector has significant progress to make when it comes to treating people in all circumstances with respect and understanding. Moves by the ECB to ensure a more comprehensive, compassionate approach is taken by the enforcement industry are therefore very welcome.

To protect people from the potential psychological harm of enforcement action, the ECB should go beyond the existing standards for bailiffs and enforcement firms by introducing a requirement at the compliance stage for routine enquiry, by the enforcement firm and agents, into whether the person in debt is in vulnerable circumstances, including whether they have a mental health problem.

**d) Behave professionally, working constructively with other organisations involved in the enforcement process including creditors and debt advice organisations.**

We welcome this proposed value. It is critical that the enforcement sector works closely and constructively with other organisations, including creditors and debt advice organisations, to work towards ensuring the best outcomes and minimising potential harm for those experiencing enforcement action.

We hear all too often that enforcement firms and agents have not accepted budgets or sustainable repayment proposals facilitated or recommended by debt advice organisations, without due consideration or explanation. Alongside this proposed value, we would like to see explicit reference to the need for enforcement firms and agents to actively engage with such repayment offers and agree to appropriate arrangements based on the expertise of the debt advice sector. This exercise must also contain a requirement that firms and agents must give acceptable reasons for rejecting any offers, rather than just turning them down without context or valid justification.

Here we believe that the professional values and standards for enforcement firms and agents should include recognition of the harm that can result from inappropriate debt enforcement and a requirement to take active steps to minimise possible harm. This would be consistent with the ECB's mission 'to ensure that everyone experiencing enforcement action is treated fairly and protected from poor practice', and function to protect those in vulnerable situations and achieve fairness.

An important part of this conversation is the historically high levels of financial difficulty faced by our debt advice clients. There is a high prevalence of negative budgets among

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<sup>14</sup> Online survey of 402 debt advisers from 7 free debt advice agencies, conducted by the Taking Control coalition in 2023. Fieldwork took place between 6 February – 10 March 2023.



debt advice clients at our respective organisations – meaning after going through a full debt advice and budgeting session, their monthly income is not enough to cover their basic monthly costs. For reference:

- Around two in five (42%) StepChange debt advice clients who experienced enforcement action in the first half of 2024 had a negative budget.
- More than two in five (43%) people contacting National Debtline have a negative budget.<sup>15</sup>
- Approaching half (47%) of Christians Against Poverty clients have a negative budget.<sup>16</sup>
- Around half (51.5%) of Citizens Advice debt clients who completed a Budget Planner assessment in the first half of 2024 had a negative budget.

There must also be a strong focus on encouraging early engagement between those in debt, creditors and enforcement firms and agents, to prevent harm and escalated fees. This involves having an emphasis on facilitating resolution at compliance stage, including accounting for cases where people are ultimately unable to repay their debt and should be referred back to creditors. These attempts at early engagement should take into account evidence, including recent research from Money and Mental Health, which suggests that enforcement action can serve to drive away early engagement, causing additional feelings like strain or overwhelming those in debt. These considerations – and the need for patience, empathy and understanding – should be embedded into the approach taken by enforcement agents.

Another important point is the need to carefully determine whether it's appropriate to pursue enforcement action in the first place, with evidence indicating that certain creditors are not taking appropriate steps and due diligence to account for this, and passing people onto enforcement action which is unsuitable for them and not conducive to good outcomes for anybody involved. For example, where people are in vulnerable circumstances which might mean it's inappropriate to use this method of enforcement, or where a person's personal and financial situation means that they have no or very minimal capacity to repay. There is an argument that passing cases onto enforcement action where people are vulnerable and don't have the ability to repay debts pushes costs onto firms, which in turn might lead to poor practice by firms and agents.

While we understand that the ECB does not have jurisdiction over creditors, we would welcome it if this context, and associated considerations, were embedded more prominently in these standards and related guidance. The ECB will also need to work closely with the Ministry of Justice to ensure public sector creditors are incentivised to support the standards and apply them to their own pre-enforcement due diligence, as our evidence suggests that debt collection practice in these areas often lags behind other sectors, including energy and financial services. We would also encourage the ECB to consider how it can work with regulators and others to establish consistent pre-

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<sup>15</sup> Money Advice Trust (2024), [Broken Budgets An analysis of people contacting National Debtline and Business Debtline](#)

<sup>16</sup> Christians Against Poverty (2024), [Deficit budgets: The cost to stay alive](#)

enforcement processes and checks, for example by developing good practice standards for organisations commissioning enforcement activity, including arrangements for monitoring enforcement conduct and outcomes.

**Question 2 – Do you have any feedback on the Enforcement Process standard? Do you have a view on whether the information set out in in this section should be included within the Notice of Enforcement, or could be sent alongside it?**

We welcome work by the ECB to set clear expectations of how the enforcement process should be carried out, as we all too often hear of behaviour by enforcement agents which contravenes the existing standards.

Problems around misrepresentation of bailiff powers are one of the common bailiff issues seen by debt advice organisations, relating to different aspects of the enforcement process, including goods and powers of entry. Sometimes this translates into enforcement agents actually acting on these false assertions.

We have laid out some comments relating to the requirements proposed by the ECB below:

**Goods**

We remain concerned about reports of enforcement agents failing to act in accordance with existing standards and regulations around goods – both in terms of misrepresenting the goods they are able to take, or the ways in which they are able to take them, in conversations with those experiencing enforcement action, and in some cases, taking goods clearly listed as exempt in the Taking Control of Goods Regulations 2013.

For example, a StepChange debt adviser described the below interaction where an enforcement agent had the client’s car clamped, and then put pressure on her to make unaffordable repayments, despite a blue badge being clearly displayed in the window:

- *“The client, who is disabled, had her car clamped by an enforcement agent despite a clearly displayed blue badge being present in the window. The enforcement agent has proceeded to tell the client that if she pays £400, he will take the clamp off. When she contacted him to say she has the money he then told her that she now needs to pay another £100. Little regard was shown to her vulnerability throughout the process.”*

Further to this, recent research published by Citizens Advice in 2023 showed that one in ten (9%) people who have been contacted by bailiffs reported that enforcement agents had taken goods required for their medical care or work.<sup>17</sup>

The ECB must be cognisant of this rule-breaking behaviour in how it frames and monitors the standards around goods. We also believe that the ECB should be broader in its wording around goods than it is in the current draft standards, to more explicitly reflect the fact that enforcement agents should not be *misrepresenting* the goods that they are able to take or how they are able to take them, which can in turn lead to harmful coping mechanisms among those facing enforcement action.

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<sup>17</sup> Citizens Advice (2024), [Bailiffs behaving badly: stories from the frontline](#)

One National Debtline adviser described the worrying interaction below:

- *“The client’s only income is from Universal Credit and he is currently looking after his child, who is recovering from a serious illness. He fell behind on his council tax, and agreed to make payments of £100 a month, although he felt pressured to agree to this and did not feel he could afford it. He ended up falling behind on these payments and the bailiff has now visited his property, despite the client making them aware of his and his child’s circumstances. The client was not at the property when they visited, but they left a letter stating they will be returning in the next week to take goods (this is despite the fact they have not gained entry, meaning they would not be able to come back to take goods under the current regulations). When the client contacted the bailiffs to try and come to an arrangement, he was told “you’ve missed your chance to pay instalments”.”*

We would also welcome if the standards which relate to goods both reaffirm the established legal position regarding the context in which it is possible for enforcement agents to take control of goods, while going above and beyond to provide clarity on the treatment of certain goods, for example, vehicles which are under hire purchase agreements. The standards should explicitly state that hire agreements should be exempt as there is no possibility that the client could have a beneficial interest in the vehicle.

We would particularly like to see a reinforcement of the exemption for items needed for care for someone with a disability or health condition. A member of the Money and Mental Health research community described their experience with enforcement agents as below:

- *“They forced their way in through a tiny gap when I put the chain on to open the door. They treated me like a waste of life, a loser, scum. I can’t work due to physical and mental health problems but they seized equipment supplied by the local authority for use due to disability e.g. a motorised air mattress to help with bed sores and electric wheelchair as I had nowt worth removing, except my fridge. They made me feel so small and ashamed.”*

This type of experience shows the importance of re-asserting and clarifying existing protections in the Taking Control Regulations, including protections for vehicles used for the care or transport of someone with a health condition or disability. The standards should, for example, rule out any attempt to seize Motability vehicles or Motability scooters and powered wheelchairs.

## **Entry**

We warmly welcome the contents of this section of the proposed standards, and particularly the fact that the ECB intends to make it clear that enforcement agents, when executing warrants, writs or liability orders that do not permit forced entry, should not be using any part of their body to stop someone closing a door and preventing entry, and outlining that doing so would constitute forcing entry. We are pleased to see that the ECB has proposed language which includes reference to using *objects* to prevent someone closing a door – as we have heard instances of this happening, for example, using a clipboard or umbrella. This addition is positive, with a view to preventing such action being used as a workaround by less scrupulous agents.

Reports from National Debtline advisers highlight the poor practice still seen in this area:

- *“Client reported High Court Enforcement Officer (HCEO) inappropriate behaviour. The HCEO came to the client’s property and told them that they were the police. They kicked the back door and were aggressive.”*
- *“Client had a parking penalty notice (PCN). The EA came to their property. The client told them about her vulnerabilities. The EA stuck their foot in the door and pushed through her front door. She felt that the EA had invaded her personal space.”*

Another issue on rights of entry brought to us by clients is where bailiffs have informed clients that they will break into the property, despite lacking the authorisation to do so. This includes bailiffs stating that they are permitted to break in without a controlled goods agreement or warrant. One StepChange client described how bailiffs instructed for their council tax arrears were “very intimidating” and “told me I had hours to pay a massive sum or they would come back and break in.” A National Debtline client reported that, despite the bailiff never having entered their home, they received a letter from the bailiff stating they can force entry to their home even when client is out. This left the client frightened and too scared to turn the lights on when they are at home.

Polling commissioned by StepChange and Citizens Advice, and undertaken by YouGov, for our response to the Ministry of Justice’s (MoJ) 2019 review of the enforcement agent reforms found that almost one in five people (17%) contacted by bailiffs experienced a threat to break in, despite pursuing debts where they did not have the power to do this.<sup>18</sup> We do not believe that the position has changed significantly since then, based on ongoing feedback from debt advisers and clients.

It is therefore clear that there is considerable progress to be made in re-affirming clear expectations and standards which enforcement agents must adhere to around entry.

### **Behaving appropriately and third parties**

We welcome the introduction of a standard which directly relates to inappropriate behaviour. As discussed in earlier sections of our response, we often hear of instances where enforcement agents have indeed abused or misrepresented their powers in the ways outlined in the draft standards. We also continue to see cases where a person experiencing enforcement action has felt purposefully and publicly humiliated or disregarded by agents, especially in doorstep interactions, or have involved third parties without their consent. Treating people’s right to privacy, and their homes, with respect, is of paramount importance. We hear worrying instances where those experiencing enforcement action have felt violated or disrespected by how bailiffs treated their homes, or alerted neighbours to their situations.

One StepChange client described their experience of enforcement agents visiting to deal with council tax arrears as below:

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<sup>18</sup> Taking Control coalition (2019), [Taking Control response to Ministry of Justice Call for evidence: Review of the enforcement agent reforms](#)

- *“[Enforcement agents] don't care about you or your situation, they just want their money by any means necessary, even if they have to embarrass you and tell your neighbours your private business.”*

A member of the Money and Mental Health research community described their experience with enforcement agents as below:

- *“[The bailiff visit] was incredibly intrusive, I felt embarrassed in front of my neighbours. Privacy is incredibly important to me and having my privacy breached causes a severe decline in my mental health. I feel incredibly vulnerable and exposed knowing that someone may peep at me through my letterbox at any time. I feel embarrassed to leave my house because my neighbours now all know about my financial difficulties. I no longer make eye contact or speak with them. In short, his actions have shrunk my world.”*

Enforcement agents and firms should not be engaging with a third party without consent, including family members, friends and neighbours. We appreciate that there will be certain circumstances where a family member or friends may want to help a loved one pay off debts, and become involved in this process. However, such individuals should only be involved in these conversations when the person subject to enforcement action is aware and has consented to their involvement. We see examples where enforcement agents attempt to persuade typically older householders that they are liable to pay their adult child’s court fine, or that their goods will be seized even where they no longer live there, or it is obvious that the person with the fine will not own most/any of the household goods.

The following examples from National Debtline advisers highlight this issue:

- *“The bailiff attended the client’s previous address where their grandmother lives and started writing down the registrations of cars belonging to other people e.g. their grandmother and brother on a Controlled Goods Agreement (CGA). However, the CGA has not been signed and it was felt this could be a scare tactic to obtain payment.”*
- *“The bailiff is asking the father to pay his son’s magistrates’ court fine. The letter is in the son’s name to say money is owed for a magistrates’ court fine and that enforcement agent (EA) will attend the property to remove goods. They have visited his house and hand delivered the letter. EA said he doesn't care if this is father's home and son doesn't live there. EA said: “all dads would say that”. EA told the father that he should pay for son’s debt and if not, the EA will come back later on with the police and remove goods. The father explained he hadn’t seen his son for two years, but the EA didn't care.”*

Where enforcement firms or agents do seek payments from third parties, they should be required to demonstrate and evidence that such payments are not likely to cause hardship to that third party. The ECB should pay special attention to third party payments in the forthcoming affordability standards and guidance. Here the ECB might note work by the FCA to address poor practice in the guarantor loan market, including affordability assessments for third party guarantors.

We have also heard of experiences where an enforcement agent has inappropriately interacted with neighbours, breaching both the existing National Standards and data protection regulations.

For example, a StepChange debt adviser described the recent worrying interactions below:

- *“The client’s home was visited by High Court Enforcement Officers (HCEOs) while she was out. After receiving no response at the client’s house, the HCEO rang doorbells of two of the client’s neighbours to ask questions about the client, during which time it was made clear to the neighbours that a bailiff was pursuing the client. The HCEO was also seen to photograph a neighbour’s vehicle. The client was distressed and embarrassed to find from her neighbours that they had been made aware that she is being pursued for a debt by HCEOs.”*
- *“The client reports that bailiffs were really intimidating on phone, and knocked on a neighbour’s door asking where she was.”*
- *“The client has recently received notices from [an enforcement firm] and they attached them to communal gates. She was made aware of this by a neighbour who called her to make her aware.”*

A National Debtline adviser reported a case where:

- *“The client reported that the HCEO had got into their property by deception to collect an energy debt. The client is extremely vulnerable with mental health issues and disabilities. The representative got a neighbour to let him into the client’s address at which point the client started hitting himself. They refused to leave.”*

Here we would urge the ECB to support the standard on ‘behaving appropriately and third parties’ with guidance which clarifies when it might be reasonable to disclose information to third parties and when this might be considered as a practice amounting to harassment.

### **Notice of Enforcement**

It is good to hear that the ECB intends to carry out further work to test the best way of getting people to engage with the Notice of Enforcement (NoE) when it is sent.

We would point the ECB towards the Taking Control response to the 2023 MoJ Control of goods regulations consultation, which lays out our detailed perspective regarding amends to the NoE and the potential for it to be accompanied by a standard factsheet promoting understanding of enforcement process and rights.<sup>19</sup>

We supported the amendment of regulations (which was being explored by the MoJ at the time) to require enforcement firms to send a statutory information sheet with the notice of enforcement, noting that it is really important that a clear and simple message is conveyed that helps engagement and helps individuals to understand what will happen if they contact

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<sup>19</sup> Taking Control coalition (2023), [Taking Control Campaign response to the Ministry of Justice Control of goods regulations consultation](#)

enforcement agents or seek debt advice. We said that the MoJ should consider how the formal NoE could be amended to help create clear communication which reinforces the message that seeking help will lead to a positive outcome, and that a statutory information sheet could compliment this.

We would highlight our belief that the practice of specifying the content of notices in secondary legislation is outdated, inflexible and impractical for effective regulation of communications. The MoJ should be urged to replace this approach with binding rule making powers for the ECB placed on a statutory basis.

When it comes to the draft standards, we would urge the ECB to strengthen the current wording of proposed requirements to ‘inform people of their right to seek free, independent debt advice’ and ‘signpost to debt advice organisations’, and to instead take a more expansive approach. Given the disproportionate presence of people with mental health problems in those experiencing enforcement activity, information should also be shared on accessing mental health support. It is important that any information shared alongside the NoE highlights the advantages of seeking debt advice and other support, and why this will lead to better outcomes, particularly where someone has multiple debts or is in vulnerable circumstances.

Research conducted by StepChange in 2022 found that simply mentioning debt advice may not be enough to communicate effectively that there is help at hand. People need support to understand what the process of seeking free debt advice involves, and crucially, how it can specifically help someone in a position like theirs.<sup>20</sup> StepChange made a number of recommendations to firms at the time, encouraging them to:

- Co-design their communications with people who have lived experience of financial difficulty.
- Simplify and improve the tone and presentation of text so people feel confident that firms can and will help them.
- Give people a clear plan of action so people understand their options and feel confident and empowered to resolve their debts quickly.
- Ensure when people contact the relevant firm, they get the help they need.
- Personalise communications for people with specific vulnerabilities (for example, dyslexia).
- Develop objective measures to evaluate the readability and effectiveness of communications for people in financial difficulty.

The ECB should expand on the current wording in the draft standards with the above considerations in mind. Encouraging messages including a clear offer to help agree affordable repayment are critical – as a lot of people won’t engage unless they perceive a non-threatening, attractive offer of help. However, that description of how debt advice can help will need to lead to a helpful response from enforcement firms and agents following that debt advice.

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<sup>20</sup> StepChange Debt Charity (2022), [Mixed Messages: Why communications to people in financial difficulty need to offer a clearer, better route to help](#)

We would note that there is a role for prescription and commonality here, to avoid major divergence in communications between firms. The ECB should work with the MoJ to carry out some ‘test and learn’ pilots to see whether changes in communications encourage engagement, co-designed with people who have lived experience of financial difficulty.

Our view is that the NoE should also be sent with clear information promoting understanding of the enforcement process and rights within it, and should be clear on the powers that enforcement agents do and don’t have. This is currently absent from the list of proposed requirements for firms, and we believe this should be rectified.

### **Multiple debts**

Requiring firms to have systems in place to link multiple debts owed by the same person so they’re only charged one set of fees is an important protection for those experiencing enforcement action, who will often find themselves in this position.

We would encourage the ECB to go above and beyond the wording of the ‘multiple warrants’ section in the current National Standards, which says that enforcement agents ‘must take control of goods, and sell or dispose of these goods, on the same occasion except where it is not practical to do so.’ This framing gives too much latitude to enable enforcement firms or agents to cite impracticality as a reason for not enforcing multiple debts simultaneously.

These discussions also necessitate consideration and action around preventing unnecessary enforcement visits altogether, and resolving situations at an earlier stage before additional fees are added. These charges both deepen financial burdens and lead to concerning coping mechanisms, among those already in financial difficulty.

Recent StepChange research among clients with council tax arrears who had experienced enforcement action found that three in five (60%) clients went without a healthy food or diet as a direct result of additional charges imposed by bailiffs, while over half (53%) rationed the amount of utilities they used. Meanwhile, three in five (58%) missed other utility bill payments, and over four in five (44%) missed rent or mortgage payments.<sup>21</sup>

This highlights the importance both of linking multiple debts owed by the same person so they’re only charged one set of fees, and also endeavouring to resolve situations at an earlier stage so as to prevent unnecessary fees being added.

### **Question 3 – Do you have any feedback on the communication standard?**

Communications from enforcement firms and agents should constructively alert people to their financial difficulty, helping them to seek help and take action where possible. Meanwhile, poor communications from enforcement firms and agents to those experiencing enforcement action can be harmful in a number of ways. They can counterproductively trigger feelings of stress, anxiety and helplessness, causing those experiencing enforcement action to fear

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<sup>21</sup> StepChange clients with council tax arrears who had experienced enforcement action were asked ‘You said you were charged fees by the bailiffs who were pursuing your council tax debt. Which of the following, if any, did you do as a direct result of these additional charges?’ and presented with a series of statements. 95 clients responded to this question.



engagement and driving negative coping mechanisms including unaffordable borrowing and going without essentials.

We therefore broadly welcome the proposed objectives that enforcement firms communicate with a person subject to enforcement in a way that is accurate, appropriate and easy to understand, and enforcement agents carry out the enforcement process in a manner which is appropriate and lawful. However, we would go a step further and incorporate language into the standards which reflects the need for empathy, understanding and compassion in the enforcement process, including communications.

Research published by StepChange in 2022 found that the tone and presentation of communications can trigger pessimistic views on how creditors might respond to requests for support, and legal and regulatory language can act as barriers to seeking help.<sup>22</sup> Respondents to this research were presented with a version of a typical default notice which emphasised certain points, with enlarged or bold text and use of colour (red in the example given to participants). These elements provoked a strong negative reaction.

Recent StepChange research among clients with council tax arrears who had experienced enforcement action found that that four in five (85%) clients said the communications and direct interactions they had with bailiffs about their council tax arrears made them feel scared, anxious or depressed. Seven in ten (69%) were left overwhelmed, while two thirds (67%) felt helpless and three in five (59%) felt embarrassed.<sup>23</sup>

We have responded with our view on some of the proposed specific requirements for firms and agents below.

### ***Requirement for firms***

- ***Taking reasonable steps to accommodate any accessibility requirements disclosed to them by a person subject to enforcement.***

This is a welcome requirement. Accommodation of accessibility requirements and support needs is a crucial aspect of working to achieve good outcomes for those experiencing enforcement action.

Taking Control coalition member Money Advice Trust has published a groundbreaking guide for regulators on inclusive design in essential services, alongside the charity Fair by Design.<sup>24</sup> It highlights how the concept of inclusive design is increasingly recognised as a way to ensure markets are fair and inclusive, especially for consumers in vulnerable circumstances. We would strongly encourage the ECB to consult this guide and use it to inform the final enforcement standards, accompanying guidance, and in its conversations with enforcement firms and agents.

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<sup>22</sup> StepChange Debt Charity (2022), [Mixed Messages: Why communications to people in financial difficulty need to offer a clearer, better route to help](#)

<sup>23</sup> StepChange clients with council tax arrears who had experienced enforcement action were asked 'Thinking about the communications and direct interactions you had with bailiffs/enforcement agents about your council tax arrears, how did these generally make you feel?' and presented with a series of emotions. 113 clients responded to this question.

<sup>24</sup> Money Advice Trust and Fair by Design (2023), [Inclusive Design in Essential Services](#)

In addition to the standards and guidance issued by the ECB, enforcement firms and agents must also act in accordance with the requirements of the Equality Act 2010.<sup>25</sup>

The ECB should also consider progress that other regulators, including the FCA and energy regulator Ofgem, have made in recent years to drive up standards around accessibility and vulnerability more widely. For example, the FCA is currently proactively reviewing firms' understanding of consumer needs, the skills and capability of staff, product and service design, communications and customer service, and whether these support the fair treatment of customers in vulnerable circumstances, in line with its guidance for firms in this area.<sup>26</sup>

Evidence shows that not meeting specific communication needs can exacerbate existing vulnerabilities, or even create new ones. For example, the FCA uses the below case study in its guidance for firms on the fair treatment of vulnerable customers, to demonstrate poor practice and highlight how not considering accessibility requirements can lead to troubling engagement issues.<sup>27</sup> These learnings are very relevant to the enforcement industry:

#### **Case study: Poor practice – Not meeting specific communication needs**

One consumer was unable to read large print and did not know braille. He wanted his bank to communicate by email as he can turn emails into speech, but the bank did not offer this option. The bank continued to send the consumer communications on paper.

**This firm does not have processes that can flex and adapt to deal with non-standard situations to provide the consumer with a solution that meets their needs. The firm should consider solutions to fill this gap in their service provision.**

There should be more of an emphasis in the standards on firms offering multiple communication channels to those facing enforcement action, which is currently lacking from the draft standards. It is important that firms offer multiple channels of communication which those experiencing enforcement action can choose to use based on their needs and preferences – for example, over the phone, email and web chat.

Research from the Money and Mental Health Policy Institute has shown the challenges that those with mental health problems can face in engaging with commonly used communication channels. It found that:

- Three quarters (75%) of customers who have experienced mental health problems have serious difficulties engaging with at least one commonly used communication channel.
- More than half (54%) of customers who have experienced mental health problems, and one third (32%) of those who haven't, have serious difficulties using the telephone.<sup>28</sup>

In theory, the easier it is for a person to engage with enforcement process, the more likely it is that someone will be able to work constructively with enforcement agents and firms to come to suitable agreements.

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<sup>25</sup> [Equality Act 2010](#)

<sup>26</sup> Financial Conduct Authority (2024), [Review of firms' treatment of customers in vulnerable circumstances](#) and Financial Conduct Authority (2021), [FG21/1 Guidance for firms on the fair treatment of vulnerable customers](#)

<sup>27</sup> Financial Conduct Authority (2021), [FG21/1 Guidance for firms on the fair treatment of vulnerable customers](#)

<sup>28</sup> Money and Mental Health Policy Institute (2018), [Access Essentials: Giving people with mental health problems equal access to vital services](#)

For example, for someone who does not have access to the internet or lacks the digital capabilities to engage online, another channel of communication must be available. Equally, a client who finds it difficult to talk on the phone must have an alternative channel that they can use. We recognise that many firms will already be offering this provision, yet this practice is not consistent across the sector.

It is important that enforcement firms and agents also create an environment where those experiencing enforcement action both feel comfortable sharing their needs, and confident that the firm can demonstrate the flexibility to accommodate their circumstances.

- ***Ensuring that any communications they send to people in the compliance and enforcement stage clearly set out the enforcement process and a person's rights within it.***

We strongly welcome this requirement. We hear all too often from our frontline debt advisers that it is often only at the point of securing debt advice that a person who has experienced, or is experiencing, enforcement action gains a full understanding of the enforcement process and their rights within it. Sometimes, these conversations reveal to a person that they have been given an insufficient or misleading representation of the enforcement process, which has by that point often contributed to significant levels of harm.

Clarity on the stages of the enforcement process would also encourage early engagement between enforcement firms and agents, and those experiencing enforcement action. We would suggest that there needs to be a section clarifying what activity is expected to be undertaken before enforcement commences. This should set out what functions are required at the compliance stage before any enforcement is undertaken. This would encourage early engagement with the firm itself before moving to the enforcement stage. This could encompass a requirement to deal with cases and make payment arrangements before moving to the enforcement stage. It should set out the requirement to provide staffed helplines and empower staff to deal with arrangements to pay.

- ***Having a contact number which is available during office hours on working days so a person subject to enforcement can speak to someone within the enforcement firm about their debt.***

We warmly welcome this requirement. However, it is not always practical for a person experiencing enforcement action to make contact during typical office hours – for example, if the person is in full-time employment or has caring responsibilities during the day. Best practice would be firms adopting contact channels which can be accessed out of traditional office hours, for those who might struggle to engage during these times.

#### **Requirements for agents**

- ***Specifying that an enforcement agent should not contact the person through the agent's personal social media account and should only communicate in relation to the debt being pursued and do so directly and confidentially.***

- ***Specifying that an enforcement agent should not contact the person experiencing enforcement action outside of the hours they can take control of goods unless the person makes proactive contact with them at this time.***

We are pleased to see the ECB propose a requirement that an enforcement agent should not contact the person experiencing enforcement action through the agent's personal social media account, and should only communicate in relation to the debt being pursued and do so directly and confidentially. This is an important clarification given insights which suggest that messaging/social media platforms have been used to communicate in enforcement interactions. The informality of engaging via these personal accounts lends itself to the possibility of inappropriate behaviour by enforcement agents.

Similarly, specifying that an enforcement agent should not contact the person experiencing enforcement action outside of the hours they can take control of goods, unless the person makes proactive contact with them at this time, is a welcome requirement. Our evidence shows that enforcement action can destabilise the everyday lives of those going through it. Setting parameters around when an enforcement firm or agent can initiate contact is important in providing those experiencing enforcement action with some sense of control over the enforcement process. This obligation should be made clear in initial and subsequent communications from enforcement firms and agents to those experiencing enforcement action, to alert people to these requirements.

- ***Requiring enforcement agents to ensure that all communication (including text messages) issued to a person comply with these standards and could not reasonably be considered to be:***
  - ***Threatening or intimidating.***
  - ***Harassment of any form (including sexual harassment).***
  - ***Misrepresentative of the powers afforded to enforcement agents and firms under relevant legislation.***

This should be a fundamental requirement of not only communication from enforcement firms and agents, but also the enforcement process as a whole. We have outlined earlier in this consultation response areas where debt advice clients and others in financial difficulty have reported experiences of all the troubling behaviour outlined above.

This requirement must be supported by strong repercussions for firms or agents who break the rules or behave inappropriately, as well as communications which clearly explain the powers afforded to firms and agents in the enforcement process.

Harassment should extend to the frequency and volume of calls that people in debt receive. Money and Mental Health Policy Institute research has found that receiving more than five calls a month has significantly greater negative impact on someone's mental health than less.<sup>29</sup> Including guidance on this is essential, and would follow a standard already set by the Credit Services Association for debt collection agents – although there is still further to go on this.

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<sup>29</sup> Money and Mental Health Policy Institute (2023), [Debts and despair: How debt collection practices cause psychological harm](#)

- ***Where possible, using plain language when communicating with people.***

We welcome this requirement. As discussed already, StepChange research has found that legal and regulatory language used in communications about debt often disempowers, rather than protects, those in financial difficulty.<sup>30</sup> Where it is unavoidable to use a certain term or word which might be less familiar to those going through enforcement action – for example, when it is required by legislation or industry rules – this should be accompanied by an explanation which summarises what this means in practice.

#### **Question 4 – Do you have any feedback on the training standard?**

We welcome a focus on the role that training can play in keeping knowledge and skills up to date and equipping enforcement agents and other frontline staff with the skills and knowledge required to undertake enforcement in line with the standards. If executed properly, this requirement could help in holding firms and agents accountable, and training in areas such as conflict management and vulnerability could minimise the chances of problematic events unfolding in doorstep interactions, to use one example. Related to this work, enforcement agents should be required to undertake comprehensive mental health training.

We would caution that professional training is not a standalone solution to driving up standards in the enforcement sector, and bringing behaviours in line with modern expectations of responsible debt collection practice. Where an agent has technically undertaken the training required of them, but their behaviour still falls short of expectations, there should be clear consequences.

There is a role for both agents and firms here in recognising the benefits of such training opportunities. Requiring that an enforcement firm ensures that the enforcement agents and frontline staff who work for it keep their knowledge and skills up to date, and that an enforcement agent must undertake regular training to ensure they have the appropriate knowledge and skills for their role, are both welcome. Firms also have a responsibility to build processes which enable agents the time to access relevant training opportunities.

We would also welcome an update from the ECB on whether it is considering mandatory training as an option to drive up standards in the future. We would like to see an approved/accredited ECB training programme put in place for all enforcement agents and firm staff, but appreciate this might take time to develop.

The ECB must also consider how the high prevalence of self-employed agents operating in the enforcement industry is reflected in expectations of firms and agents when it comes to training, and embed this into the language of this standard and accompanying guidance. While a potential challenge, this factor cannot be used as a reason to ostensibly justify a lack of training among self-employed agents which in turns leads to poor practice. Here, firms have a responsibility where contractors are acting on their behalf and ultimately as a representative

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<sup>30</sup> StepChange Debt Charity (2022), [Mixed Messages: Why communications to people in financial difficulty need to offer a clearer, better route to help](#)

of their company. Firms must work to ensure self-employed agents have the time and space to access relevant training, and set clear expectations of behaviour. The ECB should require firms to ensure self-employed agents also follow the same training programme outlined in the previous paragraph, and become approved/accredited.

### **Question 5 – Do you have any feedback on the standard on Monitoring?**

We warmly welcome the ECB taking steps to cement the role that body worn video (BWV) cameras have in contributing to responsible debt collection practice in enforcement interactions. Used properly, BWV has the potential to be a useful tool in adding more transparency and scrutiny to the enforcement process.

However, we would strongly make the point that the monitoring standard should extend much further, beyond a heavy reliance on BWV footage.

With regard to audio or body cameras, we would also note that these measures have limitations. The presence of a camera or recording device can discipline those experiencing enforcement action into not raising concerns and can itself be intrusive. The role of consent and communication with those experiencing enforcement action about the role of recording devices should be clear in the standards and accompanying guidance. From a wider standards perspective, BWV footage also has limits in picking up on vulnerabilities or other important factors of which agents should be aware, so it is important not to over-rely on this approach.

Further to this, in the recent Radio 4 'File on 4' documentary 'Bailiffs behaving badly', journalists described meeting with working bailiffs who had decided to "blow the whistle."<sup>31</sup> One bailiff described the below experience, where he was encouraged by the firm he was representing to encourage those experiencing enforcement action to agree to the camera being switched off:

- *"The bigger company, when these cameras were introduced, they provided us with a body camera and a way to upload the footage. But in their training of using these body-worn cameras, they encouraged us to stick a note to the back of our tablet. We carry a tablet because it has all the work on it and it's got a copy of the warrant and everything on there. But they would encourage us to lift the tablet so that the debtor could see this sign saying, 'You can ask me to turn this camera off.' They were encouraging me to let the debtor ask me to turn the camera off, so that something untoward could possibly happen or an enforcement agent could possibly break the rules and say something they shouldn't say."*

We would encourage the ECB to consider learnings from how BWV footage has been adopted – and in some cases misused – in other areas, and to look out for potential pitfalls to avoid and problems to be aware of. For example, a BBC investigation recently made accusations around police mishandling of BWV footage, with evidence from switching off cameras and sharing footage on WhatsApp among more than 150 incidents.<sup>32</sup>

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<sup>31</sup> BBC Radio 4 (2024), [File on 4: Bailiffs Behaving Badly](#)

<sup>32</sup> The Guardian (2023), [Police accused of widely misusing body-worn video in England and Wales](#)

More widely, while we are glad to see that the ECB is clear that firms should all be working towards a position where all communications can be routinely recorded, and monitored, to enable more complete and effective overall monitoring and more reliable and efficient complaints handling, we believe this framing is not strong enough.

We have concerns that inconsistency relating to which communication channels are and aren't recorded and monitored might lend itself to poor behaviour on channels which are subject to less scrutiny. We would ask the ECB to consider how to ensure that all phone conversations between enforcement agents and people facing enforcement can be monitored effectively and consistently. If this is not possible, the ECB should consider what further safeguards are necessary to ensure people facing enforcement do not receive inappropriate communications outside of monitored channels.

The ECB should continue its programme of early engagement with enforcement firms and agents to ensure this process can be carried out as quickly and comprehensively as possible.

**Question 5 part 2 – What do you think is a practical and proportionate time period to retain body worn video footage for and do you think 90 days is too long or too short?**

We believe the suggested minimum retention period for body worn video (BWV) footage of 90 days is much too short, and will not leave enough time for complaints to surface. This would also not be in line with the time allowed for complaints in other sectors such as to the Financial Ombudsman Service. We would therefore argue for a much longer retention period.

We recognise there are a number of considerations around an appropriate timeframe, including data protection guidance from the Information Commissioner's Office. We would welcome a further discussion with the ECB regarding what an appropriate, longer retention period should be.

Comparatively, FCA rules (in the 'SYSC' senior managers sourcebook) state that a 'general principle is that records should be retained for as long as is relevant for the purposes for which they are made.'<sup>33</sup> In the case of enforcement, if the purpose is to provide a record for the protection of both agent and the person affected should concerns be raised, the retention period should take into account *when* concerns are likely to be raised. Whilst it may not be practicable to retain footage for years, it is possible that future court decisions and binding alternative dispute resolution decisions might retrospectively allow new groups of people to complain.

We often speak to clients who only realise a bailiff firm or agent has broken the rules after having their first debt advice session. Given the evidence which highlights barriers to seeking debt advice – from people not being sure where to turn, to thinking they'll lose more than they gain – and subsequent delays to taking it up, preventative measures must be taken so

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<sup>33</sup> Financial Conduct Authority, [FCA handbook: CMC0B 2.4 Record keeping](#)

people facing enforcement action understand their rights from the start of, and throughout, the enforcement process.<sup>34</sup>

A sufficient minimum retention period, which accounts for people's capacity and confidence levels in feeling able to initiate a complaint, is important in contributing to the accountability that must be required of firms and agents. Questions of storage are also important, and the ECB should be cognisant of any divergence in firms' resources or capabilities which might have implications on adherence to the standards.

Putting so much emphasis on BWV footage comes with risks for those experiencing enforcement action. For example, if the ECB was to proceed with a minimum retention period of 90 days, it is unclear what would happen in cases where a complaint has been raised after this period – particularly if it hinges on experiences during doorstep or other direct interactions. As it stands, anyone complaining after 90 days would be at a disadvantage if the complaints time period does not align with the retention period for camera footage.

It goes without saying that the BWV footage should be retained for a much longer period where a complaint has been raised, to allow for resolution of the complaint by the firm and potentially the ECB. We are glad to see that this will be made explicitly clear in the standards.

The default approach should be an assumption of negative implications if BWV footage cannot be provided within the minimum retention period where a person who has experienced enforcement action has raised a complaint.

The ECB will have to pay close attention to different firms' policies around BWV, to ensure that there is consistency across the industry and those facing enforcement action can expect the same treatment, regardless of who is pursuing the debt. There is a clear role for the guidance which will accompany the standards in setting expectations for firms and agents around BWV footage. We would like to clarify if the ECB is intending to release BWV guidance which will apply to all firms. This should cover common rules and minimum standard policies that all firms must follow, such as retention of footage, specifying when a camera will be switched off and so on. We very much hope the ECB plans to provide guidance that goes beyond rules on the storage of footage. This would not be wide enough in our view.

One big area of consideration for the ECB will be picking up on trends and identifying systemic, persistent or widespread issues through compliance and monitoring. We are happy to support by continuing to provide evidence which highlights the different experiences of our clients going through enforcement action.

**Question 5 part 3 – We would welcome any evidence on how many complaints are received more than 60 days after an enforcement visit.**

We would very much welcome full transparency from the ECB with all stakeholders about evidence presented in this area.

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<sup>34</sup> Money and Pensions Service (2023), [Motivations and barriers to seeking debt advice](#)



That being said, we would also argue that the current volume of complaints relating to the enforcement industry does not provide a useful or meaningful way to measure conduct in the enforcement industry. The Taking Control response to the 2019 Ministry of Justice call for evidence on bailiff reform highlighted a number of barriers to complaining both for people facing enforcement and debt advice providers.<sup>35</sup> These included people not being clear how to complain; people facing enforcement being deterred by the pressure of that enforcement; a lack of faith in the complaints process; and a feeling the complaints process doesn't work well.

As a result, the number of issues reported by people facing enforcement to debt advisers greatly exceeds the number of formal complaints, as pointed out in our 2019 response. We do not believe that the position has changed since then, and our evidence suggest problems are still ongoing.

### **Question 6 – Do you have any feedback on the standard on Health and Safety?**

This section of the drafted standards looks largely sensible, and we agree that ensuring the safety of enforcement agents and people subject to enforcement is paramount in achieving a fair enforcement process. However, we would reiterate the inherent power imbalance which exists between those carrying out enforcement action, and those experiencing it, and the implications of this in how related interactions play out. With this context in mind, we would like to see a much stronger focus in the Health and Safety standard on protections for those experiencing enforcement action.

It is important to drive the mindset that firms and agents have an absolute responsibility to protect those experiencing enforcement action as well as themselves. This includes withdrawing from situations where it feels potentially unsafe to continue, for either the agents on the doorstep or those experiencing enforcement action. High quality training is a key part of the conversation here, in enabling agents to more readily recognise and manage such situations. This relates closely to the vulnerability standard that the ECB will be taking forward.

A focus on mental health should also be embedded in the Health and Safety standard. Research from the Money and Mental Health Policy Institute has demonstrated the toll that enforcement action can take on people's mental health, including triggering suicidal feelings and mental health crises.<sup>36</sup> It is clear therefore that a more holistic approach should be taken, to encompass mental health implications as well as physical safety in doorstep interactions. As touched on in the training section, enforcement agents should be required to undertake comprehensive mental health training.

One Money and Mental Health Research Community Member described their perspective on enforcement action as below:

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<sup>35</sup> Taking Control coalition (2019), [Taking Control response to Ministry of Justice Call for evidence: Review of the enforcement agent reforms](#)

<sup>36</sup> The Money and Mental Health Policy Institute (2018), [Fear and foul play: The case for bailiff reform to limit psychological harm](#)

- *“This concept that bailiffs can just come and threaten you and take what they want, particularly when in a mental health crisis is just cruel and evil. They need to understand that in some cases they are dealing with people who are at the very end of their tolerance level and contemplating self-harm or suicide. They need to have specialist teams who work with people who are genuinely struggling and talk to them face to face so they can actually help.”*

Bailiffs should be required to ensure that when they visit a person in debt who has been identified as experiencing a mental health problem, that person is offered a warm referral to follow up mental health support.

The gendered nature of enforcement action and interactions is also an important consideration. To put this into context, in the first half of 2024, seven in ten (68%) StepChange clients who experienced enforcement action were women.

We have heard from victim-survivors of domestic abuse, who describe how the actions of bailiffs have resurfaced traumatic memories. Some of our clients tell us how they have been in abusive relationships, and were left feeling intimidated or threatened by the behaviour of bailiffs in doorstep interactions. This involves incidents where clients have explained their circumstances to agents, only to have this context overlooked or disparaged.

One StepChange client with council tax arrears described her experience of enforcement action, saying: “[bailiffs] are always men and I live by myself, I have been in an abusive relationship, and I felt very intimidated by him.” Her experience ultimately left her feeling like “bailiffs are bullies who prey on the vulnerable.” This, alongside other evidence from the debt sector which gets at similar issues, suggests that enforcement firms and agents need to be better equipped to sensitively navigate gender power imbalances where they are present.

In its recent report on the psychological toll of local and national government debt collection practices, Money and Mental Health described hearing from women in its research community about how home visits exacerbated existing gender power imbalances. A number of women shared the fear they experienced when confronted on the doorstep by male enforcement agents. One community member said: “I was very scared. Two very large men called when it was dark asking me to sign a payment plan or they would remove items from the home. I am physically disabled and was a female, home alone with children.”<sup>37</sup>

Creditors also have a vital role to play in identifying and recognising circumstances which mean escalation to enforcement action might be inappropriate or especially harmful, and therefore best avoided. As before, we encourage the ECB to continue its work to ensure creditors are aligning themselves with the new standards and expectations of the enforcement sector.

We note again the high prevalence of self-employed enforcement agents operating in the enforcement industry. We believe it is reasonable to set out health and safety measures in the standards and accompanying guidance which apply to both employed and self-employed

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<sup>37</sup> Money and Mental Health Policy Institute (2024), [In the public interest? The psychological toll of local and national government debt collection practices](#)

agents. This might involve firms having an obligation ensure that any agents they work with have a certain degree of training. We encourage the ECB to engage with the industry on this topic.

### **Question 7 – Do you have any feedback on the standard on Cooperation and Accountability?**

We very much agree with the ECB on the point that, to be able to undertake the meaningful oversight and achieve the assurance it needs in relation to firms' and enforcement agents' compliance with the standards, it will need accredited firms to cooperate and engage with in good faith. This necessitates the ECB setting out clear expectations on firms' cooperation around oversight and permissions, and the consequences of not doing so.

We believe that the case for statutory underpinning is very tangible here, as without these binding powers, there will be no legal or regulatory obligation on firms to cooperate. We were pleased that the ECB has itself acknowledged that targeted statutory powers would be beneficial, in its 2024/25 business plan:

- *“The MoJ has committed to review the case for giving the ECB statutory underpinning by November 2024 and the ongoing sustainability of independent oversight is key to realising the benefits and ensuring that progress made is maintained and not lost. Whilst the ECB is currently focussed on delivering its mission within its current model, we believe that obtaining some targeted statutory powers would make oversight more sustainable, efficient and effective.”<sup>38</sup>*

We note that the ECB intends that requirements for firms will include reporting promptly to the ECB any serious breaches of the ECB's standards by the enforcement firm or any enforcement agent. In the context of self-reporting, there will have to be clarity on any distinguishment between serious single breaches and repeat transmissions. We would also point to the FCA's general notification requirements as a useful point of reference.<sup>39</sup>

As before, we note the important role that creditors have to play in shoring up the position of the ECB and driving up standards in the enforcement sector. We are pleased that the ECB previously outlined intentions in its business plan to focus on more consistent and reliable engagement from creditors in driving fair enforcement.<sup>40</sup> We continue to encourage the ECB to cultivate strong relationships with creditors; this includes getting to a position where creditors commit to only work with ECB-accredited providers and putting in place measures to prioritise and encourage accountability and fair enforcement. This includes avoiding contractual obligations which restrict ability to accept affordable offers over a reasonable period.

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<sup>38</sup> Enforcement Conduct Board (2024), [Business Plan 2024/25](#)

<sup>39</sup> Financial Conduct Authority, [SUP 15.3 General notification requirements](#)

<sup>40</sup> Enforcement Conduct Board (2024), [Business Plan 2024/25](#)

The ECB must also work to create a culture of transparency, both with firms and agents and those who are also involved in the enforcement process – including those experiencing enforcement action, creditors and debt advice providers.

### **Question 8 – Do you have any feedback on the standards on complaints?**

There are a number of widely accepted issues with the current complaint processes, which has led to agreement that the ECB should take on an independent complaints function. So, we welcome the proposals for such a complaints standard set out in this paper.

The extent of current rule breaking by bailiffs is driven in part by the lack of accountability in the sector. Other sectors where professionals have significant responsibility in relation to people’s wellbeing – including financial services – have independent complaints structures which can look into incidents of poor practice. Yet no such infrastructure exists for bailiff firms. This in turn leads to very low levels of complaints. Here we also note that an effective complaints process rests on clear and effective conduct standards that help people recognise practices that fall short of those standards.

Research conducted by Citizens Advice found that three quarters of people who have experienced bailiff rule breaking don’t complain at all, and that in the four years since the 2014 regulations came into place, there were only 56 complaints to court about a bailiff’s fitness to hold a certificate.<sup>41</sup> People don’t complain because the system is inadequate and confusing, and has too many layers within the processes set out by firms. There is no fully independent organisation to approach once the potentially lengthy firm-level complaints process has been exhausted.

Both people in debt and advisers lack faith in the current complaints process that is largely industry controlled:

- 76% of debt advisers surveyed by the Taking Control coalition disagreed with the statement that the complaints process for bailiffs/enforcement agents is accessible and easy to use.
- 71% did not agree that there is a clear and effective process to escalate complaints.
- Just 5% agreed that bailiff firms resolve complaints in a timely and effective way.<sup>42</sup>

Even when people do complain, the process works poorly. In one case, it took a Citizens Advice client 18 months to resolve a successful complaint and have their money returned.<sup>43</sup>

One StepChange debt advice client described their perception of the enforcement process, and their feelings that the routes to complain are currently inadequate, below:

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<sup>41</sup> Citizens Advice (2019), [The rules of enforcement: making a complaint about the behaviour of bailiffs in a self-regulated system](#)

<sup>42</sup> Online survey of 402 debt advisers from 7 free debt advice agencies, conducted by the Taking Control coalition in 2023. Fieldwork took place between 6 February – 10 March 2023.

<sup>43</sup> Citizens Advice (2019), [The rules of enforcement: making a complaint about the behaviour of bailiffs in a self-regulated system](#)

- *“The bailiffs are seemingly out to intimidate as how I imagine a loan shark would. Their attitudes are horrific and entitled... It shouldn’t be allowed, however complaints to the ombudsman are also impossible.”*

As discussed in response to question 5, there are a number of obstacles to complaining both for people facing enforcement and debt advice providers.<sup>44</sup> These include people not being clear how to complain; people facing enforcement deterred by the pressure of that enforcement; a lack of faith in the complaints process and a feeling the complaints process doesn’t work well.

We are therefore pleased that the ECB is endeavouring to create a complaints standard which should support quicker and more effective resolution. Some key questions to tackle include how long firms must hold onto evidence for, what channels of communication they can use, defining what a complaint is and what fair complaints handling looks like.

We are favourable towards a ‘no wrong door’ complaints process – namely, not having to go through a specific channel to raise a complaint. This can also mean that complaints can’t be gatekept, for example, a firm saying the person who is complaining about their experience of enforcement action should instead complain to the creditor. The FCA’s ‘expression of dissatisfaction’ approach is relevant and useful in this context, defined as: “any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service, claims management service or a redress determination”.<sup>45</sup> Here it will be important for the ECB’s complaints standard to be clear in requiring enforcement firms and agents to be proactive in treating ‘expressions of dissatisfaction’ as complaints. Benchmarking between different firms and enforcement agents will be important to monitor the effective adoption of the complaints standard and process.

One consideration will have to be what constitutes a reasonable timeline for complaints, noting that the high levels of potential and actual harm those experiencing enforcement action currently face. We would like clarity on whether the intention is that someone can escalate quickly to the ECB if a complaint has not been resolved, and how long this period of time might be.

The standards and accompanying guidance must be designed in a way to address not just the grossly egregious, but also to tackle the more subjectively unfair, cases. We would like further clarity on how the ECB intends to draw that line to ensure that all expressions of dissatisfaction are handled appropriately; in our view, this line should be fluid to account for fresh evidence of harm where this is presented.

A core element of the conversation is also around how upheld complaints will be dealt with, noting the existence of consumer redress and other consequences for firms and individuals – including sanctions for non-compliance – as is the case with other regulated sectors.

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<sup>44</sup> Taking Control coalition (2019), [Taking Control response to Ministry of Justice Call for evidence: Review of the enforcement agent reforms](#)

<sup>45</sup> [FCA Handbook](#)

We would like to see how the ECB complaints model will work in practice with the Local Government and Social Care Ombudsman (LGSCO). In particular, the apparent policy of the LGSCO of not considering any complaint where there is a court judgment, including a liability order for council tax. As it is not possible to use enforcement agents until after a liability order has been obtained, this effectively rules out all complaints about the activities of enforcement agents for council tax collection. In addition, we are interested in seeing how the ECB will use the EAC2 complaints to court where this concerns individual enforcement agents, and how this will interact with the ECB approach to sanctions for accredited firms.

It is vital to develop a scheme that is clear, simple and accessible for consumers who are likely to be in a difficult financial situation, have additional vulnerabilities and may well be reluctant to engage with a complaints process at all.

As discussed, the creation of an independent complaint process is welcome. However, we believe there needs to be statutory underpinning for this to operate as envisaged. In particular:

- Statutory underpinning would give the ECB powers to set up a complaints function with independent adjudication.
- The ECB could then compel enforcement firms / agents to be subject to the complaints mechanism and be subject to sanctions and provide both redress and compensation to those affected.
- Statutory underpinning would allow the ECB to prescribe rules on complaint procedures and process, and timescales.
- The ECB could also require firms to supply compulsory data on expressions of dissatisfaction as well as formal complaints and their outcomes. This would allow the ECB to properly monitor complaints processes. Strict reporting rules would lead to a high level of transparency in relation to the complaints handled by the firms it regulates.

**Question 8 continued – Do you see any challenges to providing the formal complaint response within 10 working days? We would be particularly interested to receive information on the time enforcement firms currently spend providing formal responses to complaints.**

We cannot comment on this question extensively at this stage, other than to say 10 days appears reasonable given the immediate nature of enforcement activity where it could be crucial to resolve issues as soon as possible.

**Question 9 – Do you see any challenges in terms of the current contracts that exist between enforcement firms and creditors? We would be particularly interested to receive information about the time frames for complaints and the complaint stages that are set out in either contracts or service level agreements.**

While we cannot comment from an enforcement firm perspective, we would note that many other sectors successfully navigate meeting regulatory requirements while also negotiating contractual arrangements. In these sectors, firms would not enter into contracts that required them to go against their regulatory requirements, and nor would the contracting organisation require them to do so. This can be seen clearly, for example, in relation to FCA-authorized debt collection firms, who meet FCA regulations regarding debt collection and forbearance while also contracting with creditors.

We recognise there is a challenge for the ECB in relation to not yet having statutory underpinning (and this again emphasises the importance of that). As the new regulation beds in, there may of course need to be a transition period for existing contracts. However, over the longer-term, we see no reason why it should not be possible for contracting arrangements to be entirely compatible with a strong regulatory regime delivering a high level of consumer protection.

**Question 10 – Do you have any general comments on the draft standards? In particular, is there anything missing from the standards that you believe should be added?**

As outlined throughout this response, we broadly welcome the ECB's proposals and direction of travel on standards for the enforcement industry. We eagerly await developments in other areas where progress is urgently needed, particularly on vulnerability and affordability.

When it comes to areas such as vulnerability, ability to pay and creditors, we note that the ECB currently intends to replicate the existing requirements in the National Standards in anticipation of replacing this with new ECB Standards in 2025. While we appreciate that a longer timeframe is being undertaken to develop proposals in these areas over the coming months, we would encourage the ECB to consider where earlier action could be taken to address more obvious flaws or problematic absences in the current standards. For example, the ECB should expand the list of potentially vulnerable groups in the current National Standards to incorporate those with mental health problems. The ECB should also ensure all enforcement firms have enhanced vulnerability policies, designed in collaboration with the debt advice sector and people with lived experience.

This year could present a watershed moment for the bailiff industry, with the MoJ reviewing the case for statutory regulation and the ECB developing this new set of enforcement standards which have the potential to be transformative if designed, implemented and overseen properly. These two things are intricately connected: legal powers are crucial to ensure the robustness and longevity of these standards.

We would urge the ECB to continue building relations with parliamentarians and senior officials to make the case for statutory underpinning in the crucial year ahead, of which establishing secure, sustainable funding and oversight capabilities are an integral aspect.

**Question 11 – Do you have any comments on the new accreditation criteria?**

We are largely supportive of the proposed accreditation criteria outlined by the ECB, noting again the risks and limitations which could be mitigated by statutory underpinning.

We would appreciate transparency from the ECB regarding all of the proposed criteria, and the consistency of firms' adherence to these requirements.

With regards to the requirement that firms pay the annual levy to the ECB, to fund the ECB's ongoing operation, we would reiterate that reliance on voluntary contributions from the industry is a risky funding model which is open to pitfalls. The lack of a legal requirement on firms to pay for regulation means industry support – although currently present and welcome – could dwindle at any point and threaten the continued existence of the ECB. A statutory levy on eligible firms to make financial contributions would be a more robust basis to enable the ECB to continue to advance and deliver on its remit into the future, as well as safeguarding its independence from outside influence.

The ECB must have sufficient funding and resources to allow it to deliver on this business plan and achieve its wider mission on a long-term, ongoing basis. It must also have the ability to hire those with the necessary experience and expertise to successfully meet its objectives, and be able to continue to grow as an organisation and build resource.

**Question 12 – Do you have any comments on the proposed operational oversight model? Is there anything missing, or anything that you think is not appropriate or proportionate?**

We recognise the principles and intention underpinning the ECB's proposed operational oversight model and accreditation framework. However, the ECB's approach should not simply be a traditional 'risk based' regulatory model and we do not yet consider that the proposals are sufficiently tailored to the enforcement sector.

The ECB's oversight model must be well-designed taking into account the nature of the sector that will oversee through the new standards. There are examples of responsible enforcement firms acting with due care and fairness, but the ECB has been established due to concerns about endemic poor conduct in the enforcement sector. Moreover, the enforcement sector interacts with people far more likely than the population as a whole to be vulnerable to poor outcomes and harm from poor enforcement conduct. Oversight should have regard for the serious consequences when enforcement firms or agents fall short.

The FCA's experience of regulating the high-cost credit sector is an instructive example of the challenge the ECB faces. The FCA 'inherited' a large number of firms of varying sizes that provided high-cost loans to people in vulnerable situations, and whose business models often incentivised poor conduct. Endemic problems of culture created a situation in which poor



conduct went unaddressed because the FCA was not in a position to closely supervise and take action against every firm concerned. The number of high-cost credit firms driving poor outcomes has declined due to a number of factors, including FCA rule changes addressing predatory lending models and compensation claims made by consumers as firms have been held accountable for past poor practice. Crucially, the FCA has adopted a strategy of using the authorisations process to ensure firms are in a position to meet its standards before authorisation is granted. There are now more barriers against entry into the market for bad actors.

The ECB will oversee far fewer firms than the FCA, which means it will in principle be better placed to identify and act where conduct falls short of its standards. However, it will face a similar challenge to the FCA in that it is overseeing firms that are already accredited but may not meet the new standards, and a sector that has yet to broadly demonstrate the capacity to meet the higher expectations of the draft ECB standards (that the Taking Control coalition strongly supports).

The ECB will oversee firms which initially fall short in aspects of the final standards. The ECB must consider carefully how its model will change culture and conduct and ensure the public can have confidence that the final standards will be consistently met by firms.

### **Question 13 – Do you have any comments on the proposed sanctions?**

We welcome the ECB's intention to include remedies and sanctions in the standards.

Any individual agent or enforcement firm which fails in their responsibility to comply with the standards should face notable consequences. Holding the bailiff industry to account in this way would in turn improve the experiences of those facing problem debt.

As well as setting requirements on firms, the ECB needs to have the power to enforce these. We find it difficult to see how the ECB can successfully subject a firm or individual enforcement agent to disciplinary measures without statutory underpinning. While the ECB could expel a firm from the accreditation scheme and publicise this, under a voluntary regime this would only have consequences for a firm if creditors, such as local authorities, state that they will only contract with ECB-authorized firms. This leaves the ECB's position as an effective regulator at risk and dependent upon other market forces, and does not safeguard long-term independence.

It is usual for a regulator to employ a suite of sanctions for misbehaviour such as the ability to impose a financial penalty. We would therefore question the proposal to preclude financial sanctions from the standards framework. In an industry in which non-compliance is a common problem causing harm to people in vulnerable situations, regulatory fines are an important tool.

Even so, currently, payment of any such sanction would be voluntary and the ECB would not be able to enforce these if a firm refused to comply. We therefore recommend that the ECB would need powers to enforce sanctions, including:

- Requiring a firm to take certain actions to improve;
- Requiring payment of financial penalties; and
- The ultimate power to prevent a firm from operating enforcement activities.