

An introduction to the Enforcement Conduct Board

Working together to ensure high standards
across the enforcement sector

Agenda

- The ECB - who are we and where did we come from?
- What have we done so far?
- What themes are emerging?
- What are the ECB's initial priorities?
- How might local and central government creditors
 - Benefit?
 - Contribute to ensuring people in debt are treated fairly?
- Questions, thoughts and suggestions...

What is the ECB and where did it come from?

- The Enforcement Oversight Working Group - made up equally of debt advice sector and enforcement industry representatives – facilitated by the Centre for Social Justice
- Pre pandemic c 3.5 million enforcement orders/warrants pa
- 1st year of pandemic nos in severe problem debt grew from 600,000 to 2.4m (Stepchange)
- “a shared determination to raise standards, protect vulnerable people, and ensure the industry is fit to meet the challenges of the coming decade”
- Recognised importance of effective enforcement and the pressure on creditors AND the mounting pressures on people in debt

A clear mandate

- To ensure fair treatment and appropriate protection for people subject to enforcement – this includes but is not limited to:
 - Raising standards through the development of new rules, conditions and competencies to be developed in consultation with the industry;
 - Supervising practice and issuing proportionate sanctions for rule breaking;
 - Improving accountability through a standardized two stage complaints process;
 - Independently adjudicating escalated complaints; and
 - Introducing fair affordable repayment and vulnerability protocols
- Called for statutory underpinning – mandation – not yet agreed.

Who are we?

- A robust independent oversight body that exists to ensure that everyone experiencing enforcement action is treated fairly – thus supporting effective, ethical enforcement of debt by creditors
- Currently entirely voluntary for enforcement businesses - and therefore dependent on creditors to ensure our success
- Appointment of Chair – March 2022
 - Background in regulation – ex DG of Food Standards Agency
 - Private and third sector experience
- Appointment of other Board members – July 2022
 - Marc Etches – project director
 - Jenny Watson CBE
 - Althea Efunshile CBE
 - Ged Curran
 - Alan Cavill

What have we done so far?

Met people and built relationships and knowledge:

- 75+ meetings
 - Civil servants in MoJ, Cabinet Office, and Crown Commercial Services
 - Parliamentarians and ministers – including Select Committee on Council Tax collection
 - Local government revenue and benefits managers – including LACEF conference
 - Other large creditors - Transport for London, Lowell, Welsh Water
 - Debt charities
 - Enforcement businesses large and small
 - Civil Court Users association
 - Local Gov ombudsman (England) and Public Services ombudsman (Wales)
- Sat on the phones – personal and small business debt lines at MAT & stepchange
- All board members out with enforcement officers on the doorsteps

Themes emerging...

- Impact of cost of living crisis on numbers and vulnerability of people in debt, and on Enforcement Agents paid on commission...
- Potential growth in enforcement – from both existing and new sources
- No consistency of view on vulnerability or affordability (even across the industry)
- A critical role for creditors – regarding their own practice & that of their agents
- Lack of clarity and consensus about what constitutes good practice
- Lack of evidence base about enforcement practice, compliance and risks – beyond the anecdotal...

What have I heard?

- “the fee structure makes it hard for companies to do the right thing”
- “95% of the people we are dealing with are won’t pays not can’t pays”
- “the code of conduct is only advisory”
- “the code of conduct is deliberately unclear - the greyness in the 2014 regs is horrendous”
- “there is a big problem with priority of debt and overcharging”
- “we get rid of people and they pop up working for other firms”

- “we give out work on the basis of high collection rates and low complaint rates” LA
- “Some LAs use enforcement as a free (to them) debt collection service”

- Complaint system not accessible or trusted
- Certification inconsistent in its robustness

3 anecdotes...

- Water bill UC & PIP – firm refused to settle for instalment payments at compliance stage, added £190 to bill, and would have added extra £495 had she not been at home.... An additional 7 monthly payments...
- Traffic charge £100, at visit owed £410. Clamped car to encourage engagement. Owner was on anti-depressants and would lose job without car, partner had lost job due to health. Agent insisted on payment in full; when obviously impossible, said he would settle for £200 today borrowed from Granma plus 2x £100 monthly instalments. If I hadn't been there said he would have kept clamp on for longer and tried for more... (vulnerable/commission)

A new anecdote on priority of debt...

- On phones at StepChange Leeds – caller had paid £100 clean air zone debt plus £310 enforcement fee, and had 6 other debts outstanding, which were being enforced in two additional separate tranches...
- Might not have been charged 7 fees – might well have been charged 3 fees – and the caller would never have known it was not allowed...
- Importance of monitoring charge by debtor rather than by case...
- None of the creditors intended these anecdotes to occur – but the incentives for businesses and individual agents increase the probability that they will (and no effective controls to stop them)

Initial priorities for the ECB?

- Establishing coverage so everyone experiencing enforcement is protected
 - In the absence of mandation will creditors require enforcement partners to accept ECB oversight and contribute to the levy at an appropriate level?
 - LA enforcement teams are positive
 - No engagement yet with County Court bailiffs
- Establishing an evidence base
- Issue guidance on an accessible, and sufficiently independent, complaints system
- Identifying a plan and process for the development of clear standards for enforcement – including as they relate to affordability & vulnerability
- Establish ECB – levy and basic staffing

How might creditors benefit?

- Independent assurance that enforcement undertaken on their behalf complies with good practice
- Protect vulnerable customers
- Mitigate reputational risk
- Aligning incentives more consciously could improve enforcement outcomes as well as standards?

How might creditors contribute?

- Ensure that those carrying out enforcement on your behalf (in house or external) accept and fund oversight by the ECB ASAP
- Review whether there is more you can do to identify the most vulnerable before you pass them to enforcement
- Consider policy on instalment payment and affordability assessment
- Consider the KPIs you use to review enforcement –
 - average fee charged (per individual not per case)?
 - % of vulnerable people identified and differently supported to pay ?
 - % of instalment plans agreed and successfully completed ?
- Could creditors make a small, voluntary financial contribution to the ECB?

Questions, thoughts, suggestions?

- Many thanks
- Marc@enforcementconductboard.org
- www.enforcementconductboard.org