

## Enforcement Conduct Board (ECB) Accreditation Criteria and Framework 2023/24

### 1. Introduction

- 1.1 The Enforcement Conduct Board (ECB) provides independent oversight of debt enforcement work to ensure that those who are subject to enforcement action in England and Wales are treated fairly and protected from poor practice.
- 1.2 This framework and criteria have been developed for the first year of accreditation (2023/24), which runs from Monday 18 September 2023 until midnight on the day before the date published by the ECB as the commencement date for the second year of accreditation. For this first year, the ECB will not be fully operational and will not have developed its own standards, complaints handling procedures or full operating model. Accreditation in the first year will demonstrate firms' commitment to increased accountability, seeking to meet higher standards and supporting independent oversight by the ECB. The framework and criteria will be updated in advance of the accreditation and re-accreditation window opening for the second year of accreditation (likely to be in September 2024).
- 1.3 Accreditation will be available to firms that undertake debt enforcement work under the Taking Control of Goods Regulations 2013.
- 1.4 Enforcement firms which wish to benefit from ECB accreditation must commit to the accreditation criteria.

### 2. Accreditation criteria

*Wording in italics below provides commentary on the criteria and/or indicates proposed changes from year 2 onwards.*

#### 2.1 Standards

Accredited firms must take all reasonable steps to ensure that the firm, and all work carried out in its name, complies with:

- (a) all applicable laws and regulations, including the Taking Control of Goods Regulations 2013; and
- (b) the [Taking Control of Goods: National Standards \(2014\)](#) as amended from time to time ('**National Standards**')

*In future years, following development, consultation and implementation of new standards, accredited firms will be expected to ensure that the firm and work carried out in its name also complies with such standards and codes of practice relating to conduct as ECB may publish.*

#### 2.2 Quarterly Data Returns

Accredited firms must complete and submit to the ECB Quarterly Data Returns in the form required by the ECB and by the deadline specified.

#### 2.3 Audit and transparency

Accredited firms must disclose evidence or data reasonably requested by the ECB to support its oversight functions.

*In future years, following development of the ECB's operational oversight model, accredited firms will also be expected to cooperate with routine audits carried out by the ECB.*

#### 2.4 Payment of the levy

Firms must annually pay the ECB voluntary annual levy by the deadline(s) specified by the ECB.

#### 2.5 Standards and Conduct Reviews and complaints

Firms must cooperate with any Standards and Conduct Review (see below) undertaken by the ECB. Firms must accept the ECB's findings further to a Standards and Conduct Review as binding, and comply with any sanctions imposed.

*In the first year, the ECB's complaints handling function will not be operational. However, it may conduct reviews ('Standards and Conduct Reviews') related to compliance with standards in the circumstances described below (see 'Failure to comply with accreditation criteria (standards)').*

*In future years, following development of the ECB's processes for handling complaints about accredited firms, these firms will be expected to cooperate with the ECB's investigation of any complaints and to accept as binding the ECB's determination of complaints and comply with any sanctions imposed. These processes will be consulted upon before they are implemented in future years.*

### 3. **Accreditation process and outcome**

3.1 Firms which wish to apply for accreditation should complete an application form, which will need to be signed or verified by the firm's Chief Executive or Director (or equivalent) with authority to act on behalf of the organisation.

3.2 The application will need to confirm that the firm will comply with the accreditation criteria.

3.3 The ECB will consider the application for accreditation and may seek further information from the applicant. The ECB will confirm in writing its decision whether to accredit the firm.

3.4 Once the ECB has decided to accredit the firm, it will grant permission to use the ECB accredited logo subject to the return of the signed accredited logo licence agreement.

3.5 The ECB will develop an online register of accredited firms, and if a decision is made to accredit, the firm's details will be published on that register.

3.6 Accreditation is valid until midnight on the day before the commencement date for the following year of accreditation, as published by the ECB (so accreditation for the 2023/2024 accreditation year will expire by the date set for commencement of the 2024/25 accreditation year, likely to be in September or October 2024).

### 4. **Failure to comply with accreditation criteria (non-standards)**

4.1 Where the ECB becomes aware that an accredited firm has failed to comply with an aspect of the accreditation criteria which does not relate to standards, the ECB may make a finding that there has been a failure to comply with those criteria.

4.2 In the case of such a finding, the ECB will usually send a warning letter, providing the firm with a reasonable opportunity to remedy the non-compliance or explain why there has been no breach of the accreditation criteria.

- 4.3 After the expiry of the deadline for responding to the warning letter, the ECB will decide whether to confirm the finding of non-compliance and, if so, whether to impose any sanction. Sanctions are set out below. The ECB must have regard to any response from the firm to the warning letter and any action taken to remedy the non-compliance.
- 4.4 The ECB will confirm its decision regarding compliance and any sanction in writing. That letter will confirm the date on which the decision takes effect, and the deadline for seeking a review of the decision by the Board (including in relation to sanction).
- 4.5 Where such request for a review is made within the specified deadline, the Board (or any individual or panel which it appoints) will consider that request and any evidence provided in support. The Board (or its appointed individual or panel) will decide whether or not to uphold the ECB's decision.
5. **Failure to comply with accreditation criteria (standards)**
- 5.1 Until the ECB has established its full oversight model and implemented its own standards, it will not be set up to monitor compliance with the standards, or to investigate complaints about compliance with the standards. These processes and approaches will be developed, in consultation, over the coming year.
- 5.2 Until the ECB has established its operating model it will only conduct a Standards and Conduct Review further to concerns about compliance with the accreditation criteria relating to standards if it identifies conduct that may have had or is likely to have a very significant impact on individuals and/or the public in terms of severity and/or scale. This power will be used sparingly and only if deemed necessary, at the ECB's own discretion.
- 5.3 Where it is deemed necessary by the ECB to conduct a Standards and Conduct Review, the ECB will appoint an individual or panel to decide the issue ('the **Standards Panel**'). The Standards Panel will determine the appropriate procedure to be followed in each case and communicate this to the accredited firm. A sample process is included at Annex A, to indicate the likely approach to investigating concerns about failure to comply with the accreditation criteria relating to standards.
- 5.4 *In future years, the ECB will implement a transparent process for considering and assessing concerns about failure by accredited firms to comply with the accreditation criteria concerning standards. This will include processes for handling complaints.*
6. **Sanctions (including removal of accreditation)**
- 6.1 After finding that a firm has breached the accreditation criteria, the ECB may impose one or more of the following sanctions:
- (a) issue the firm with a formal note of concern;
  - (b) suspend the firm for a defined period not exceeding 6 months;
  - (c) remove the firm's accreditation and remove it from the accredited register.
- 6.2 During a period of suspension, a firm may no longer hold itself out as being accredited by the ECB. It must take any steps as specified by the ECB in this regard. The firm must continue to comply with accreditation criteria and all other obligations while the suspension remains in effect.
- 6.3 *In future years, following development of the ECB's operational oversight model, the ECB expects to introduce further sanctions that would be available in the event of a breach of the accreditation criteria. These would be subject to consultation prior to implementation.*

## **Annex A – Indicative process for conducting a Standards and Conduct Review in relation to concerns about non-compliance with standards**

1. Where the ECB identifies a concern that meets the criteria in paragraph 5.2 above, it may decide to appoint an individual or panel to conduct a Standards and Conduct Review (the '**Standards Panel**').
2. The Standards Panel will appoint an individual responsible for investigating the concern (the '**Investigator**'), and considering any urgency, set an outline timetable for the consideration of the concern.
3. The Investigator will provide a summary of the concern to the accredited firm, explain the process which will be followed in considering the concern, and provide an initial opportunity for the firm to respond to the concern and provide any evidence (without prejudice to the opportunity to do so later in the process).
4. The Investigator will conduct an investigation into the concern, including gathering any evidence.
5. If the Investigator considers there is no case to answer, they will write to the Standards Panel explaining the basis for that view. If the Standards Panel agrees, the matter will be dismissed and the firm will be notified. If the Standards Panel considers there may be a case to answer, the procedure will continue as below.
6. Once the investigation has been concluded, the Investigator will provide the firm with details of the allegations against it and how it is said to have breached the accreditation criteria relating to standards. The ECB will supply a copy of the relevant evidence, subject to restrictions relating to confidentiality (provided the requirements of natural justice are met).
7. The firm will be given a reasonable time to respond to the allegations in writing, and to provide any evidence.
8. The Investigator will consider whether any further steps are necessary. They will then compile a bundle comprising the allegations, evidence, and firm's response, and any other relevant materials for consideration by the Standards Panel.
9. The Standards Panel will consider whether any further procedural steps are required in order to decide the matter (for example, if further evidence should be sought or if an oral hearing is required).
10. The Standards Panel will then decide:
  - a. whether, on the balance of probabilities, the facts are as set out in the formal allegations prepared by the Investigator;
  - b. whether the facts, as determined, constitute a breach of the accreditation criteria relating to standards; and
  - c. if so, what (if any) sanction is appropriate.
11. If the Standards Panel determines that there has been a breach of the accreditation criteria relating to standards, they may invite representations from the firm in relation to the potential sanction. The sanctions available to the Standards Panel are set out above.
12. The Standards Panel will set out its determination of the matter, and any decision on sanctions, in writing.
13. If the firm is dissatisfied with the Standards Panel's decision, they may seek a review by writing to the Chair of the Board within 21 days of receipt of the Standards Panel's written reasons. A review may only be requested on the following grounds:

- a. There is new evidence available which could not be provided at the time of the Standards Panel's decision, and would have had a material effect on its determinations and decisions;
  - b. There was a defect in the procedure followed which had a material effect on the Standards Panel's determinations or decisions;
  - c. The sanction was disproportionate or is unjust in all the circumstances.
14. The Board may consider the request for a review itself, or appoint one of its members or another individual or panel to do so (collectively, the **'Review Panel'**).
15. The Board or Review Panel will consider the request, and whether any further information or procedural steps are required to decide the matter (for example, seeking representations from the Investigator).
16. The Board or Review Panel will consider the request for review, along with the formal allegations, evidence and any other relevant material, and decide whether the Sanctions Panel's decision should be upheld.
17. The Board or Review Panel's decision will be communicated to the firm.
18. There is no right of appeal against the Board or Review Panel's decision.