

ECB Board Meeting – Monday 4 March 2024

Venue: Teams meeting

Member attendance: Catherine Brown (Chair), Alan Cavill, Gerard Curran, Althea Efunshile, Jenny Watson,

Chris Nichols (CEO) (items 1 – 6 only)

In attendance: Hannah Semple, David Parkin, Jen Prior (minutes)

Minutes

Item 1: Welcome, apologies and declarations

1. The Chair welcomed all present.
2. Jenny Watson declared that she had stepped down from her role as Director at Prospects Teaching.

Item 2: Minutes of the previous meeting

3. With a number of minor drafting adjustments for the sake of clarity on publication, the minutes of 10 January 2024 were **agreed** as an accurate record of the meeting.

Item 3: Matters arising

4. On the Board forward agendas, the Chair explained that a number of the smaller items currently scheduled for the April Board may be moved back to the June meeting.
5. The Board **noted** the action tracker and Board forward agendas.

Item 4: Chief executive's report

6. The Chief Executive talked to the report. The following points were raised in discussion:
 - i. *Quarterly data returns (QDR)*: the risks and benefits of moving to a six-monthly data collection cycle, instead of quarterly, was discussed.

- A biannual cycle, it was argued, would not only reduce the pressure on firms, who are in various stages of readiness for this type of data collection, but would also ensure that the ECB was not collecting more information than it could currently utilise.
 - It was also important to acknowledge that smaller firms, required to supply the same data as larger firms, would find the data collection requirements more burdensome.
 - It was further argued that there was unlikely to be much variation in the data quarter on quarter and reducing the data sets would still allow for accurate monitoring.
 - The possibility of collecting some data biannually and some quarterly was discussed. It was also argued that as the data was not 'perishable', it could still be used in the future. The potential difficulty of increasing data collection rounds from twice yearly to quarterly in the future was also raised.
 - The CEO explained that there was further development to be done on mapping the ECB's sources of intelligence. Once this work was complete it would be easier to determine where in this intelligence matrix the data collection system fit, and what would be required of it.
 - The Board concluded that the data collection system would have a pilot phase based on a six-month period with an understanding that once the pilot phase had been completed, a decision would be made on whether and when to increase the frequency to a quarterly cycle. This would be made clear in all communications on the pilot.
- ii. *Body worn video research project* – the potential issue of selected firms refusing to co-operate with the research project was discussed. For the research to be meaningful and robust, the researchers, MEL, must be able to choose firms randomly from a full sample. It was noted that no firms had indicated that they would not cooperate by the deadline provided and that CIVEA had also encouraged firms to participate. If issues do arise, they will need to be dealt with swiftly and robustly.
7. The Board **noted** the Chief Executive's report.

Item 5: Budget and levy for consultation

8. The CEO introduced the proposed budget and levy. The Board was invited to approve a specific levy amount to consult upon for 2024/25 and approve the plan for building the ECB's reserves to levels agreed in January.
9. The Board discussed the paper, and the following points were raised in discussion:
- i. The CEO explained that once the projected cash surplus was moved to reserves, a portion of it would need to be used in April 2025 as the ECB would not receive any levy income for that financial year until May 2025. Approximately £100k-£140k would be required for this period which would then be replenished when the levy for 2025/26 is received.
 - ii. The Board discussed whether to consult on a range or a single figure for the 2024/25 levy. The Board agreed to consult on a range of 0.44-0.45% with the

- provision that a clear narrative on how financial resource would be used would be included in the consultation document.
- iii. The CEO explained that a higher levy this year may smooth out any necessary increases in levy in future years. As the ECB grew and moved out of its initiation phase into its operational phase, its running costs would likely increase and would need to be recouped via the levy.
10. The Board **agreed** to transfer the entire projected cash surplus for 2023/24 into reserves and **agreed** to consult on a levy range of 0.44-0.45%.

Item 6: Statutory underpinning: options on powers

11. The Director of Creditors and Government presented the latest on MoJ's review of ECB statutory underpinning and sought the Board's views on the Executive's early assessment of the powers the ECB might seek in future legislation. It was noted that this was still early in the process and the Board would have further chances to discuss this and agree the way forward.
12. The Board discussed the paper, and the following points were raised in discussion:
- i. It was agreed that statutory power "A" (Give ECB powers of authorisation over all civil and high court enforcement firms working in Taking Control of Goods) was the most important power that could be provided through legislation. It would enable the ECB to suspend and remove authority from any enforcement business, in effect ceasing their ability to continue to do this work. With this power in place, many of the other powers set out in the paper could be handled through the ECB's own accreditation or authorisation criteria.
 - ii. The possibility of seeking new legislation to extend this power of authority to individual agents was discussed. This would in effect mean replacing the court's current power of individual certification. It was noted however, that this may be more complicated to achieve than authorisation of firms, given the existing framework that is in place.
 - iii. It was noted that seeking statutory underpinning was an agreed outcome from the stakeholders responsible for setting up the ECB, both the advice sector and industry representatives.
 - iv. The Board discussed whether and to what extent the ECB's independence and agility would be sacrificed by opting for all or most of the statutory power options (particularly power 'G' - Give the ECB an enabling power to extend the future scope of its authority to wider enforcement). It was also noted that as any draft legislation made its way through the process, it was possible that externally made amendments would impact on the outcome.
 - v. The possibility of adding sunrise clauses to the legislation was discussed on the principle that it would be more efficient to go through this process once than amend it at a later time to add more powers.
 - vi. It was agreed that statutory powers B-E were all helpful but could be effectively achieved through exercising the powers set out at A (this would be checked by the Director of Creditors and Government with MoJ lawyers).
 - vii. The Board concluded that, at this early stage in the process, they would proceed to engage with the MoJ on the powers set out at A, F, and G (and explicitly County Court Bailiffs).

viii. The Director of Creditors and Government would take this to the next ECB engagement group (**ACTION**).

13. The Board **agreed** to engage the MoJ on the following powers:

- a. Give the ECB powers of authorisation over all civil and high court enforcement firms working in Taking Control of Goods *and* over individual agents
- b. Create power for the ECB to seek information from public bodies/ombudsman
- c. Give the ECB an enabling power to extend the future scope of its authority to wider enforcement
- d. Seek to obtain powers over county court bailiffs because it is important that the protections given to those experiencing enforcement are also provided to those experiencing enforcement under the aegis of the county court.

Item 7: Complaints: Scope of work

14. The Director of Policy and Oversight presented the final project scope for the ECB's complaint work. The Board were asked to agree the scope document and agree the policy position on non-acceptance of historic complaints.

15. The Board discussed the paper, and the following points were raised in discussion:

- i. *Historic complaints*
 - o The Board strongly agreed that the ECB would not realistically be able to investigate historic complaints and therefore no incident before the launch date of the complaints system (January 2025) would be accepted for investigation.
 - o The Board discussed whether there was anything the ECB could do to help people pursuing historic cases, perhaps through communicating expectations to firms, but came to the conclusion that the ECB could not provide material benefit to those with historic cases.
- ii. *Scope document*
 - o The Board were content with the revised scope document however noted that if read in isolation, it would seem that the Standards were only about complaints. They suggested an amendment on this point to rebalance the narrative.

16. The Board **agreed** the scope document for complaints, subject to the amendment described, and for it to be shared with stakeholder and on the ECB website.

17. The Board **agreed** the policy position on non-acceptance of historic complaints.

Item 8: Standards: Policy choices

1. The Director of Policy and Oversight presented a paper setting out the Executive's emerging thinking on the content of the new ECB standards. The paper contained the draft working structure for the standards and drew out some of the initial thinking on policy choices the ECB would need to take.

2. The Board discussed policy issues raised by the draft standards, particularly around vulnerability and affordability. The Board noted the importance of testing its policies with the enforcement and debt advice sector to ensure that they work in practice.
3. The Executive updated the Board on the progress that had been made so far in the programme of stakeholder engagement on the standards, including the upcoming workshops with agents.
4. The Board **noted** the Standards policy choices paper and stated that they were content with the direction this work was taking.

Item 9: Privacy policy: update

5. The Director of Creditors and Government presented the ECB's updated Privacy policy. The Privacy policy explains how the ECB processes and uses the personal data it collects and stores. It is being presented to the Board again as it has been updated to include new provisions relating to the upcoming Body Worn Video research project.
6. The Board discussed the updated policy and determined that the ECB's website should not use any tracking cookies and so that section could be removed from the policy.
7. Subject to this amendment, the Board **approved** the updated Privacy policy.

Item 10: AOB

8. There were no other items discussed.

Item 11: Reflection section

9. The Board reflected on the meeting and discussed thoughts and ideas that arose but were unconnected to the immediate agenda.

Private session

10. The Board met for a private session where they discussed and approved the ECB's draft Family policy.