

## ECB response to its draft business plan consultation

### Executive summary

1. The ECB is grateful to all those who have been engaged in in the development of our second draft business plan.
2. We received seven formal responses to our consultation, in addition to wider targeted engagement as the plan was being developed.
3. Responses to the consultation came from the enforcement industry, the debt advice sector, membership bodies as well as private individuals.
4. The responses received were broadly supportive, particularly around the role of the ECB in setting new standards for the enforcement industry and its new role in complaints.
5. In line with the responses to this consultation we have retained the priorities we set out in the draft business plan. In addition to this we have made amendments in line with the feedback we received. The final business plan can be found [here](#), which includes drafting changes following the input from stakeholders during this consultation.
6. The responses to this consultation contain valuable insight into the views of our stakeholders on our programme of work for the next year and we look forward to continuing our engagement with them as we begin to deliver on the priorities set out in the final business plan.

### Background

7. The ECB is the independent oversight body for the enforcement industry. We were set up with agreement between the enforcement industry and leading debt advice charities including Money Advice Trust, Christians Against Poverty and Step Change. Our mission is to ensure that everyone who experiences enforcement action is treated fairly.
8. In March 2024, we published a consultation on our draft business plan for 2024/5, which sets out our key strategic priorities and planned deliverables for the year ahead.
9. We were interested in hearing from all stakeholders with an interest in fair enforcement, including industry, consumer groups and the debt advice sector.
10. Prior to the start of this consultation, an earlier draft of our Business Plan was shared with our Stakeholder Engagement Forum.
11. The forum comprises representatives from the enforcement industry and the debt advice sector. Their feedback was taken into consideration in the development of the draft plan.
12. The consultation sought responses on the following questions:

**Q1 – Do you have any comments on the proposed priorities for 2024-25?**

**Q2 – Are there any activities that you believe the ECB should be prioritising that are not contained in this plan?**

**Q3 – Do you have any comments on the draft budget and levy?**

**Q4 – Are there any other comments or observations that you would like to make?**

13. The consultation closed on the **4<sup>th</sup> April 2024** and received seven formal responses from the following:

- The High Court Enforcement Officers Association (HCEOA)
- Money Advice Trust
- Step Change
- The Local Government and Social Care Ombudsman (LGSCO)
- Institute of Revenues Rating and Valuation (IRRV)
- The Money and Mental Health Policy Institute
- One individual

14. Some of the above organisations also engaged in the development of the draft business plan informally in the stakeholder engagement forum. The Civil Enforcement Association (CIVEA) provided input through this forum.

15. The points below summarise the responses to each of the consultation questions, alongside the ECB's response.

### **Consultation responses**

**Q1 – Do you have any comments on the proposed priorities for 2024-25?**

16. All respondents who commented on the proposed priorities for 2024-25 were broadly supportive overall. Comments on specific priorities are set out below:

#### *A reliable and clear evidence base*

17. A number of respondents commented on the ECB's priority to develop a reliable and clear evidence base. Of those who commented, all welcomed the plans for developing a more robust, independent evidence base.

18. Several responses noted that they would like to see more detail as to how the ECB will achieve this, and that it was important to reflect the experiences of those who had faced enforcement centrally in the evidence base, with Step Change referring to the existing enforcement evidence they give to the ECB from their debt advice clients including case studies and client stories. The importance of gathering data from a number of sources, in an objective way from a range of stakeholders and methods was also noted across responses.

19. One individual suggested that there is a need for research into the activities of enforcement agents outside of London and large cities, and particularly in the West of England.

20. The Money and Mental Health Policy Institute stressed the importance of the evidence base being publicly available so that it can be made use of beyond the ECB by other organisations and individuals involved in this area. It also stressed the importance of the ECB seeking to gain demographic data on those experiencing enforcement action and proposed that the ECB could develop an annual survey of people experiencing enforcement action. It went on to note some of the challenges and limitations that it sees from the ECB's Body Worn Video research.

*Setting the bar – new and comprehensive standards*

21. All respondents supported the priority of developing and setting new comprehensive standards for enforcement work. Several respondents welcomed the engagement that has been done here so far, with the HCEOA stating that further engagement with their members would be welcomed, as to ensure that the complexities of high court enforcement are captured in the new standards.

22. The LGSCO's response welcomed the ECB developing standards and noted: "Once they are in place we will use them in our assessment of complaints made to us."

23. The Money and Mental Health policy institute raised that they would like to see a timeline on the engagement being planned, and suggested that those with lived experience should be a focal point of any engagement.

*Establish the long-term sustainability of independent oversight*

24. There was widespread support for the ECB to establish the long term sustainability of its independent oversight. Responses from the debt advice sector stressed the importance of the ECB getting statutory powers, to ensure its long term sustainability. They welcomed the fact that the ECB is making the case for this also. The HCEOA also noted that it, in principle, it supported the ECB gaining some targeted statutory powers.

25. The HCEOA also commented that as part of this priority includes building financial resilience, any work here should be balanced against affordability for the enforcement sector, who are still awaiting a proposed fee uplift from government. The IRRV did not support the ECB's proposal to seek to extend its voluntary oversight to local authority in-house enforcement teams, considering that the activities of local government should be scrutinised by the electorate or government through legislation. For this reason, the IRRV considered it would be inappropriate for the public purse to fund the ECB through a levy on local authority enforcement teams.

*Proactive monitoring and meaningful accountability for those undertaking enforcement work*

26. Of those who responded to this priority, there was support for the ECB's independent complaints handling function. Respondents acknowledged that where possible, a profession-wide standardised complaints process will be beneficial for both individuals experiencing enforcement action and for creditors.

27. However, it was noted that there would need to be clearer guidance on the role of the ECB against organisations who currently have a role in the complaints landscape for enforcement such as CIVEA, the LGSCO and the HCEOA. The IRRV in particular pointed to the existing role of the LGSCO on complaints against actions taken by local authority enforcement and stated that the ECB should not handle complaints against inhouse enforcement teams or seek to impose any sanctions on local authorities. The

LGSCO welcomed the creation of a Memorandum of Understanding to formalise its relationship with the ECB.

#### *Engage and influence creditors*

28. Most respondents recognised the key role that creditor behaviour has in driving fair enforcement, for example Step Change commented “Work to increase support from creditors and commitments to only work with ECB accredited providers, and influence fair creditor behaviour more widely, are therefore a vital part of the solution (*to fair enforcement*)”
29. The IRRV advised that the ECB should place less of a focus on creditors and should instead be directed towards ensuring that the actions of enforcement agents are fair and align with the ECB’s standards, as each local authority creditor is independent. It went on to state: “it is inappropriate for an unelected body such as the ECB to seek to influence a democratically elected body in this manner.”
30. The HCEOA warned against viewing creditors as just large organisations, and advised that creditors are often small businesses and private individuals and that this should be taken into consideration when referring to creditors as a whole.

#### **ECB response**

31. We appreciate the feedback provided on our proposed priorities for the year ahead. Taking into account the support we received, we have retained all the priority areas in our final business plan. The business plan has been revised in some places to reflect the helpful feedback provided and amendments have been made to language, and several additions have been included to reflect this.

#### *Evidence*

32. We are encouraged by the strong support for building a better and more reliable evidence base. In line with our principle of transparency, we will seek to publish the findings of all research that we undertake along with the full methodology, as well as other data that it is appropriate to share.
33. We understand the desire to see more detail on how we will build our evidence base and this will be developed and shared over the coming year.
34. On some of the more specific suggestions, we are committed to trying to get better data on the demographics of those experiencing enforcement action and will be progressing this over the coming year. We have already commissioned research with people with lived experience, to inform development of our standards.

#### *Engagement*

35. Hearing from all of our stakeholders is crucial to our work, and we have already begun a range of engagement on our standards including workshops with enforcement agent and depth interviews with those who have lived experience of enforcement action. Over the coming months we have further engagement planned including workshops with enforcement firms, creditors and debt advisors – alongside a public consultation.

### *Engaging and influencing creditors*

36. We welcome the overall support for this theme and recognition of the important role that creditors play. We also note the points made by the IRRV about the importance of recognising that local authorities are democratically elected and that there are some existing measures of accountability in place for local authorities.
37. For the reasons set out in the consultation paper, we believe that it remains appropriate to seek to engage and influence creditor behaviour towards fair enforcement. Taking account of the IRRV's response, and discussions with some creditors during the consultation period, we believe that it will be important to provide more clarity on how we intend to do this. For example, we will continue to encourage creditors (through a wide range of forums) to commit to only working with ECB accredited providers and to include adherence to the ECB's standards in their own tendering and quality assurance. We will also want creditors to avoid placing requirements in Service Level Agreements that might conflict with the ECB's standards.
38. We believe that providing more clarity on what we mean under this area of work will help to alleviate some of the concerns about overreach. We also recognise that this area of work will be heavily influenced by the ECB's standards; once these are out, the impact of our work on creditors will be clearer and we expect that some of the concerns will seem less acute. Creditors are being consulted and engaged as part of standards development.

### *In-house enforcement teams*

39. The ECB notes the views of the IRRV in particular on the different position of in-house teams. At the same time, the ECB can see the benefit for citizens of both private and local authority enforcement being held to the same consistent high standards. In addition, from our engagement on this issue so far, some in-house teams have welcomed, in principle, the idea of ECB accreditation. This is an issue on which we look forward to engaging with the IRRV and other stakeholders in 2024/25, to work through the challenges identified.

### **Q2 – Are there any activities that you believe the ECB should be prioritising that are not contained in this plan?**

40. A small number of respondents suggested areas of priority that are not included in the draft plan.
41. Money Advice Trust suggested that the ECB work with other regulators such as Ofgem and the Financial Conduct Authority to close the regulatory gap that relates to debt collection for utilities debt, but recognised that "the ECB can only be part of the solution, but it would be great to see strengthening of regulatory requirements in this area".
42. One individual suggested a number of new focus areas for the ECB including:
- considering problems and abuses in specific forms of debt enforcement

- producing clear guidance and standards to postpone, stay or withdraw collection where a formal review or appeal through a court or tribunal has been commenced
- scrutiny of accounting of sums collected by enforcement firms, amid complaints that proceeds are not being paid promptly or in full to the creditor.

### **ECB response**

43. We are grateful for these suggestions. Taking account of the wider drivers on enforcement work will be very important to our mission. This will include engaging with policy makers and other regulators, where our remits might overlap or be aligned.

### **Q3 – Do you have any comments on the draft budget and levy?**

44. Not all respondents commented on the draft budget and levy. Step Change and Money Advice Trust did not comment directly on the levy amount, but did stress the importance of the ECB having sufficient budget and funds to deliver its mission. They both supported the ECB growing the team and continuing to build resource. Both Step Change and Money Advice Trust commented on the levy being voluntary, stating that they would like to see the ECB make the case to parliamentarians for statutory underpinning and a statutory levy.

45. The HCEOA commented that a 10% increase in the levy from 0.4% to 0.44% would be proportionate. However, given that HCEOA members are still awaiting the confirmation and timing of the fee increase from government that they do not believe an increase above this would be appropriate.

46. The IRRV stated that it would be inappropriate for the public purse to fund the ECB through any form of funding from local government creditors.

### **ECB response**

47. It is positive that respondents noted the importance of the ECB raising the levy proportionately to ensure it can deliver its mission and increased deliverables over 2024-25.

48. We have decided to set the levy at 0.44% of turnover, as this should raise sufficient funds to enable the ECB to deliver this business plan and make a significant start on building our reserves towards their long-term target level.

### **Q4 – Are there any other comments or observations that you would like to make?**

49. Within the consultation responses, a number of respondents made general observations and commentary, which are recorded below.

#### *ECB workstreams*

50. Both Money Advice Trust and the LGSCO commented on complaints.

51. Money Advice Trust advised that further detail on the complaints model would be welcomed, including information on potential sanctions and remedies that will be available when the ECB launches its complaints system. They would also like to see

further detail on how this will work in practice, including the interaction with the LGSCO and the EAC2 process.

52. It was stressed that the ECB's complaints system will need to be 'clear, simple and accessible' for those who are vulnerable.
53. The LGSCO stated that it is happy to share its experience with the ECB on dealing with and remedying complaints and that preliminary discussions have already taken place to this effect. It stressed that the ECB's complaints process should prioritise reducing barriers to complaining and allowing complainants quick responses.
54. On evidence and intelligence, the LGSCO agreed that clear and authoritative intelligence is badly needed and is also keen to support the ECB with data from its case work, although constrained by its statutory bounds.

#### *Other observations*

55. One respondent raised a number of legal issues that affect the industry, including "fragmentation of decision making and lack of joined up thinking in Government, local and central", "complexity of the law" and "major structural changes to the bailiff industry since 2007".
56. Step Change reiterated its support for the ECB, stressing that 2024-25 is a pivotal year for the enforcement industry with the Government reviewing the case for the ECB receiving statutory powers and the development of new transformative standards.
57. The Money and Mental Health Policy Institute highlighted that they are grateful for the engagement with the ECB to date and its commitment to transparency, including the ability to access board minutes and regular updates.

#### **ECB response**

58. The ECB was founded on the principle of transparency and as we move forward with key projects over the coming year we will continue to share as much information as we can with stakeholders in line with the comments received in this consultation.
59. We are pleased that stakeholders from across the sector have reiterated their support for the ECB and we look forward to working with them over the course of 2024-25 and beyond as we deliver the important priorities and activities set out in our business plan.