

Standards Targeted Engagement Paper

Introduction

The ECB is the independent oversight body for debt enforcement work. We were set up following 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. Since we were formally launched in November 2022, we have developed and launched our accreditation scheme, which is the framework through which we will hold the enforcement industry to account. We were pleased to achieve coverage of over 95% of the market.

One of our key priorities this year is to launch new standards for the enforcement industry. These will build on the current National Standards published in 2014 and will ensure that people in debt have experience consistently fair enforcement.

Bailiffs and enforcement agents: national standards - GOV.UK (www.gov.uk)

About this document

We want to ensure we are developing standards that work in practice, not just on paper, that have been tested with enforcement agents, firms, debt advisors, creditors and people with lived experience of enforcement.

Our programme of engagement so far this year, including the work we commissioned to test some of our proposals with enforcement agents and people who have experienced enforcement, has helped us to develop our thinking on the standards. Based on those conversations, we have developed a draft structure for the standards and policy proposals that will sit in each section. We now want to share these proposals and refine them further before we consult on a full draft of the standards in the summer.

About the standards

Although our standards will build on the National Standards, they will also be notably different in a number of ways:

- a) Our standards will move away from the purely rules-based approach** – that is seen in the current national standards to a hybrid approach. So, the standards will be a mixture of outcomes we expect firms to achieve, with flexibility on how this is done, combined with more explicit directives for firms and agents.
- b) Our standards will place more responsibility on firms** – The current standards are predominantly aimed at agents with some expectations placed on firms. Our standards will put the onus clearly on firms to ensure that their whole organisation and the agents that carry out work on their behalf are meeting the standards we set. There will still be explicit standards for agents, but these will flow from the standards for firms.
- c) The implementation of our standards will be phased** – Many of our standards, particularly those directed at agents, are about ensuring that good practice we know already exists is consistent across the sector. For this reason, we expect these standards to be implemented immediately following the publication of our standards. However, some of our standards will be more ambitious and firms will need time to ensure they can meet the new standards in a sustainable way. A key part of what we want to achieve through the engagement we are undertaking prior to consultation is a view on what the right phasing is to ensure the standards are implemented in the right way.

What we want from you

We want to hear your feedback on the proposals we have set out here to help us refine what the standards look like before we publish them for consultation.

There are some specific policy questions within individual sections of this document where we would particularly value input from stakeholders to shape the standards. However, with regards to the proposals set out here as a whole, we would like your views on the following questions:

- a)** Do you think there would be practical, legal or operational challenges in enforcement firms and agents adopting these standards?
- b)** Are there things you would suggest adding or amending in these proposals and is there anything missing?
- c)** How quickly do you think it's feasible for firms and agents to implement the standards proposed here?

We will be discussing this paper with enforcement firms, creditors, and debt advice organisations over the coming weeks. However, we are also happy to receive written comments via email from any interested parties including practising enforcement agents and people who have personal experience of enforcement and/or those who support them. These can be shared via email at this address:

contact@enforcementconductboard.org

Proposed structure of the standards

This table sets out the draft structure of the standards and the page number where you can find more detail about our proposals for each section.

Based on conversations with stakeholders to date, we have taken the decision to develop our standards and guidance on vulnerability and ability to pay over a longer timeframe than the rest of the standards set out in this document. We will be developing proposals in both areas in a collaborative way with stakeholders over the coming months with the intention of publishing both standards from Spring 2025. However, we wanted to include some of our initial proposals for these areas at the end of this document for feedback to give stakeholders a sense of our direction of travel.

Section	Content	Page
Professional values	The key principles all firms and frontline staff should operate by when undertaking enforcement action.	5
Compliance, monitoring and oversight	Establishing the principles of the ECB's oversight regime and the requirements put on firms and agents to comply. Requirements for firms to monitor agents performance to ensure compliance with these standards and to ensure their remuneration and contracting structures underpin this.	6
Body Worn Video (BWV)	Mandating the use of body worn cameras and requirements for use and storage of BWV.	7
Safety and training	Placing responsibility on firms and agents to ensure the safety of agents, frontline staff and the people they interact with. Requirements for firms and agents to ensure everyone involved in the enforcement process is properly trained.	8
Communication	Setting out the activities we expect firms and agents to follow when communicating with people experiencing enforcement and requirements for information to be included in the notice of enforcement.	9
The enforcement process	Setting out how we expect firms and agents to act throughout the enforcement process. Clarity for agents and firms on 'grey areas' such as foot in the door, peaceable entry and third-party involvement.	11
Complaints	Defining what we mean by a complaint, and the general process firms must follow when they receive a complaint.	13
Vulnerability and ability to pay [For Version 2 of the Standards in 2025]	Requiring firms and agents to prioritise fair treatment of vulnerable people in the enforcement process. Requiring firms to prioritise repayment of debt in a way that is fair to creditors and sustainable for people in debt and setting out ways this may be achieved. Asking firms to have a 'no wrong route' policy for repayment of debt prior to an agents attendance.	14

Values

We want to ensure that the role of enforcement agents is seen as an important profession and the critical role enforcement firms play in underpinning public services and the wider economy is recognised.

For this reason, our standards will contain a set of values we want the enforcement industry and enforcement agents to embody. Our initial proposal for what these values might be is set out below. We would like your views on whether these are the right values for the enforcement industry.

These values are:

Professional values in enforcement



Compliance, monitoring and oversight

Establishing a strong compliance framework within enforcement firms and monitoring performance of agents and frontline workers consistently against these standards is critical in ensuring fair enforcement. This, in addition to firms complying with the ECB's requirements to enable our oversight regime will be critical in ensuring that people experience consistently fair enforcement.

Proposed headline objective: Firms and agents must work constructively with the ECB to support operation of a risk-based oversight framework for the enforcement sector that is rooted in the professional values set out in these standards. Firms must prioritise continuous learning for all frontline staff and agents that undertake work on their behalf. This must include a robust and clear policy for internally auditing frontline interactions to ensure compliance with company policies, legal requirements and the ECB standards. Frontline staff including enforcement agents must comply with and act on the feedback resulting from their firm's compliance and audit activities, prioritising continuous improvement in their work.

In practice this would mean firms having a proportionate process in place for regularly reviewing frontline interactions to ensure compliance with our standards, including:

- a) Reviewing call and text logs between enforcement agents and people subject to enforcement (where possible).
- b) Reviewing call logs and email contact between frontline office staff and people subject to enforcement where possible.
- c) Firms reviewing their contracting and remuneration structures to ensure that they do not act as a disincentive to agents complying with the ECB standards.

It would also mean firms co-operating fully with the ECB in providing data and access to information to support the ECB's oversight regime, including:

- a) Allowing access for inspections including providing information, body-worn video footage, call recordings, text and email communications and letters in line with General Data Protection Legislation.
- b) Providing required data returns to the ECB in a timely manner.

c) Accepting and following the ECB's decisions in relation to complaints cases including on recommended compensation as detailed in the ECB's complaints policy.

d) Reporting to the ECB any serious breaches of the ECB's standards by their organisation or anyone working on its behalf within 5 working days of discovering the breach.

Policy questions:

Practically, how feasible is it for firms to review call, text and email contact between their staff and contractors and people subject to enforcement in the way we have outlined here?

Body worn video

It is already the norm in most enforcement firms for enforcement agents to wear body worn video cameras when undertaking enforcement work and we intend to cement that through these standards.

Proposed headline objective: Firms must have a clear policy on the use of body worn video footage that ensures all agent interactions are stored in line with the ECB's body worn video guidance. Enforcement agents must wear body worn video cameras at all times when undertaking their role and record every interaction with members of the public where they are actively enforcing a debt.

In practice, we think this would mean a duty on firms to:

- a)** Ensure all enforcement agents are equipped with an operational body worn video camera.
- b)** Ensure they have an up-to-date firm policy that is clearly understood by agents that covers when the camera should be switched on and how data should be transferred to a central database to facilitate easy access for compliance audits.
- c)** Regularly review body worn video footage from all enforcement agents undertaking work for the firm.
- d)** Retain body worn video footage for a minimum period (our initial thinking is 90 days unless a complaint is received, but this is to be agreed through consultation).

For agents, we think this means they should:

- a)** Comply with their firm's policy on body worn video footage including any requirements to upload footage to ensure it is available for review.
- b)** Comply with their firm's wider compliance policy, providing text and call recordings as needed to ensure the firm is able to adequately monitor performance.
- c)** Ensure their body worn camera is operational and correctly serviced at all times and an obligation on agents not to undertake enforcement action if their camera is not operational.

Policy questions:

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?

Safety and training

Ensuring the safety of agents and people subject to enforcement is paramount in achieving a fair enforcement process. To this end, we are proposing introducing new requirements for firms and agents that set clear expectations on safety and training.

Proposed headline objective: Firms must ensure that the safety of their agents, frontline staff and the people they interact with is a priority in the enforcement process. They must ensure that all frontline staff and self-employed contractors who carry out work under their instruction are trained to a suitable level to allow them to deliver services in line with standards. All enforcement agents are responsible for ensuring they carry out their duties in line with these standards and in a safe manner that promotes preventing and de-escalating high risk situations.

In practice this would mean that for firms, there would be new requirements to:

- a)** Have a comprehensive policy on agent safety when working in the field which complies with relevant health and safety legislation and includes:
 - i)** Support for lone workers, including a safety system that requires agents to make regular contact with the office and/or other agents when working in the field.
 - ii)** A process for recording incidents where agents have been involved in an interaction that has escalated either physically or verbally.
 - iii)** Support for agents who have been involved in an escalated interaction and a clear process for learning from escalated incidents.
 - iv)** A clear risk management policy that includes taking appropriate action to protect agents where there is a known history of violence or threatening behaviour at an address .
- b)** Ensure all agents and staff that play a role in the enforcement process have appropriate training and qualifications in relevant areas and that this is kept up to date.

policy and prioritise continuous learning in the course of their job.

In relation to safety, agents would be obliged to follow their firm's agent safety policies and prioritise their safety and the safety of the people they are interacting with, working in a way that promotes preventing and de-escalating high risk situations.

Policy questions:

- a)** What kinds of training do you think it is important for agents to undertake?
- b)** How do you think this could be implemented to ensure self employed agents are not disproportionately impacted by any new training requirements?

For agents, this would mean they were required to undertake regular training in line with their firm's

Communication

Communication is a critical part of the enforcement process and poor communication can cause unnecessary delay and cost both to enforcement firms and agents as well as people experiencing enforcement.

Proposed headline objective: Firms must communicate with people and businesses subject to enforcement in a way that is accessible, easy to understand and accurately represents the enforcement process in line with relevant laws and guidance. Agents must communicate effectively to those experiencing enforcement action. They must always be truthful in any communications and should never communicate in a threatening or intimidating way.

For firms we think this means:

- a)** Checking, upon contact with a person experiencing enforcement action, if they have any accessibility requirements when receiving communications (such as large print, different font colour etc) and ensure that these are accommodated as far as is feasible.
- b)** Ensuring that any communications they send to people in the compliance and enforcement stage clearly set out the enforcement process and a persons rights within it.
- c)** Offering a translation service to all frontline staff to translate their instructions into a different language, where the person experiencing enforcement action states they have or obviously has a clear language barrier.

We also intend to carry out further work to test the best way of getting people to engage with the notice of enforcement when it is sent. In advance of that work in these standards we propose specifying as a minimum that all Notices of Enforcement should:

- a)** Inform people of their right to seek debt advice.
- b)** Signpost to debt advice organisations, alongside the Money and Pensions Service Advisor Network for people who may need a localised service.

- c)** Inform people on where to find further detail on the enforcement process, for example the Gov.uk or ECB website.
- d)** Inform people of their right to complain to the firm, the ECB and any relevant Ombudsman.
- e)** Provide a contact number where they can speak to someone about their debt in advance of the enforcement agent visiting their property.

For agents, in addition to complying with the requirement on accessibility set out above, we intend to give more detail on what is and isn't appropriate when contacting people.

This includes:

- a)** Specifying that an 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.
- b)** Where possible, using plain language when communicating with people.
- c)** Specifying that an agent should not contact the person experiencing enforcement action outside of any official channels prescribed by the firm. For example, through social media sites such as Facebook and Instagram unless the individual has reached out directly through this medium in relation to the debt being pursued.

- d)** Requiring 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:
- i)** Threatening or intimidating.
 - ii)** Harassment of any form (including sexual harassment).
 - iii)** Misrepresentative of the powers afforded to agents and firms under relevant legislation.

Policy questions:

Do you think the information we have proposed is included as a minimum in the Notice of Enforcement is right and is there anything else that should be included?

The enforcement process

This section of the standards will set out the detail of how we expect agents and firms to act during the enforcement process. It won't spell out the detail of all the laws, guidance and regulations governing the enforcement process but will set an expectation that these will be complied with alongside some new or clarified requirements.

Proposed headline objective: Our proposed headline objective for this section is: Anyone involved in the delivery of enforcement and those who interact with people experiencing enforcement must act in accordance with the professional values set out in these standards. Firms must ensure that all staff carry out the enforcement process in line with relevant legislation and guidance. Agents must also ensure they act in accordance with the policies of the firm they are working for when carrying out their duties.

The substantive new proposals for this section are:

a) Goods.

- i)** Requirements on firms and agents to check the ownership of a vehicle before they clamp it, and to clamp a vehicle only if they have reasonable belief the person named on the writ or warrant is the legal owner of the vehicle or has a financial stake in the vehicle (e.g. through a hire purchase agreement).

b) Third parties.

- i)** Clarifying that enforcement should not be taken against third parties not named on the warrant or writ including:
 - i.i)** Placing pressure on a third party to make payment for the debt.
 - i.ii)** Disclosing the nature of their visit to a third party when the named person has not given their permission to do so.
 - i.iii)** Taking control or threatening to take control of goods where there is no reasonable belief that they belong to the person listed on the writ or warrant.

Policy questions:

Do you think the rules around vehicle ownership are right and do you think there are any unintended consequences of requiring agents to operate in this way?

Modes of entry

The legislation and current national standards permit enforcement agents to enter a property for the first time through a usual means of entry like a door without force and by truthful means.

In the ECB's standards, we intend to define what peaceful entry means in practice and what agents should do to ensure that they enter a property in a way that encourages a productive dialogue with the person they are enforcing against.

We want to understand what current practice is now with regards to entering a property:

- a)** Through a door opened by the person named on the writ or warrant.
- b)** Through a door opened by an adult not named on the writ or warrant.
- c)** Through an unlocked door.
- d)** Through a door opened by a child.

Our current proposal is to define what is/isn't permissible for agents in relation to entering a property including:

- a)** Clarifying that an agent should not continue to attempt entry to a property where someone is attempting to stop them, e.g. by closing the door.
- b)** Putting rules around what an agent should do if they are entering a property where they have not been invited in by an adult to ensure their entry is peaceful and conducive to a positive dialogue with the person they are enforcing against.

Policy questions:

What rules do you think there should be around an agent entering a property they haven't been invited in to?

Complaints

The ECB is establishing a new, second stage complaints handling function which will be operational from January 2025. Therefore, it is important that we standardise complaints processes across the enforcement industry to ensure a consistent service for everyone subject to enforcement action.

We will be consulting on our complaints guidance in the coming months. However, there will also be a section in the standards that covers complaints handling.

Proposed headline objective: Firms must have a clear and accessible complaints process that promotes resolution of complaints quickly and equitably. Firms and agents must learn from complaints, and this must feed into appropriate improvement action for both the organisation and individual agent.

In practice this will mean a duty on firms to:

- a)** Clearly publish information on where and how to complain on their website and any correspondence with people they are taking enforcement action against, ensuring this is accessible and easy to navigate.
- b)** Have a 'no wrong route' policy on accepting complaints, meaning complaints can be made over the phone, in writing or via any other communication channel actively used by the firm e.g. text message, social media etc.
- c)** Acknowledge a complaint once it has been received and respond with a clear timeframe within which the complainant will receive a full response (timeframes will be developed through consultation and set out in the ECB's complaints guidance).
- d)** Conduct a thorough investigation into all complaints. This should include:
 - i)** The investigation being undertaken by someone who is suitably removed from the individual the complaint is about.
 - ii)** Reviewing any body worn video footage of interactions with the complainant.
 - iii)** Reviewing any other recorded communications with the complainant including, call recordings, case notes, letters and text messages.
- e)** Provide a clear explanation for their decision on the complaint, that sets out:
 - i)** The complaint.
 - ii)** What happened.
 - iii)** What should have happened (with reference to the standards and / or the relevant legislation).
 - iv)** Whether mistakes have been made.
 - v)** Where appropriate, the action the firm is going to take to put matters right and to learn from the complaint.
 - vi)** The signposting information for the next stage in the complaints process.
- f)** Have a clear policy of continuous improvement as a result of complaints, using the learning from complaints to actively improve their service going forwards.

For agents this will mean complying with their firm's complaints policy and acting on feedback received through the firm's complaints process to improve their practice.

Vulnerability and ability to pay

As a result of our early engagement on vulnerability and ability to pay, we have taken the decision to spend a longer period of time developing our standards and guidance for firms in these areas. This means the standards published in autumn 2024 will contain some guidance for agents in these areas (to ensure there is no gap between our standards and the existing national standards) but not for firms.

Throughout the course of 2024 and early 2025 we will be working in more depth with firms, agents and debt advice organisations to develop standards and guidance in these areas which will be published next year and come into force in autumn 2025.

As part of that process, we wanted to share in this document some of our early thinking to give our stakeholders an indication of our direction of travel. We are not seeking feedback on these areas at this stage as there will be significant targeted engagement and consultation on these, based on further information and more worked up proposals, later in the year.

Ability to pay

Setting standards that give clear guidance for enforcement firms and agents on how to ensure repayment is sustainable for people in debt and fair to creditors is a critical part of delivering on our mission to make enforcement fair for people experiencing it. We intend to work with creditors, enforcement firms and debt advice providers to develop these standards and accompanying guidance; including defining what work should happen at compliance stage and how firms should work with debt advice organisations.

Vulnerability

Vulnerability is covered in the current national standards. However, wider thinking on vulnerability has moved on considerably since the 2014 standards were published.

Learning from best practice thinking in a number of sectors on vulnerability and feedback from stakeholders we have engaged with to date, we have begun to develop our thinking on vulnerability. Our initial proposal is for a headline aim that requires firms and agents undertaking enforcement action to prioritise fair treatment of vulnerable people so that a vulnerable person in debt experiences no worse outcomes as a result of the enforcement process than someone who is not vulnerable.

Clearly defining how we expect firms to achieve this and providing clear guidance to implement any changes will be critical to ensuring our standards affect sustainable improvements in the enforcement sector. We intend to develop this over the coming months in collaboration with stakeholders ahead of a separate consultation in early 2025 on our ability to pay and vulnerability standards and guidance.



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