

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

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

Apologies: Jenny Watson (Board member)

Minutes

Item 1: Welcome, apologies and declarations

1. The Chair welcomed all present, particularly the ECB's new Complaints Manager, Claire Evans, who was attending her first meeting.
2. Apologies had been received from Jenny Watson.
3. There were no new declarations of interest.

Item 2: Minutes of the previous meeting

4. The minutes of 24 April 2024 were **agreed** as an accurate record of the meeting.

Item 3: Matters arising

5. The Board requested an update on action 13 for which the executive was asked to consider how demographic data of those experiencing enforcement might be collected. The collection of this data is critical to understanding any differential experience of enforcement. The CEO explained that the team were still exploring what relevant data might already exist but it was likely that additional research will be required, and the most effective approach to this will be considered over the next few months and an update on next steps brought to the Board in September (**ACTION**).
6. The Board **noted** the action tracker and Board forward agendas.

Item 4: Chief executive's report

7. The Chief Executive talked to the report and updated the Board on the Executive's preparations regarding the General Election. The following points were raised in discussion:
 - i. *Pause on government business during the pre-election period:*
 - o The industry fee increase announced in July 2023 would not now be implemented before the election. It would be a matter for the new administration to decide whether to take any fee increase forward. The ECB did not consider that it was part of its role to lobby for the fee increase on the industry's behalf.

- Similarly, the anticipated call for evidence from the Ministry of Justice regarding statutory underpinning for the ECB has been put on hold, with the new government considering afresh the question of statutory powers for the ECB and any associated consultation.
 - ii. *Communications and Engagement strategy for the General Election:*
 - After initial scoping, the executive's recommendation was that specialist expertise would be required for in depth stakeholder mapping and political strategy development to access opinion formers and key figures in a new administration. The Executive was in discussions with two agencies and a freelance individual to provide this service. There was currently no allocated budget for this work and so it would need to be funded from the reserves or in year underspend.
8. The Director of Policy and Government updated the Board on recent developments with Transport for London (TfL). TfL indicated that they wanted to engage on the standards and placed value on being a responsible creditor. It was considering a pilot to improve information on and awareness of vulnerability in those that it is enforcing against. TfL and the ECB would meet regularly every quarter in future.
9. The Board **noted** the Chief Executive's report.

Item 5: Oversight model and enforcement powers

10. The CEO presented a paper on the proposed oversight model and accompanying enforcement powers. The paper provided an early opportunity for the Board to discuss its favoured approach to this work and comment on the main substantive proposals.
11. The Board discussed the paper, and welcomed and agreed the overall approach. Specifically it agreed that the best outcomes for people experiencing enforcement would be achieved by seeking to address issues of poor practice in the first instance by supervision – clearly identifying where change needed to happen, assessing and agreeing appropriate timely plans for improvement, and checking that those plans are effectively implemented – with formal enforcement being reserved for the most serious cases or cases in which companies' responses to supervision are judged to be inadequate.
12. The following points were raised in discussion:
- i. *Disclosing firms' risk assessments*
 - The Board agreed that in the spirit of transparency a firm's risk assessment should be shared with the firm. Because the risk assessments would be provisional in their nature it was agreed that for at least the first year or two they would not be shared more widely.
 - ii. *Resourcing and staffing*
 - The resource required, in terms of staff time and financially, to operate the supervision model is currently an estimate, based on one full time manager and some access to flexible resources from the complaints function.

- It was expected that there may be approximately 10-20 visits per year but the pilot visits would provide a more accurate idea of how the supervision scheme can be most effectively operated.
 - The pilot visits would also give a better idea on how much follow-up work would be required per visit and how moderation of results would best be achieved.
 - In ensuring the consistency and defensibility of the outcomes of visits, the executive would consider the benefits of having 2 person teams carry out visits rather than lone individuals. The use of standard checklists (alongside the ability to react to findings and individual company circumstances appropriately) should support consistency.
- iii. Individual agents
- The supervision scheme is primarily designed to assure the work of firms and hold them to account where necessary. There will be some insight generated on individual agents, however, such as review of body worn video from complaints or random checks during supervision visits.
 - The expectation would be that if issues are identified with an individual agent in the course of a visit, the company would either have already taken appropriate action or would take it (and demonstrate that it had been taken) on the basis of the visit findings. If necessary, the ECB would use the existing EAC2 court route.
 - The ECB gaining statutory powers would potentially mean that it could perform a similar scheme for individual Enforcement agents as it does to firms, with the power to authorise or deauthorise individual agents.
- iv. Surveillance vs. investigation
- The Board discussed whether the ECB should focus primarily on surveillance or investigation, or a combination of the two.
 - With the relatively small number of units requiring inspection, proactive rolling supervision visits were feasible and with the multiple sources of intelligence available, there would be sufficient evidence to lead targeted investigations.
 - It was agreed that in order to meaningfully protect consumers, a blend of both effective surveillance and targeted action would be required.
- v. Enforcement powers
- The Board agreed that the power to issue Directions, where the ECB would specify certain actions that a firm would need to take in response to identified non-compliance, was a useful addition to the enforcement tools already in the framework.
 - The use of fines as a sanction was discussed and the Board agreed that the threat of losing contracts due to other publicised enforcement action was more effective and potentially simpler. The Board had already committed not to seek to financially sanction Local Authority enforcement functions that come under regulation, and it was considered preferable to have a single consistent suite of sanctions.
 - The concept of 'polluter pays' and various ways of introducing this to the model was discussed. The Board agreed to revisit this idea after the first year, once the system was operational and they would have a better idea of how and where resources were being spent. **(ACTION)**
 - Recompense in the complaints system would be explored in due course **(ACTION)**.
- vi. Appeals

- The Board discussed the process of appealing enforcement decisions. It was suggested that after the executive recommendation for enforcement, the decision itself would be made by a panel of three Board members not including the Chair. Appeals would be considered by the Chair, one additional Board member not involved in the first stage, and one party independent of the sector.

13. The Board **noted** the progress of this work.

Item 6: Standards development update

14. The Director of Policy and Oversight presented this paper on the three main policy areas and the document that the ECB intends to use as the basis for this targeted engagement with stakeholders.
15. The Board first discussed the *values for enforcement agents and firms*:
- i. The Board approved the four proposed values set out in the paper.
16. The Board next discussed *peaceable entry and 'foot in the door'*
- i. The Board agreed with the paper's proposed definition of peaceable entry for domestic properties.
 - ii. The Board then discussed in depth the recommendation to ban '*foot in the door*', especially in regard to the differences between civil and High Court enforcement.
 - iii. It was agreed that the Director of Policy and Oversight would examine this position with the Engagement Group and reflect the discussion in the Standards **(ACTION)**.
17. The Board then discussed the '*no wrong route*' to pay or complain policy
- i. The Board discussed and agreed with this policy proposal and noted that the ECB would have to reflect the same commitment in its own acceptance of complaints against firms and agents.
18. Regarding the document that will be used for engagement with stakeholders, the Board requested that section on *What we want from you* be amended to include advocates of those with lived experience of enforcement.
19. The Board **approved** the paper.

Item 11: AOB

20. Arrangements for the next Board meeting were discussed.

Item 12: Reflection section

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