

Consultation on ECB approach to Complaints Handling and Sanctions

Foreword

The ECB is the independent oversight body for debt enforcement work in England and Wales. 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.

We have an important mission, which is to ensure that everyone who experiences enforcement action is treated fairly.

An important part of fulfilling that mission is establishing an effective complaint handling framework for the sector and the ECB. What we want to achieve is a complaint handling process that focuses on:

- Resolving individual complaints fairly and
- Continuous improvement.

We have already consulted on the Standards for Complaints as part of the wider consultation on the ECB's Standards for Enforcement Work and Oversight Model. We are grateful to everyone who took the time to respond to that consultation. The outcome of this consultation will be published in the coming weeks.

This consultation paper covers four key areas on our approach to complaints:

In Part A:

- i)** The Guidance that accompanies the Standards for Complaints

In Part B:

- i)** The ECB's Complaints Handling Process
- ii)** The ECB's Guide to Remedy
- iii)** The ECB's Decision Review Process.

In Part C, this consultation paper also covers our rules and process for determining whether to impose Sanctions on enforcement firms for non-compliance with our standards. This follows on from our recent standards consultation.

We would encourage all our stakeholders to review these proposals and share with us your views.

Following this consultation, we will refine and finalise our approach to complaints and sanctions, prior to launching them in advance of them coming fully into effect from January 2025.

We look forward to hearing from you.

Chris Nichols

CEO, Enforcement Conduct Board



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Background to Complaints Consultation (Parts A and B)

- 1. Complaints serve a dual purpose. They provide an opportunity for firms to right individual wrongs and they provide a valuable source of learning and insight into how the firm is operating on the ground. As such, complaints should be welcomed and used as a tool to improve services going forward.**
2. This dual focus on resolving individual complaints and continuous improvement is reflected in the Standards on Complaints that we consulted on over the Summer.
3. Since then, we have considered the responses to the consultation and refined the Standards on Complaints where appropriate. The revised standards will be published in full, alongside the ECB's wider response to its consultation, in the coming weeks. The refinements we have made to the standards are reflected in the Guidance to the Standards on Complaints, which is at Part A – Annex A.
4. We have also developed our own proposals for how we intend to handle complaints that we receive directly. The proposals provide for a high-quality and proportionate Complaints Handling Service, which will give an independent view on complaints more quickly than the current routes allow for.
5. We are now consulting on the following proposals:
 - a)** The Guidance to accompany the Standards on Complaints (Part A – Annex A).
 - b)** The ECB's Complaints Handling Process (Part B – Annex A), which sets out how we will manage the complaints we receive directly from start to finish.
 - c)** The ECB's Guide to Remedy (Part B – Annex B), which sets out our approach to remedy.
 - d)** The ECB's Decision Review Process (Part B – Annex C), which sets out how we will manage complaints about our decisions.
6. Over the coming months we will also be developing our Service Complaints Process as well as other policies to support the implementation of the complaints function. The Service Complaints Process will set out how we will manage complaints about our service, as opposed to our decisions. We aim to have these policies in place by the time we start to accept complaints in January 2025.
7. Further background on the ECB, including our current business plan, can be found on our website here: [**Home - enforcementconductboard**](https://www.enforcementconductboard.org)

Part A

The Guidance to the Standards on Complaints

(See Part A – Annex A)

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- 1. The full details of the Guidance to the Standards on Complaints can be found in Part A – Annex A. Set out here is a summary of the Guidance and an explanation of the substantive issues we would like stakeholder's views on.**
 2. The Guidance is set out under the corresponding section of the Standards on Complaints that it relates to.
 3. Responses to the consultation on the Standards on Complaints showed overwhelming support for the proposed complaints objectives. We welcome this support and recognise that for some this presents quite a cultural shift.
 4. The Guidance (Part A – Annex A) sets out in more detail how we expect enforcement firms to meet the objectives set out in the Standards on Complaints of:
 - a) Welcoming complaints
 - b) Providing an accessible and straight forward complaints process
 - c) Dealing with complaints properly
 - d) Having a culture of continuous improvement
 5. The Guidance provides a definition of a complaint and sets out in more detail how complaints should be resolved and investigated.
 6. We have listened to the feedback from the consultation and amended the complaint response timeframe in the Standards on Complaints. Enforcement firms will now be required to provide a formal response to a complaint within 20 working days. Given the emphasis on providing a full and pragmatic consideration of the complaint with more senior oversight within one formal complaint response, we believe this longer timeframe is appropriate. It remains a relatively short timeframe, especially when compared to other sectors.
 7. Complaints can become complicated where they involve the actions of two enforcement firms. This can happen where the enforcement process involves the enforcement of a high court writ. The High Court Enforcement Officer could be part of one enforcement firm (firm X) while the enforcement action is taken by another enforcement firm (firm Y).

8. We want the complaints process to be straight forward and guided by the principle that the complaint should be addressed by the enforcement firm whose actions are being complained about. Therefore, the response to the complaint should be provided by the firm whose actions are the subject of the complaint. Feedback we have received suggests that this is usually firm Y.
9. In line with the complaints process set out in the Standards on Complaints once the enforcement firm has responded to the complaint, the complainant should be directed to the ECB.
10. Through our engagement with stakeholders, we heard about examples of pragmatic decisions being made in the sector to resolve issues for people even where there had been no fault on the part of the enforcement firm. We want to encourage that approach and have reflected that in the guidance.

Questions on the Guidance to the Standards on Complaints - Part A – Annex A:

- A)** Do you have any feedback on the content of the Guidance that accompanies the Standards on Complaints?
- B)** Do you have any feedback on the definition of a ‘complaint’? Does this definition present any challenges in terms of identifying what should be treated as a complaint?
- C)** We recognise that there can be challenges within the complaints process where the enforcement firm is enforcing a debt under a High Court writ, but the High Court Enforcement Officer is not part of the enforcement firm. Do you see any challenges in operating the complaints process in the way we have proposed?

Part A – Annex A

The Guidance to the Standards on Complaints

Introduction:

- 1. Compliance with the Enforcement Conduct Board’s Professional Values and Standards of Practice for Enforcement Firms (“the Standards”) is mandatory. This Guidance provides further details on how enforcement firms can comply with the Complaints section of the Standards (“the Complaints Standards”). Paragraphs from the Complaints Standards are set out in italics below, followed by guidance to assist firms to comply with these paragraphs.**
2. If there is a concern in relation to non-compliance with the Complaints Standards, the Enforcement Conduct Board (“ECB”) will take into account whether the enforcement firm has sought to follow this Guidance.

What is a complaint?

3. It is important in any complaint handling process to have clarity about the definition of a complaint.
A complaint is:

An expression of dissatisfaction, however put, that requires a response. It will be about the negative impact of the standard of service, actions or inaction provided by the enforcement firm, its own staff, or its contractors.

4. A complainant should not need to use the word ‘complaint’ for it to be treated as one.

What isn’t a complaint?

5. Enforcement firms may receive contact either in writing or by telephone that appears to be a complaint. However, there is a distinction between everyday requests for action to be taken or pointing out that something has gone wrong and the point at which someone is dissatisfied and wishes to complain.
6. **Everyday conversations:** these are issues, queries or concerns that are raised and dealt with quickly and resolved before the complainant becomes dissatisfied and wants to make a complaint.
7. **A service request:** a request that the enforcement firm takes action, fixes a problem, reconsiders a decision or provides a service. Crucially a service request is a request for action to be taken, it is not a complaint about the action that has been taken or a complaint about the failure to take action. Like everyday conversations these should be raised and resolved quickly before the person affected by enforcement action becomes dissatisfied.

8. By way of example, if a person is, on reflection, unhappy with the payment plan that has been agreed and they contact the enforcement firm and ask it to amend the plan - that would be a service request. It is a request for action to be taken.
9. If, having reviewed matters, the enforcement firm is unable to amend the plan to the extent that the person wants, that person may then be dissatisfied and submit a complaint about the enforcement firm's consideration of matters.
10. **Feedback:** is an opinion given, whether requested or not, that does not require a response.

Welcoming complaints:

FS7 An enforcement firm openly welcomes complaints.

An enforcement firm must:

FS7.1 publish its complaint handling policy, which must:

FS7.1.1 set out its complaint handling process;

FS7.1.2 promote the use of it;

11. Complaints should be seen as a valuable source of feedback and insight into how it and / or its enforcement agents are performing.
12. A firm's complaint handling policy should include:
 - a)** the ways an individual can make a complaint
 - b)** the timeframes for responding to complaints
 - c)** how the complaint will be considered at each stage of the complaints process
13. The complaint handling policy should be clear and easily accessible from the firm's website.
14. It should clarify that:
 - a)** complaints are welcome and will be taken seriously
 - b)** where possible, complaints will be:
 - i)** resolved at the earliest opportunity
 - ii)** used as a tool to improve service going forward.

An enforcement firm must:

FS7.1 publish its complaint handling policy, which must:

FS7.1.3 reassure complainants about how they will be treated.

The complaint handling policy should include reassurances for complainants that:

- a)** they will be listened to and treated fairly;
- b)** their complaint will be dealt with honestly and proportionately;
- c)** the fact they have complained will not have a negative impact on their interaction with the enforcement firm and / or the relevant enforcement agent.

An enforcement firm must:

FS7.1 publish its complaint handling policy, which must:

FS7.1.3 set out the support that is available to make a complaint

16. This should include:

- a)** information about the support that is available to assist an individual to complain, with relevant links;
- b)** links to the ECB's website.

An enforcement firm must:

FS7.1 publish its complaint handling policy, which must:

FS7.1.5 explain which types of complaints it can and cannot consider;

17. This provides clarity about the complaints process and is done to help minimise complaints that fall outside the remit of the complaints process being referred to the enforcement firm.

This should include information about:

- a)** the types of complaints that fall within the remit of the complaints policy;
- b)** the types of complaints that do not fall within the remit of the complaints policy; and
- c)** where appropriate, a link to another organisation that can consider the complaint, where the enforcement firm cannot. For example, the details for the complaints process at the relevant local authority where the complaint is about the actions of the local authority rather than the accredited firm.

An enforcement firm must:

FS7.1 publish its complaint handling policy, which must:

FS7.1.6 set out how it uses complaints to make improvements to its service.

18. This should include:

- a)** maintaining accurate records on complaints and complaint outcomes that can be reviewed and audited;
- b)** reviewing complaint outcomes to identify trends or issues and areas for improvement;
- c)** sharing relevant learning with staff and contractors to ensure that improvements are embedded;
- d)** processes for monitoring compliance with the improvements that have been identified.

An enforcement firm must:

FS7.2 provide clear and accessible information on how an individual can make a complaint in any correspondence with a person subject to enforcement.

19. As a minimum this should include that:

- a)** there is a complaints process; and
- b)** where to locate information about it.

20. To enable clear and accessible information about the complaints process to be provided, all staff and contractors should be made aware of the complaints process and the role they are expected to play within it.

21. Any changes to the complaints process should be communicated to staff and contractors, as and when those arise. This should include, making staff and contractors aware of:

- a)** the content of the complaint process;
- b)** any changes to the complaint process;
- c)** where the complaint process can be located, so that this can be shared with the complainant on request;
- d)** their role in the complaint process, including the action they should take if someone is dissatisfied with the service or lack of service they have received.

An enforcement firm must:

FS7.3 have appropriate resources in place to enable it to investigate the number of complaints it anticipates it could receive.

22. This should include:

- a)** having a complaints function that has been resourced to respond to the number of reasonably anticipated complaints within the relevant timescales and, to the extent that this is possible depending on the size of the business, has a degree of separation from the enforcement process itself;
- b)** providing staff who consider complaints with the training and resources they need to provide an early resolution to complaints;
- c)** providing training to staff who consider complaints on effective complaint handling.

Clear and accessible complaints process:

FS8 An enforcement firm has a clear and accessible complaints process.

An enforcement firm must:

FS8.1 put in place a complaints process which is clear and simple, with no more than two stages.

The complaints process will comprise:

FS8.1.1 where appropriate, an informal stage, in which the enforcement firm attempts to resolve the complaint informally with the complainant within 5 working days;

FS8.1.2 if the enforcement firm cannot resolve the complaint informally, a formal stage, which should be concluded within 20 working days (unless, due to exceptional circumstances, a longer period is required to investigate it appropriately).

FS8.2 ensure the complainant is updated when it is clear that the relevant timeframes at FS8.1 cannot be met, and arrangements are put in place for the complainant to be provided with regular and meaningful updates.

23. If, due to exceptional circumstances, the 20 working day timeframe cannot be met, the delay must be managed appropriately.

- a)** the complainant should be updated on progress at 10 working days
- b)** regular and meaningful updates should then be provided until the decision is issued.
- c)** the firm should notify the complainant of their right to complain to the ECB when the complaint reaches 20 working days.

An enforcement firm must:

FS8.3 accept complaints over the telephone, in writing or via any other communication channel actively used by the enforcement firm.

24. That means complaints can be made via:

- a)** the telephone;
- b)** email;
- c)** letter;
- d)** any other communication channel actively used by the enforcement firm, including text message, WhatsApp etc.

The key is that complainants should be able to access the complaints process in a way that is simple and meets their needs.

An enforcement firm must:

FS8.4 where appropriate, signpost the complainant to the support that is available to assist them in making a complaint.

25. This should include:

- a)** providing information on the support that is available to the person affected where they request assistance or where it is clear they will need support to navigate the complaints process;
- b)** making staff and contractors aware of the support that is available so that they can share this with the complainant, where appropriate;
- c)** accepting complaints from and communicating with representatives of the complainant and have a process in place to enable that to happen in a straightforward way that complies with GDPR.

An enforcement firm must:

FS8.5 provide reasonable adjustments to the complaints process to ensure it is accessible to the complainant, taking into account any particular needs or circumstances.

26. To help with this process enforcement firms should keep in mind the duties placed on them by the Equality Act 2010, the Welsh Language Act 1993 and any other relevant legislation and consider any requests for reasonable adjustments sympathetically.

27. This could include adjustments:

- a)** to the way complaints are received;
- b)** to contact arrangements with the complainant;
- c)** to the resolution and investigation process;
- d)** to the way the decision is provided.

An enforcement firm must:

FS8.6 provide responses to complaints which are clear and accessible.

28. Responses must:

- a)** be written in language that is easy to understand and appropriate for the complainant.
- b)** where possible, reflect the language used by the complainant as this shows that you have listened to them and understand their point of view;
- c)** avoid, as far as possible, using legal jargon;
- d)** where references are made to relevant legislation, explain the relevance of that legislation in a way that is easy to understand.

Dealing with complaints properly

FS9 An enforcement firm deals with complaints properly.

Acknowledging the complaint

An enforcement firm must:

FS9.1 promptly acknowledge a complaint and provide information about how it will be handled.

29. We would usually expect an enforcement firm to acknowledge a complaint within 2 working days of receiving it. The acknowledgement should:

- a)** set out who will consider and respond to the complaint and their contact details;
- b)** ask the complainant to confirm whether they have submitted all the evidence they have in support of their complaint;
- c)** where possible, set out how they intend to manage any reasonable adjustments that have been requested;
- d)** provide a clear timeframe within which the complainant will receive a response.

30. If it is not clear from the information received, the acknowledgement should ask the complainant how they would like the firm to communicate with them and whether they have any communication requirements.

Confirming the complaint

An enforcement firm must:

FS9.2 inform the complainant, as soon as possible, if it cannot investigate their complaint, or any aspects of it.

31. It is better to confirm the complaint and the outcome being sought with the complainant, where that is possible. That is because the real basis for the complaint is often not clear until it has been discussed. As a minimum, the enforcement firm must try to confirm the complaint with the complainant where:

- a)** the complaint is unclear;
- b)** there is not sufficient information within the complaint to determine the event or course of events they are complaining about;
- c)** the investigation of the complaint has identified some poor service on the part of the enforcement firm, but the impact of that poor service and / or the outcome sought is not clear.

32. It is better to notify the complainant at the outset if there are any aspects of the complaint that the enforcement firm is unable to consider. That way the complainant can direct their complaint to the correct body as soon as possible. For example, complaints about the actions of the creditor. The enforcement firm should let the complainant know at the outset if there are any aspects of the complaint that it cannot consider. If known, it should provide to the complainant information about how to escalate those concerns. If not known provide the contact details for relevant advice organisations.

The informal resolution of the complaint

An enforcement firm must:

FS8.1 put in place a complaints process which is clear and simple, with no more than two stages.

The complaints process will comprise:

FS8.1.1 where appropriate, an informal stage, in which the enforcement firm attempts to resolve the complaint informally with the complainant within 5 working days;

33. The informal resolution stage provides an opportunity for a light touch complaint investigation and decision. Typically, cases that can be resolved at informal resolution stage will be ones where the complaint:

- a)** is clear;
- b)** is not complex;
- c)** does not cover multiple, overlapping issues.

34. Complaints that are unlikely to be resolved informally are those where, one or more of the following features apply:

- a)** the complaint raises multiple issues of complaint;
- b)** the complaint raises complex issues that need to be looked into in depth and will require more than 5 working days to unpick;
- c)** there has been a complete breakdown in the relationship between the enforcement firm and the complainant.

35. Decisions to pass a complaint straight to the formal stage should be made by someone who is suitably experienced.

36. The informal resolution stage is usually more successful if it is conducted by telephone, but it is not a requirement to do so and will depend on the complainant's preferred method of communication and the nature of the complaint.

37. At informal resolution stage firms should consider the relevant evidence to decide whether something has gone wrong that needs to be put right. Like the formal investigation stage this may include, as relevant:

- a)** reviewing the body worn video footage;
- b)** reviewing any other recorded communications including, call recordings, case notes, letters and text messages;
- c)** comparing the action taken against the ECB's standards, this Guidance, the firm's own policies and relevant legislation and deciding whether something has gone wrong that needs to be remedied.

38. Regardless of the method taken to complete the informal resolution stage it would be helpful for a firm to provide a written summary setting out its conclusion to the complainant and / or their representative, this will include, as appropriate:

- a)** the complaint;
- b)** the action that has been agreed to resolve the complaint and a timeline for when that will be completed;
- c)** the explanation provided for the events that led to the complaint;
- d)** the next stage in the complaints process.

The formal investigation of the complaint

An enforcement firm must:

FS9.3 where informal resolution has not been successful, ensure that the formal investigation of the complaint is undertaken by a member of staff who is suitably independent.

39. This means that a member of staff who was not involved in the events that led to the complaint undertakes the investigation of it, where feasible that should be someone who is senior to and suitably independent from the person being complained about.

An enforcement firm must:

FS9.4 conduct a fair and proportionate investigation into a complaint, reviewing all the relevant evidence to find out what happened.

40. Decisions about the information that is required will differ from case to case. Evidence that is likely to be relevant includes:

- a)** body worn video footage of interactions with the complainant, (where that is relevant to the subject of the complaint);
- b)** any other recorded communications with the complainant including, call recordings, case notes, letters and text messages (where that is relevant to the subject of the complaint);
- c)** the views of the person who is the subject of the complaint where it is not clear why they took the action they did and / or the investigation has highlighted concerns about their conduct.

An enforcement firm must:

FS9.5 consider honestly and fairly whether something has gone wrong and inform the complainant of the outcome.

41. Firms should review the ECB's standards, this Guidance, the firm's own policies and any relevant legislation to identify what should have happened in the circumstances relevant to the complaint.

42. They should assess honestly and fairly all complaints against the ECB's standards, this Guidance, the firm's own policies and any relevant legislation to ascertain whether something has gone wrong.

43. Where something has gone wrong, the enforcement firm should acknowledge that and take action to put matters right.

44. Even if the enforcement firm has not made an error, it should also consider whether the application of the ECB's standards, policies and relevant legislation has resulted in an unfair outcome for the individual and whether action could be taken to put that right. Things to consider here would be:

- a)** whether the person subject to enforcement acted properly but, despite that, they have suffered an unfair outcome. This might happen, for example, in a case where an enforcement agent has visited, a fee has been applied, but the debt had been cleared prior to the visit without the enforcement firm being notified;
- b)** whether, unbeknown to the enforcement firm, the person subject to enforcement was unable to engage in the enforcement process because it was unaware of the adjustments the individual needed to enable them to do so. As a result, fees had been incurred.

45. Decisions about what action to take to remedy matters should be based on the impact the mistakes have had on the person affected.

46. Remedies could include:

- a)** Apologising;
- b)** Providing an explanation for the action that was undertaken or the way the process works;
- c)** Providing a financial remedy for financial loss;
- d)** Providing a financial remedy for non-financial loss (such as removing a fee or a consolatory payment);
- e)** Putting a plan in place for future communication;
- f)** Reconsidering a decision;
- g)** Taking action to move matters forward if there has been a delay;
- h)** Amending records where they contain an error;
- i)** Changing policies, procedures or practices;
- j)** Providing additional training.

47. The remedies to the complaint should be set out in the decision letter.

Remedies, such as apologies, payments for financial loss and consolatory payments should be issued within 10 working days of a decision being issued.

48. Where remedies cannot be provided within 10 working days the decision letter should let the complainant know the timeframe for implementation and, where appropriate, when they will be next updated on matters.

The decision

49. Unless there is a reasonable adjustment in place specifying another form of communication, the enforcement firm should notify the complainant in writing of the outcome of their complaint.

50. The enforcement firm should provide a clear, honest and evidence-based explanation for its decision. The decision should reflect the views of the complainant and, where appropriate the views of the person who is the subject of the complaint. It should include:

- a)** The complaint;
- b)** Clarification about any matters that did not fall within the remit of the complaint investigation e.g the actions of the creditor;
- c)** The action that has been taken to investigate the complaint;
- d)** What happened (with reference to the relevant evidence);
- e)** What should have happened (with reference to the ECB's standards, this Guidance, the firm's own policies and / or the relevant legislation);
- f)** If the enforcement firm has acted appropriately, an explanation of why the enforcement firm is satisfied that this is the case;
- g)** If there is a difference between what happened and what should have happened, an open and honest acknowledgement of that, with the firm taking responsibility where something has gone wrong;
- h)** Where something has gone wrong, an acknowledgement of the impact of that on the person affected;
- i)** Where something has gone wrong and there has been an impact on the person affected, an explanation of the action the enforcement firm is going to take to remedy that;
- j)** Where appropriate, the action the enforcement firm is going to take to learn from the complaint and improve their service going forward.

An enforcement firm must:

FS9.6 notify the complainant that they can escalate a complaint to the ECB.

51. Responses to complaints should clearly set out:

- a)** how to access the next stage in the complaints process;
- b)** where relevant, any time limits on the escalation of complaints to the next stage;
- c)** once enforcement firms have completed their formal consideration of a complaint, details of how the complainant can contact the ECB.
- d)** where the ECB is not the only second tier complaint handler, details of alternative organisations which the complainant can contact.

Culture of continuous improvement:

FS10 An enforcement firm has a culture of continuous improvement.

An enforcement firm must:

FS10.1 maintain a record of complaints and complaint outcomes which can, on request, be analysed and audited.

FS10.2 ensure that a suitably experienced person within the enforcement firm is responsible for reviewing complaints and ensuring that improvements are made as a result.

52. Enforcement firms must have appropriate governance arrangements in place so that a suitable senior leader is responsible for ensuring that the learning from complaints is embedded and reported on. As a minimum, this should include having a senior leader who is responsible for:

- a)** reporting on complaint numbers, outcomes and themes;
- b)** reporting on the improvements that have been made as a result of complaints;
- c)** reporting on compliance with the improvements that have been identified.

An enforcement firm must:

FS10.3 provide support to the enforcement agent or anyone who works for the firm who is the subject of a complaint.

53. Support should be provided so that the person who is the subject of the complaint feels able to provide an honest account of their actions in a non-defensive way. This should include:

- a)** letting them know that a complaint has been made against them;
- b)** letting them know how the complaint will be considered;
- c)** letting them know how they can feed into that process if they want to;
- d)** emphasising that the role of the complaints process is not to apportion blame but to provide a resolution to the complaint and identify any wider learning for the firm.

54. Where it is not clear why the staff member or contractor took the action they did, and / or where the complaint handler has concerns about the conduct of the staff member or contractor, they must be offered the opportunity to:

- a)** clarify the action they took;
- b)** explain why they considered that to be appropriate;
- c)** where appropriate, reflect on whether they might do anything differently now and the reasons for that.

Part B

The ECB's approach to complaints

ECB's Complaints Handling Process

(See Part B – Annex A)

1. The full details of our proposals for how we will manage complaints to us can be found at Part B – Annex A. Set out here is a summary of the proposals and an explanation of the main issues of substance.

2. We will provide a high-quality complaints handling service, where complaints are determined fairly and proportionately and the learning from complaints is shared and embedded.

3. We will consider complaints where the matter that is the subject of the complaint to the enforcement firm happened after 1 January 2025.

4. Our complaints handling process provides the when and how of our approach to complaints.

5. *When will we consider complaints:*

a) We will not accept a complaint for investigation until the accredited firm has had a reasonable opportunity to resolve it.

b) We want complaints to be put to us as close to the events being complained about as possible. This provides a much better opportunity for resolution and learning. We are asking for complaints to be put to us within three months of the person becoming aware that they had a complaint or within one month of the accredited firm's response, whichever is later. We believe this timeframe provides the right balance between progressing complaints in a timely way and giving individual's sufficient time to raise their concerns. We will consider sympathetically any reasonable explanation a complainant provides for not putting their complaint within the time limit.

6. *How we will investigate complaints:*

a) Engagement with the parties to the complaint will be key to the success of our complaints process. We will discuss matters with all parties and try, whenever and wherever possible, to bring complaints to an agreed resolution.

b) We will not investigate all complaints that come to us. Some might be about bodies that are not within our remit. Others might be about matters which are more appropriate for consideration by another body, such as the courts or the Information Commissioner.

c) We have developed a complaints handling process that enables us to make decisions about whether we could and should investigate a complaint at the outset. We believe it is better to tell people as soon as possible whether we will be investigating their concerns.

7. There are three key steps to our Complaints Process:

a) Step 1: Initial consideration, where we will decide if the complaint is one we can investigate (to be completed within 5 working days of receiving the complaint).

b) Step 2: Further consideration, where we will decide if the complaint is one we should investigate (to be completed within 15 working days of receiving the complaint).

c) Step 3: Investigation, we aim to complete the investigation of a complaint within 90 calendar days of accepting it for investigation.

8. In terms of timeframes, we have sought to set timeframes that support swift resolution of complaints but that are also realistic and achievable. We appreciate that the 90 calendar day timeframe for our investigation of complaints may feel long. We have modelled this timeframe on the 90 day timeframe set in legislation for Alternative Dispute Resolution (ADR) schemes. ADR schemes aim to complete the investigation of complaints within 90 calendar days of receiving the complete file.

9. We believe that 90 calendar days from the start of the investigation is a sufficient period of time for us to investigate complaints based on the various stages to the investigation process, including gathering evidence, seeking advice where appropriate, and sharing draft decisions.

10. Once the policy is operational, we will report on our performance in resolving complaints within 90 days and also at shorter increments (likely 60 days) so that there is transparency on our performance. We will also keep this target timeframe under review once the scheme is operational and we have a better sense of whether it is realistic to set a shorter timeframe.

11. We may, at times, require expert advice to help us with our consideration and investigation of complaints because a case is particularly technical or legally complex. We will recruit a pool of technical experts that we can call on for advice, which will include representatives from across the enforcement industry.

12. Complaints to us may also become complicated where they involve the actions of two enforcement firms. The High Court Enforcement Officer could be part of one enforcement firm (firm X) while the enforcement action is taken by another enforcement firm (firm Y).

13. We will consider and investigate complaints about the actions of accredited firms and our decisions about which accredited firm is the subject of the complaint will be based on the firm whose actions are being complained about.

14. We will not notify firm X about decisions we make relating to firm Y or vice versa, unless we are looking at the actions of both firms under one complaint. We believe that it is a matter for the contractual relationship between firm X and firm Y on whether the firms notify each other about the decisions we make on complaints about them.

Questions correlating to the ECB's complaints handling process

Part B – Annex A:

- A)** Do you have any feedback on the ECB's complaints handling process?
- B)** We are asking for complaints to be put to us within three months of the person becoming aware that they had a complaint or within one month of the accredited firm's response, whichever is the later. Do you see any challenges in terms of the timeframe we are proposing for the submission of complaints? We would be particularly interested to receive information and / or examples to support your point of view.
- C)** Do you have any feedback on the proposed timeframe of 90 calendar days from the date a complaint is accepted for investigation for us to complete the investigation of complaints?
- D)** Do you see any challenges in operating the complaints process in the way we have proposed, where the enforcement firm is enforcing a debt under a High Court writ, but the High Court Enforcement Officer is not part of the accredited firm?

The ECB's Guide to Remedy

(See Part B – Annex B)

1. Where something has gone wrong in the enforcement process that has had a negative impact on the individual, steps should be taken to try to put that right.
2. We will be looking to put things right for the individual as well as ensuring that the learning from the complaint is embedded and shared.
3. Our decisions will be guided by the underlying principle of trying to put the individual back in the position they would have been had the mistake or poor service not occurred.
4. When deciding on any remedy we will take into account all the circumstances of the case and the individual's circumstances will be at the heart of any decision.
5. In all cases we will factor the remedy that has already been provided by the accredited firm into our decisions. We will only recommend an additional remedy where we are not satisfied that the remedy provided is adequate.
6. Sometimes the impact of a mistake or poor service can be emotional (e.g worry and distress) or practical (e.g hardship or inconvenience). In those cases, as well as apologies we might expect a consolatory payment to be provided that recognises the emotional or practical impact the mistake and / or poor service has caused.
7. Consolatory payments tend to be at the lower end of the spectrum, below £500. However, a higher payment might be appropriate where the emotional and / or practical impact has been severe and is more prolonged. We will explain the basis of our award through our decisions.
8. This version of our Guide to Remedy provides our high level and principle-based approach to remedying the emotional and practical impact of mistakes and / or poor service. This is our starting position, without existing evidence or examples to rely upon.
9. As we begin assessing complaints, we intend to use the evidence and experience we gain to support the development of a practical framework setting out how we will approach consolatory payments for the emotional and practical impact of mistakes and / or poor service. Waiting to develop this means we will be able to factor in real-life examples and evidence from our own complaint handling into the development of the framework. We will also continue to work with stakeholders on its development. To provide sufficient time for that work to take place we plan to consult on the framework during the second half of 2025

Questions correlating to the ECB's Guide to Remedy

Part B – Annex B:

- A)** Do you have any feedback on the ECB's Guide to Remedy?
- B)** We will be developing a practical framework which will set out how we will approach consolatory payments for the emotional and practical impact of mistakes and / or poor service. The aim is to consult on that in the second half of 2025. Do you have any feedback on that approach?

The ECB's Decision Review Process

(See Part B – Annex C)

We are committed to providing a high-quality complaint handling service.

However, we recognise that on occasion the parties may be unhappy with our decisions and feel that an error has been made. We want to have the opportunity to consider and address those concerns and we will do so through our Decision Review Process.

Given the checks and balances within our complaints handling process, there is no automatic right to a decision review. We will review our decisions only where we have received new information that we did not have at the time we made our decision and / or it has been demonstrated that we did not properly consider information that we did have. It would also need to be demonstrated how our failure to properly consider information has affected our decision.

Question correlating to the ECB's Decision Review Process

Part B – Annex C:

A) Do you have any feedback on the Decision Review Process?

Part B – Annex A

The ECB's Complaints Handling Process

Introduction:

1. We aim to provide a high-quality complaints handling service, where complaints are determined fairly and proportionately.

2. Our role is to resolve complaints about the action or inaction of accredited firms and those contracted to undertake work on their behalf.

3 We are unable to consider any complaints about the actions of a creditor, and so, we cannot consider any concerns about how the debt arose in the first place.

4. This document sets out our complaints handling process. We may, exceptionally, adapt and vary our process where the specific circumstances of a complaint dictate that would be appropriate. This would be very exceptional and we would notify all parties of the reason for varying from our usual process.

Accessibility:

5. We will keep in mind the duties placed on us by the Equality Act 2010, the Welsh Language Act 1993 and any other relevant legislation and consider any requests for reasonable adjustments sympathetically and on a case-by-case basis. This could include, for example, adjustments:

a) to the way complaints are received;

b) to contact arrangements with the complainant;

c) to the consideration and investigation process;

d) to the way the decision is provided.

Who can complain:

6. A complaint can be made by any person who has been affected by enforcement action by an accredited firm. This person is referred to in this document as the “complainant”. This would include:

a) the person subject to enforcement action;

b) anyone who can reasonably claim to have been affected by the action of the accredited firm in the process of undertaking enforcement action.

7. If the complainant does not feel able to pursue the complaint themselves and feels that they need support to do so, they can ask an advice organisation or a friend or representative for help.

8. Support can be obtained via various sources, such as:

- a) Money Advice Trust;
- b) Citizens Advice Bureau;
- c) Stepchange;
- d) Christians Against Poverty.
- e) Local debt advice organisations

9. We will require written authorisation from the complainant (or their recognised power of attorney) for the representative to act on their behalf.

How to complain:

10. We operate a 'no wrong route' approach to receiving complaints. For example, complaints can be submitted as follows:

- a) Complaints form (completed online via website, online and submitted via email or in hard copy);
- b) Email;
- c) Telephone;
- d) ECB social media;
- e) Letter.

11. Regardless of how a complaint is received, we will ask for a complaint form to be completed for all complaints. This should be completed by the complainant or their representative where they are unable to do so.

12. We recognise that completing a complaint form can be difficult and so we will assist people to do so if they do not have a representative who can do that for them. If this is the case we will discuss the complaint with the complainant and draft a complaint form for their consideration and approval.

13. It is through the complaints form that we will ask for:

- a) information about the complaint;
- b) the impact the matter being complained about has had on the complainant
- c) the outcome that is being sought;

- d)** agreement to the sharing of information and documentation for the purposes of considering the complaint;
- e)** any specific communication requirements or preferences;
- f)** authorisation for a representative to act on behalf of the complainant where that is required.

14. It is the completion of the complaints form that ensures the relevant details of the complaint are obtained at the outset and satisfies the relevant GDPR requirements to enable the ECB to consider a complaint.

When to complain:

15. A complainant should send a complaint to the ECB within three months of becoming aware they have a complaint or within one month of the accredited firm's final response, whichever is the later.
16. If a complaint is received outside of that timeframe we will not consider it, unless we are satisfied that there are reasonable circumstances that explain the delay in the complaint being put.

Complaints we can consider:

17. We can only consider complaints where the issue that was the subject of the complaint to the accredited firm occurred on or after 1 January 2025. Where a course of action began before 1 January 2025, but has continued beyond that date, we can consider the whole course of action by way of context, as part of our review of the issue which occurred after 1 January 2025.
18. We can only consider complaints that have first been the subject of a complaint to the relevant accredited firm, and where the firm has had a reasonable opportunity to consider the complaint and respond.
19. We can consider complaints in relation to an act and / or omission on the part of an accredited firm or one of its contractors, where the complainant considers that this has had a negative impact on them, such as financial loss, aggravation, distress or inconvenience, and this may have been:
- a)** a breach of the accredited firm's obligations under the ECB standards, as explained further in the associated guidance;
 - b)** a breach of the accredited firm's obligations under the law;
 - c)** a breach of the accredited firm's obligations under any relevant internal rules, procedures or statements of the accredited firm;
 - d)** contrary to accepted good practice in the enforcement industry;
 - e)** unfair treatment; or
 - f)** poor service.

Complaints we cannot consider:

20. We may decide that it would not be appropriate for us to consider a complaint.

For example, it would not usually be appropriate for us to consider a complaint where:

- a)** it relates to the behaviour of a creditor or the legitimacy of a debt being passed to enforcement agents;
- b)** we have already considered the complaint and provided a decision about it (there is a process for seeking a review of a decision we have made on a complaint);
- c)** it relates to a matter that has already been considered by a court, or which would be more appropriately considered by a court;
- d)** it relates to a matter that has already been decided by a relevant Ombudsman scheme;
- e)** it relates to contractual or commercial matters;
- f)** it is about the handling of a subject access request or a Freedom of Information request. Complaints about those matters are for the Information Commissioner's Office **Information Commissioner's Office (ICO)**
- g)** it relates to a personnel issue at an accredited firm.

The handling of a complaint

Step 1 - Initial consideration

21. First, we will undertake an initial consideration of a complaint to decide if we can investigate it.

22. We aim to complete our initial consideration of the complaint within five working days of receiving it.

23. The initial consideration will check that:

- a)** the complaint is about the actions of an accredited firm and / or its contractors; and
- b)** the complaint has been put to the accredited firm for consideration and it has been given a reasonable chance to respond.

24. If the complaint is not ready to be considered by us or falls outside of our remit, we will let the complainant know, explain the reasons for this and provide the details of our decision review process. Where appropriate, we will also notify the accredited firm about the decision.

25. If we are content that the complaint is about an accredited firm and that it is ready to be considered by us, it will move to step 2 - further consideration. We will let the complainant know when the complaint moves on to this step and what is involved during the next stage of the process.

Step 2 - Further consideration

26. We aim to complete our further consideration of the complaint within fifteen working days of receiving it.

27. At further consideration we will discuss the complaint with the complainant either over the telephone or via correspondence to ensure that we have a shared understanding of it.

28. As part of that conversation, we will confirm with the complainant whether they require any adjustments to our service. We will keep in mind our duties under the Equality Act 2010, the Welsh Language Act 1993 and any other relevant legislation and provide reasonable adjustments where that is possible.

29. We will take a closer look at the complaint and call for any relevant evidence to decide if it is one that we should investigate.

30. We will consider:

a) Whether the ECB has already provided a decision on the same complaint: Unless the complainant provides new and significant information that was not available to the ECB at the time we made a decision on the complaint, we will not consider again a complaint about the same matters.

b) The time taken to submit the complaint: We will check that a complaint has been put to the ECB within the relevant time period (three months of the complainant becoming aware that they had a complaint or within one month of the accredited firm's final response, whichever is the later). If a complaint has been put to us outside of the relevant time period, we will ask the complainant to clarify why that is the case. Where the complainant has provided a reasonable explanation for the delay in submitting the complaint, we will consider waiving the time limit. Factors we will take into consideration will include:

i) the significance of the circumstances that led to the delay in submitting the complaint;

ii) the seriousness of the issue that is being complained about;

iii) the length of time since the events that gave rise to the complaint;

iv) whether relevant evidence is available to enable an evidence-based decision to be provided.

c) Whether the matter has already been considered via a court: We may not investigate a complaint where a court has already provided a decision on the same matters. For example, we may not consider a complaint about ownership of goods where a court has provided a decision on the ownership of the same and / or sufficiently connected goods.

- d) Whether it would be more appropriate for the matter to be considered by a court:** We may not investigate a complaint where we consider it would be more appropriate for it to be considered by a court. Factors we will take into consideration will include:
- i)** the remedy that is being sought, including:
 - a)** the level of financial redress being sought by the complainant,
 - b)** if the outcome sought exclusively focuses on the enforcement agent losing their certification.
 - ii)** the content of the complaint that has been put, including:
 - a)** if the complaint relates to a contractual matter between the creditor and the enforcement firm;
 - b)** if the complaint relates to a dispute over the ownership of goods.
- e) Whether an Ombudsman has already decided on the same complaint:** We may not investigate a complaint where an Ombudsman has already provided a decision on the same matters. Factors we will take into consideration will include:
- i)** whether the Ombudsman has investigated the same matters
 - ii)** if, when the Ombudsman decided not to investigate the same matters, the Ombudsman reached a view on the merits of the complaint.
- f) Whether the complaint relates to a commercial or contractual matter:** We will not investigate a complaint that relates to a dispute about a commercial or contractual matter. It is not our role to determine a dispute about the contractual obligations and commercial agreements that exist between the creditor and the accredited firm. It is also not our role to resolve any concerns the creditor has that the accredited firm has not fulfilled its contractual obligations or commercial agreements.
- g) Whether the complaint is about data management and information rights:** The Information Commissioner's Office (ICO) has been set up to consider complaints about data management and information rights. Unless there are specific circumstances that would make it appropriate for us to consider a complaint relating to information rights and data management, we will not consider those complaints. We will discuss that with the complainant and direct them to the ICO.
- h) Whether the complaint relates to a personnel issue at an accredited firm:** We will not investigate complaints relating to personnel matters at an accredited firm. Those would include complaints about:
- i)** the action or lack of action that has been taken in relation to the member of staff that was the subject of a complaint;
 - ii)** the accredited firm's internal human resource policies, including recruitment, training and induction.

i) Whether there is another organisation that is better placed to deal with the complaint: We may decide that there is another organisation that is better placed to deal with the complaint. Factors we will take into consideration will include:

i) the outcome sought;

ii) whether the complaint refers to the actions of more than one body and another body can look at the complaint in the round;

iii) the issues raised in the complaint better fit the remit of another body.

31. If we have decided that the complaint should not be investigated by us, we will let the complainant know, explain the reasons why and provide the details of our decision review process. We will also notify the accredited firm.

32. If we are satisfied that the complaint should be investigated by us, it will move to Step 3 - investigation.

Step 3 - Investigation

33. We aim to complete the investigation of a complaint within 90 calendar days of commencing our investigation.

Gathering evidence:

34. Before notifying the parties that the complaint has moved on to the investigation stage, we will review the evidence we have received and the complaint that has been put to decide what evidence we need to investigate it.

35. We will notify the complainant and the accredited firm that the complaint has moved onto the investigation stage.

36. We will ask the parties to provide their comments and evidence within ten working days.

37. We will conduct a fair and proportionate investigation into complaints, reviewing all the available evidence needed to find out what happened. Decisions about the information that is required will differ from case to case. Evidence that is likely to be relevant includes:

a) Reviewing body worn video footage of interactions with the complainant, (where that is relevant to the subject of the complaint);

b) Reviewing any other recorded communications with the complainant including, call recordings, case notes, letters and text messages (where that is relevant to the subject of the complaint);

c) The views of the person who is the subject of the complaint where the investigation has highlighted concerns about their conduct and their view on matters was not obtained as part of the earlier investigation by the accredited firm.

38. Where we do not have recorded evidence of the matters complained about, such as body worn video footage or any other recorded communications with the complainant, we will:

- a)** where possible, seek to obtain evidence from other sources, such as witness evidence;
- b)** consider whether we have sufficient evidence to make a decision on the complaint on the balance of probabilities without such evidence;
- c)** where we have decided to accept one person's recollection of events over another person's, explain the reasons for this through our decision.

39. In order to decide what should have happened we will review:

- a)** the ECB's standards and associated guidance;
- b)** the enforcement firm's own policies;
- c)** any relevant legislation;
- d)** generally accepted good practice. Where issues arise that are not provided for in the ECB's standards and associated guidance, the accredited firm's own policies and training materials and any relevant legislation, we will seek relevant advice from one of our Technical Experts as to what is generally accepted good practice in this area.

40. Having clarified what should have happened we will consider independently and fairly whether something has gone wrong and / or whether there has been poor service. We will compare what happened with what should have happened and reach an impartial view on whether there is a gap between the two.

41. Generally, where there is a gap between what happened and what should have happened, we would find that something had gone wrong and / or that there had been poor service.

42. However, there may be occasions where there has been a gap between what happened and what should have happened, but the gap is not significant enough to be classed as wrong or poor service. For example, if a response to correspondence is provided a day or two after the relevant deadline. We will be clear about the basis for our conclusions in our decision.

43. Where we are satisfied that the accredited firm got things wrong and / or provided poor service we will consider whether that has had a negative impact on the complainant.

44. We will also consider whether the accredited firm has taken appropriate action to remedy matters or whether there is an outstanding negative impact on the complainant.

45. Factors we will take into account in order to establish whether there is an outstanding negative impact on the complainant will include:

- a) the claimed impact;
- b) the evidence to support the claimed impact;
- c) the remedy already provided by the accredited firm (if any);
- d) whether the person has fulfilled their responsibilities to mitigate the impact of the error and / or poor service or has contributed to it.

46. As a general rule, we will only make recommendations for action to be taken to remedy matters where:

- a) we are satisfied that something has gone wrong and / or there has been poor service;
- b) that has had a negative impact on the person; and
- c) the full negative impact has not been remedied by the accredited firm.

47. We will use our guide to remedy to help decide on the appropriate remedy in each case.

48. In exceptional circumstances, we may make recommendations for remedy, even where we are satisfied that the accredited firm has not made an error. We will do so only where we consider the application of the ECB's Standards, the enforcement firm's policies and / or relevant legislation has resulted in an unfair outcome for the individual. We will take into account:

- a) whether the complainant acted properly but, despite that, they have suffered an unfair outcome;
- b) whether, unbeknown to the accredited firm, the person subject to enforcement was unable to engage in the enforcement process because it was unaware of the adjustments the individual needed to enable them to do so. As a result, fees had been incurred;
- c) any other circumstance where the strict applications of the rules has led to an unfair outcome.

Step 4 - The provisional decision

49. We will issue our provisional decision on a confidential basis to the complainant and the accredited firm and invite their comments. We will set out the evidence we have relied on to come to our provisional decision within the content of the provisional decision itself. If that is not possible, we will attach the relevant extracts of this evidence to the provisional decision.

50. We will ask the parties for any comments they wish to make on the provisional decision with evidence to be provided within ten working days.

51. We will consider sympathetically and, on a case-by-case basis requests to extend the timeframe to respond to the provisional decision. However, unless there are exceptional circumstances it is unlikely that we would agree to extending the timeframe beyond fifteen working days.

52. The provisional decision will also set out whether we intend to fully uphold, partly uphold or not uphold the complaint.

Step 5 - The Final decision

53. If we do not receive any comments from the parties within ten working days, we will assume the provisional decision has been accepted and it will become the final decision.

54. We will consider any comments received on the provisional decision and respond to the relevant parties explaining either:

a) why the comment has not resulted in a change to the decision; or

b) why the comment has resulted in a change to the decision.

55. If the consideration of a comment on the provisional decision results in a significant change to the findings of that decision, we will issue a further provisional decision to the parties for their comments. Again, ten working days will be provided to receive those comments.

56. Once all comments have been received and considered and we are content with the final decision it will be issued to the parties. It will include the details of our decision review process.

57. Where we have made recommendations for the accredited firm to carry out, the decision will clearly explain what action we have asked them to take and by when.

58. We will request evidence from the accredited firm to demonstrate that they have complied with our recommendations.

59. Findings from complaints will also be factored into our ongoing oversight and monitoring work. For example, an upheld complaint might identify a wider concern about a firm's compliance with the ECB's Standards. This would be progressed separately to the complaint and we would not keep the complainant informed about this activity, which would not directly relate to their own circumstances and the impact on them.

Resolution

60. If at any point during the consideration and investigation process, we believe that an agreement could be reached between the parties that would resolve the complaint we will take that forward.

61. Decisions to go forward with a resolution will depend on:

- a)** the outcome being sought by the complainant and their willingness to engage in the resolution process;
- b)** the willingness of the accredited firm to engage in the resolution process;
- c)** whether the accredited firm accepts that something has gone wrong.

62. We may discuss matters with the parties separately to identify where a practical resolution could be found.

63. We may either put the resolution to the parties separately in order to get their views or hold a meeting of the parties where the resolution can be discussed and we can offer our view on remedy, where that would be helpful.

64. If a resolution can be agreed, we will write to the parties:

- a)** confirming what has been agreed;
- b)** closing the complaint; and
- c)** setting out what we will do to monitor compliance with the resolution agreement.

Assistance in the consideration of complaints

65. If, at any point during the consideration and investigation process, we decide that we need independent advice, we will use either our own legal advisers and / or one of our Technical Experts.

66. We will draw our Technical Experts from across the enforcement industry. As a minimum the pool of Technical Experts will include experts in:

- a)** High Court Enforcement;
- b)** Certified Enforcement Work;
- c)** The legal framework for enforcement;
- d)** Handling complaints about enforcement activity.

67. The decision to request independent expert advice will be made by the ECB alone.

68. We will ensure that the Technical Expert has no connection to the complaint that has been put, does not work for and has not worked for the accredited firm being complained about within the last five years. The identity of the Technical Expert giving the advice will remain confidential.

69. We will identify the relevant Technical Expert to use based on their expertise in:

a) the type of enforcement activity being complained about;

b) the specifics of the advice that is required.

70. It is the role of the Technical Expert to provide the advice that has been requested by the ECB. However, the ultimate decision on the complaint rests with the ECB alone.

Stopping our consideration or investigation of a complaint:

71. In very exceptional circumstances we may decide to stop our consideration or investigation of a complaint. That may happen, where:

a) the complainant has asked to withdraw the complaint;

b) the complainant stops engaging with the ECB resulting in the ECB being unable to undertake a fair and proportionate consideration or investigation and / or reach an evidence-based decision;

c) the complainant has behaved in a threatening or intimidating way to the ECB complaints team. This will be managed in line with our Unreasonable Behaviour policy.

72. We will not re-open an investigation of a complaint once we have decided to stop the investigation.

73. If we have stopped our consideration of a complaint at step 1 or step 2 for the reasons set out in paragraph 71(a) or (b) above, the complainant can ask us to reconsider that decision.

74. The complainant should make any request under paragraph 73 within the relevant time period (three months of the complainant becoming aware that they had a complaint or within one month of the accredited firm's final response, whichever is the later). If the request is made outside of the relevant time period, we will ask the complainant to clarify why that is the case. Where the complainant has provided a reasonable explanation for the delay in making the request, we will consider waiving the time limit. The factors which we will take into consideration in this regard are those set out at paragraph 30(b).

75. Before deciding to stop our work on a complaint we will let the complainant know that is what we are intending to do and the consequence that will have on pursuing the complaint to the ECB in the future.

Part B – Annex B

The ECB's Guide to Remedy

Introduction:

1. Where something has gone wrong in the enforcement process that has had a negative impact on the individual, steps should be taken to try to put that right.

2. Decisions about the appropriate remedy in each case can be difficult to navigate. However, decisions should be guided by the underlying principle of trying to put the individual back in the position they should have been had the error or poor service not occurred.

3. Any person who has been affected by enforcement action by an accredited enforcement firm and who is dissatisfied with the firm's response to their complaint can submit a complaint to us under our Complaints Process. This guide sets out our approach to remedying the actions of an accredited firm.

4. The complexity of decisions on remedy will vary considerably, and we have produced this guide to set out the factors we will take into consideration when determining an appropriate remedy. In all cases we will take into account any remedy that has already been provided by the accredited firm. We will only recommend an additional remedy where (1) the firm did not provide a remedy and we consider that it should have done; or (2) the firm has provided a remedy, but we are not satisfied that the remedy provided is adequate.

5. In line with our remit, we are not able to make recommendations to remedy the actions of third parties, such as the creditor.

6. This guide is not exhaustive and sets out at a high level the ECB's approach to remedy.

Types of remedy:

7. There are four main types of remedy:

a) Apology

b) Systems and processes remedy – where the remedy focuses on the wider learning to the enforcement firm from the complaint

c) Personal remedy – non-financial

d) Personal remedy – financial

8. The remedy provided will depend on the circumstances of each individual complaint. A complaint could involve remedies from more than one remedy category and more than one remedy in that category if that is appropriate.

Apology:

9. Where there has been an error and / or been poor service that has had a negative impact on the individual an apology should be offered.
10. We will consider whether an appropriate apology has been offered earlier in the process. For an apology to be effective, it should:
 - a) be issued at the earliest opportunity;
 - b) be drafted in plain language that is accessible to the reader;
 - c) accept responsibility for the error or poor service and the impact of it;
 - d) avoid language such as 'I apologise if you feel';
 - e) avoid passing the buck;
 - f) where appropriate, reflect any relevant mitigation which clarifies why the accredited firm considers it is not fully responsible for the impact of the error and / or poor service that has occurred. However, the individual's circumstances should be taken into account;
 - g) avoid undermining someone's experience by comparing it in a positive way to the experience of others in a similar situation;
 - h) explain why the error or poor service occurred and, where appropriate, any measures that will be taken to improve matters for the individual going forward;
 - i) where appropriate, explain any improvements that will be made more widely as a result of the complaint.
11. Where an appropriate apology has not been offered earlier in the process, we may recommend one be given as part of a package of remedies. In some cases, an apology alone will provide an appropriate remedy.
12. Where we recommend that an apology is provided, we would expect that to be provided by someone with relevant seniority.

Systems and processes remedy:

13. It is important in any complaint handling process that there is a focus on continuous improvement. Complaints provide a useful insight and an opportunity to learn and improve. The improvements can be for the individual and / or for the benefit of others.
14. Where something has gone wrong or there has been poor service, measures should be put in place to stop it from happening again. That means we will ask the accredited firm, wherever possible, to prevent the same error or poor service reoccurring for the individual.

15. We will review the complaint to identify whether any learning and improvements could be taken forward to prevent the error or poor service happening to others. This could include, but is not limited to asking the accredited firm to:

a) change policies, practices and procedures

b) notify relevant staff about any misunderstandings related to existing policy, practices and procedures

c) update relevant publicly available information

d) provide additional training for staff

e) check for other cases that might have been affected by the same issue and put those right even before there is a complaint.

16. We will also review the complaint to identify if there is any wider learning that there would be merit in sharing across the sector. Where that is the case, we will feed that back to the sector in a way that is meaningful whilst maintaining confidentiality.

Personal remedy – non-financial:

Provision of an appropriate explanation:

17. The enforcement process can be complicated and difficult to understand. It is important that people subject to enforcement are aware of the action that the accredited firm is taking and why. It is also important that they understand what is required of them.

18. Where our consideration of a complaint identifies problems with the quality of the explanations that have been provided to the individual, we may ask the accredited firm to provide an appropriate explanation.

19. Where that happens, we will consider whether there has been any financial or other impact on the individual because an appropriate explanation had not been provided earlier in the process. If the lack of an appropriate explanation has had an impact on the individual, we will decide whether another remedy should also be applied. (For example, an apology and / or a consolatory payment.) We will take into account the circumstances of the individual when reaching our view.

Review a decision:

20. Our consideration of a complaint may highlight issues with the decision-making process that has been followed. In those cases, we may recommend that the decision be reconsidered in line with the proper process. For example, decisions on vulnerability, reasonable adjustments, and requests for communication in a certain way.

21. If the reconsideration of the decision results in a different decision being made, we will ask the accredited firm to assess whether there has been any financial or other impact on the individual as a result of the correct decision not being made earlier in the process. If there has been a negative impact, we will ask the accredited firm to provide the relevant remedy.

22. For example, if we found there had been failings in the decision-making process around a request for a reasonable adjustment, and the individual required adjustments to the process that were not put in place, the remedy would take account of:

- a)** whether there had been any negative financial impact on the individual because their need for a reasonable adjustment had not been accepted earlier in the process
- b)** whether there has been any other impact, such as additional worry and distress or inconvenience, to the extent that it warranted a consolatory payment.

23. Even if the reconsideration of the decision does not result in a different outcome, we will consider whether there has been an impact on the individual because the process has not been handled appropriately, and this requires a remedy. (For example, unnecessary frustration and upset.) We will take into account the circumstances of the individual when reaching our view.

Take any other appropriate action:

24. The action required to remedy a complaint will vary and depend on the individual circumstances of each case.

25. Non-financial remedies we might also recommend, but are not limited to are:

- a)** progressing matters where there has been a delay
- b)** amending records where they contain an error
- c)** returning goods that should not have been removed.

26. Where we recommend that action be taken to resolve a complaint, we will also consider whether there has been any negative impact on the individual because that action had not been taken earlier in the process. If there has been a negative impact, we will make further recommendations to remedy that. We will take into account the circumstances of the individual when reaching our view.

Personal remedy – financial

Financial – adverse financial impact (including damage to property):

27. Where there has been an error or poor service in the enforcement process, this can cause an adverse financial impact. The types of impact that might be seen are:

- a)** Loss of earnings
- b)** Expenses due to the incorrect removal of a vehicle or other goods
- c)** Damage to property
- d)** Additional fees being added to the debt incorrectly or unnecessarily
- e)** Unnecessary borrowing of money to settle a debt.

28. This is not an exhaustive list. If we consider there may have been an adverse financial impact caused by an error or poor service, we will request relevant and reasonable evidence to substantiate it.
29. We will also consider any explanation the individual provides explaining why they are unable to provide all the evidence that has been requested. If a reasonable explanation for not having all the relevant evidence has been provided, we will explore whether there are any alternative means of substantiating the financial impact.
30. As part of the consideration of a claim of adverse financial impact we may also consider whether the individual should have taken reasonable steps to mitigate the impact on them of the error or poor service but has failed to do so. When doing so, we will take into account the circumstances of the individual.
31. We will factor in the extent of the relevant mitigation and whether and to what extent it should reduce the value of the claimed financial impact.
32. We will set out the full reasons for our assessment of the final impact (including any decision to reduce the financial claim because of relevant mitigation) in our decision.
33. It is possible that where an item has been damaged that has sentimental value, the primary impact on the individual may be emotional, rather than the financial impact of replacing the item. In those cases, we will tailor our approach to remedy accordingly.

Financial – non-monetary impact:

34. Where something has gone wrong or there has been poor service, it can have an emotional or practical impact on an individual. For example, it can cause unnecessary worry and distress or hardship and inconvenience.
35. In some cases, an apology would constitute a suitable remedy for non-financial loss. In our daily lives, we are all inconvenienced and this can cause some frustration or upset. Cases where an apology would constitute a suitable remedy are typically ones where the error or poor service is minor in nature and relatively short-lived. In those cases, the emotional and practical impact is minimal and does not affect the person's ability to go about their daily lives.
36. Where the emotional and practical impact goes beyond what an individual might reasonably expect to manage in their day to day lives, we will consider whether a consolatory payment might also be appropriate.
37. Consolatory payments are not the same as compensation payments that might be awarded by the courts. Consolatory payments tend to be at the lower end of the spectrum, and are typically in the range of £100 to £500. We would recommend a consolatory payment for the aggravation, distress and inconvenience the accredited firm has caused.
38. Higher consolatory payments would be appropriate in cases where the impact has been severe and is more prolonged. For example, in cases where the error or poor service has had an impact on an individual's mental health.
39. In deciding on the level of consolatory payment, we will take into account all the circumstances of the case, including the claimed impact.

40. Each case will be considered on its own merits, with the individual's circumstances at the heart of any decision.
41. We will consider any financial remedy that has already been provided by the accredited firm when deciding whether a further consolatory payment is appropriate. For example, if the accredited firm has already removed the enforcement fee in full or in part to remedy the emotional and practical impact of something that has gone wrong.
42. We will set out the full reasons for the level of consolatory payment recommended in our decision.

Financial - pragmatic decision-making:

43. There may be occasions where an error or poor service has not occurred but there has been a negative impact on the individual because of the way the process works.
44. These types of situations can occur during the enforcement process because of the interplay between the accredited firm, the creditor and the person subject to enforcement. For example, in cases where the accredited firm has not been updated in time by the creditor about payments made or vulnerability issues before an enforcement agent visits and a fee is charged.
45. It can also happen where the strict application of the ECB's standards, policies and relevant legislation has resulted in an unfair outcome for the individual. For example, if the accredited firm was unaware that the person subject to enforcement needed adjustments in order to engage in the enforcement process, and so proceeded without making such adjustments, leading to fees being incurred.
46. In these types of cases, we would expect the accredited firm to review whether the individual has received the right outcome, and to either provide a remedy or work with the other parties to ensure an appropriate remedy is provided.
47. Where we consider that an individual has suffered a negative impact because of the way that the process works rather than because of a failing on the part of the accredited firm, we may ask the accredited firm to reconsider matters with a view to providing an appropriate remedy.

Part B – Annex C

The ECB's Decision Review Process

Introduction:

1. We aim to provide a high-quality complaints handling service, where complaints are determined fairly and proportionately.

2. We recognise that the parties may be unhappy with the decisions we have reached and may feel that an error has been made or that the significance of relevant evidence has been missed.

3. In order to consider those concerns we operate a decision review process.

What the decision review process covers:

4. The decision review process will consider concerns about the merits of the decision we have made on a complaint considered under our Complaints Process.

5. The following decisions can be reviewed under this process:

a) A decision not to investigate a complaint

b) A decision to exclude part of the complaint from the scope of the investigation

c) A decision to stop an investigation

d) The investigation decision

Who can request a decision review:

6. A decision review request can only be made by one of the parties to the original complaint. The party submitting the review request will be referred to as the requester.

Who will consider the decision review request:

7. A decision review request will be considered by someone who is in a more senior role to the person who made the decision subject to review and who has not considered the detail of the complaint previously.

How to request a decision review:

8. Decision review requests should be submitted within one month of the decision being challenged and can be submitted by:

a) completing the relevant form and emailing it to us;

b) telephoning us;

c) writing to us.

9. If the complainant does not feel able to submit the review request themselves and feels they need support to do so, they can ask an advice organisation or a family friend or representative for help.

10. Support can be obtained via various sources, such as:

a) Money Advice Trust

b) Citizens Advice Bureau

c) Stepchange

d) Christians Against Poverty

e) Local debt advice organisations

11. If the complainant has not sought the assistance of the representative earlier in the complaint process, we will require written authorisation from the complainant (or their recognised power of attorney) for the representative to act on their behalf.

How will we handle the decision review request:

12. The decision review process is not an appeal process and there is no automatic right to a decision review.

13. The decision review process will only be instigated where:

a) the request has been received within one month of the decision being issued;

b) the requester has provided new information that was not available to us at the time we made the relevant decision and / or has demonstrated that we have not properly considered the information we did have; and

c) the requester has clarified how the new information or our failure to properly consider information has affected our decision.

14. We will acknowledge the decision review request within two working days of receiving it.

15. If we are not satisfied that we can accept the decision review request, we will write to the requester within ten working days of the request to explain why it does not fit our criteria for a decision review.

16. If we accept that a decision review is required, it will be passed to someone who is in a more senior role to the person who made the decision on the complaint and who has not considered the detail of the complaint previously.

17. Where possible, we will discuss the decision review request with the requester to ensure that we have properly understood their concerns.
18. We will consider the review request and determine whether it impacts on the decision that was made.
19. In considering the decision review request, we may seek the advice of one of our Technical Experts.
20. The Technical Expert will not have advised on the case earlier in the casework process, will have no connection to the complaint that has been put and will not work for or have worked for the accredited firm being complained about for at least five years prior to the decision review request.
21. We aim to respond to the decision review request within one month of it being received.

Outcomes of the decision review process:

22. Our consideration of the decision review request will focus on the reasonableness of our decision-making process as well as the merits or demerits of our earlier decision. It is not a reassessment or reinvestigation of the original complaint to us.
23. Where the requester has provided new information that was not available to the ECB at the time of the original decision, we will consider that information and whether it calls into question our original decision.
24. The outcome of the decision review process will be to either:
 - a) confirm our earlier decision
 - b) reconsider or investigate the original complaint further
 - c) suggest additional actions for the accredited firm to take to resolve the complaint.
25. Where we have suggested that the accredited firm takes additional action, we will discuss and agree that with the accredited firm.
26. We will write to the requester and, if required, the other party to the complaint to let them know the outcome of the decision review process. If we have relied on evidence to come to our review decision that was not disclosed earlier in the process, we will set that out in our review decision.

Completion of the decision review process:

27. Once the reviewer has issued their decision on the decision review request that is the end of matters. There are no further ECB appeal or review processes that can be followed.
28. It is unlikely that we will respond to further correspondence about the same decision unless any new and significant issues are raised that require further consideration.

Part C

Non-compliance and sanctions rules

(See Part C – Annex A)

Background

- 1. Over the summer, as part of our Standards consultation, the ECB consulted on a draft operational oversight model which set out how the ECB intends to monitor compliance with its standards and how it will deal with instances in which it identifies non-compliance.**
2. This document made clear that “in line with good regulatory practice and proportionality, the ECB would always seek to reserve the use of enforcement tools to the most serious or persistent cases of non-compliance.”
3. The ECB also consulted on a draft accreditation framework, which set out four formal sanctions that the ECB would be able to impose on accredited enforcement firms in cases where this is deemed necessary. These are:
 - a) Publishing a formal note of concern
 - b) Issuing Direction
 - c) Suspension of accreditation
 - d) Removal of accreditation
4. We have factored in responses received to the consultation paper and will be making some technical amendments to the oversight model and accreditation framework. The responses to the consultation did not reveal a need to make any significant or substantive changes to the overall approach.
5. What did come through very clearly from the consultation was a desire for more detail on the process leading up to use of sanctions and the safeguards that will be in place around how the ECB will exercise its sanctioning powers, with many enforcement firms in particular noting how significant the consequences of any published sanction would be on a firm.

Non-compliance and sanctions rules

6. This consultation introduces the first draft of our proposed Non-compliance and Sanctions Rules, which set out the rules and procedures that would govern the ECB’s use of sanctions.
7. The full rules can be found at Part C – Annex A. Below we have summarised some of the key points.

8. Except in very exceptional circumstances, the use of any sanctions by the ECB will be the final step in an extensive process. To reach this point a firm would have demonstrated persistent non-compliance or serious breaches of ECB standards and refusal to engage with the ECB oversight tools which we intend to work with industry to shape over the coming months. These are likely to be steps like improvement plans, targeted oversight visits (beyond the routine oversight visits all firms will experience) and other oversight actions or notices short of a published sanction. The ECB will only pursue sanctions where it is considered necessary to do so to protect people experiencing enforcement.

Overriding objective

9. Where sanctions are deemed necessary to use, the rules are intended to provide a framework for fair and proportionate deployment of sanctions by the ECB, so that the ECB can realistically pursue sanctions where necessary but equally, it only does so within a pre-determined framework with appropriate safeguards to ensure that it does so fairly.

10. The rules start with an overriding objective that reflects this, to frame the whole process.

Procedural fairness

11. Beyond the overriding objective, in order to achieve procedural fairness in our approach, we have sought to develop rules that cover the following areas:

Separation of investigative and decision-making functions

- a) the ECB's executive team will be able to determine when to start investigation of a compliance issue but the decisions on whether to make a finding of non-compliance and impose a sanction will be for a separate Standards Panel, which would be constituted of ECB Board members. This separation is important as it allows the Standards Panel to challenge the case put forward to it, and any assumptions contained within it, on the basis of the evidence provided to it.
- b) A decision to impose a sanction is one of the most significant decisions that the ECB could take. The Standards Panel would be made up of ECB Board members as they are the people who are best placed to make such a decision, having been appointed to independently oversee the sector and ensure that standards are maintained.

Managing potential conflicts

- c) Opportunities for those who may be subject to a sanction to put forward their case and their own evidence (right to be heard) in advance of any sanction being issued and published – this was one of the main concerns expressed in responses to the ECB's consultation on the accreditation framework and operational oversight model and it is a fundamental principle that is contained throughout the rules and process. It is important that all relevant views and evidence are factored in when determining whether a compliance issue is proven and whether a sanction needs to be deployed. The rules provide for this to happen at various stages of the process, including at the investigation stage, referral to Standards Panel and appeal stage.

Appropriate and proportionate independent input

d) As set out above, involvement of Board members on the standards panel provides crucial separation of functions and a degree of independence to the decision making. We have also provided for an appeal process which would be handled by an Independent Assessor, who would be independent of the executive team and the Board at the ECB.

12. We have taken account of approaches taken by other oversight bodies in developing our rules.

Limit of legal indemnity

13. The proposed Non-Compliance and Sanctions Rules are intended to ensure that the ECB exercises its sanctioning powers fairly and proportionately and, as set out above, they include an appeal process. However, the rules will not override any firm's wider rights to pursue their own legal remedies if they believe that they have a valid cause of action against the ECB.

14. The ECB proposes to have in place professional indemnity insurance to ensure that it is able to defend valid causes of action. The alternative to this would be for the ECB to build up reserves to form a compensation fund. However, this would not be practical or desirable, as it would take some time to build up sufficient reserves, which could then be depleted in the event of a significant claim.

15. However, having explored the insurance market, we are aware that there is a limit to the level of professional indemnity coverage that practically the ECB will be able to obtain. From Autumn 2025, for the third year of accreditation, we will therefore introduce into the accreditation criteria a clause that will limit our legal exposure to accredited firms to £5m. Setting this any higher would create significant risks to the ongoing viability and operations of the ECB, and this limit will therefore be in place to protect the ongoing operations of the ECB. This would therefore be in the public interest and also in the interests of accredited firms.

Question correlating to the Non-Compliance and Sanction Rules

Part C – Annex A:

A) Do you have any feedback on the draft Non-Compliance and Sanction rules and procedure?

Part C – Annex A

The ECB's Draft Non-Compliance and Sanctions Rules

Arrangement of Rules

Overriding Objective
Supervised action plan
Investigation and early disposal
Consensual Orders
Standards Panel
Constitution and decision making
Proof of certain matters
Decision of *Standards Panel*
Sanctions
Appeals
Grounds
Lodging and responding to an appeal
Impact on sanction
Consideration by *Independent Assessor*
Decision of *Independent Assessor*
General powers of management of the *Standards Panel*
Service of documents
Publication
Glossary

Overriding objective

1. These rules are in place to assist the ECB in achieving the objective of dealing with compliance issues justly and proportionately. This includes: (1) dealing with compliance issues proportionately within the context of securing fair treatment for those experiencing enforcement action; and (2) ensuring compliance issues are dealt with fairly and expeditiously. This overriding objective should be considered at all times when interpreting these rules and throughout the non-compliance and sanctions process.

Supervised action plan

2. When the ECB becomes aware of a compliance issue, where appropriate, it will seek to resolve this with the enforcement firm by the use of a supervised action plan.
3. Where the compliance issue cannot be resolved by a supervised action plan with the enforcement firm, or the enforcement firm does not comply with that plan, the ECB will decide whether to further investigate the compliance issue.

Investigation and early disposal

4. If the ECB decides to investigate the compliance issue, it will:

- a)** send to the respondent an investigation letter setting out the compliance issue;
- b)** send to the respondent a copy of relevant evidence in the possession of the ECB in relation to the compliance issue; and
- c)** invite the respondent to submit written representations within 21 days, or any specified longer period which the ECB may agree with the respondent.

5. After the expiry of the time limit for the respondent to submit a response under Rule 4(c), the ECB will consider any written representations by the respondent and any further evidence received and either:

- a)** close the case where the ECB considers that one or more of the criterion for closure set out within Rule 6 applies;
- b)** in appropriate cases, invite the respondent to approve and sign a consensual order prepared by the ECB which sets out a brief summary of the facts surrounding the compliance issue and the proposed sanction(s); or
- c)** refer the compliance issue to a *Standards Panel* where, in the view of the ECB, it would not be appropriate to close the case under Rule 6 and it has not been possible or it would not be appropriate to dispose of the case by a consensual order.

6. Following the conclusion of the ECB's investigation, the ECB will close the compliance issue if:

- a)** it considers that there is no realistic prospect of proving the compliance issue to the civil standard (i.e. on the balance of probabilities);
- b)** it considers that it is not in the public interest for the compliance issue to proceed further under the rules; or
- c)** it considers that it would be contrary to the overriding objective at Rule 1 for the compliance issue to proceed further under the rules.

7. Where the ECB decides to close the case, it will inform the respondent of this decision as soon as practicable.

Consensual orders

8. Where the respondent returns a signed consensual order, the matter will be concluded as per the agreed terms in the consensual order without the need for further process under these rules.

9. Where a consensual order is finalised as per the agreed terms therein, the right to appeal under these rules is removed.

Standards Panel

10. Where the ECB decides to refer the compliance issue to a *Standards Panel*, the ECB will:

- a) notify the respondent of this as soon as reasonably practicable;
- b) send the respondent a copy of the ECB's submissions on non-compliance and sanction;
- c) invite the respondent to submit any written representations responding to the ECB's submissions on non-compliance and sanction within 21 days, or any specified longer period which the ECB may agree with the respondent.

11. The *Standards Panel* will consist of at least three ECB Board Members.

12. As soon as practicable after the expiry of the time limit for the respondent to submit a response under Rule 10(c), the *Standards Panel* will consider any compliance issue referred to it by the ECB under Rule 5(c).

13. The *Standards Panel* will meet in private to consider the relevant material, including any written submissions made by the respondent and the ECB's submissions on non-compliance and sanction, without the attendance of the respondent or members of the public.

Constitution and decision making

14. As soon as a member of the *Standards Panel* becomes aware of the possibility of any conflict of interest, they should declare this to the ECB and the respondent.

15. Unless the ECB and the respondent agree that it is not necessary, where a member of the *Standards Panel* declares the possibility of a conflict of interest, they should be recused from the meeting.

16. The standard of proof is the civil standard (i.e. on a balance of probabilities) and where facts relating to a compliance issue are in dispute, the burden of proving those facts will rest on the ECB.

17. The *Standards Panel* will only find a compliance issue proven where it is satisfied that it has been found proven to the civil standard (i.e. on a balance of probabilities). Otherwise, no finding will be made.

18. A simple majority decision of the *Standards Panel* is required to make a finding that a compliance issue is found proven. Otherwise, no finding will be made.

19. If it considers it to be necessary, the *Standards Panel* may seek further evidence from the ECB or the respondent before deciding whether the compliance issue is found proven.

Proof of certain matters

20. Where a criminal finding has been made in respect of the respondent, a copy of the formal findings provided by an officer of the Court will be conclusive evidence of that criminal finding and of the findings of fact upon which it is based.

21. Where the respondent has been the subject of a judgment of any civil court in any jurisdiction, a copy of the judgment provided by an officer of the Court will be conclusive evidence of that judgment and of the findings of fact upon which it is based.
22. Where the compliance issue relates to a finding or decision of a regulatory body, a certificate as to that finding or decision signed by an officer of that regulatory body, or publication of it on the website of the regulatory body or in any other official publication will be conclusive evidence of the order.

Decision of the *Standards Panel*

23. As soon as practicable after the conclusion of the meeting, the ECB will notify the respondent in writing of the decision of the *Standards Panel* and the reasons for its decision.
24. The respondent will:
- a) have a right of appeal against a finding that a compliance issue is proven and/or a sanction being imposed by the *Standards Panel* but only on one or more of the grounds set out in Rule 26; and
 - b) be notified of that right of appeal and its consequences when they are notified of the decision under Rule 23.

Sanctions

25. The *Standards Panel* may direct that any one or more of the following sanctions be imposed upon the respondent and the date from which any sanction(s) will take effect:
- a) A published note of concern;
 - b) Directions with which the respondent must comply for a specified period;
 - c) an order that the respondent's accreditation with the ECB be suspended for a specified period of up to 5 years;
 - d) an order that the respondent's accreditation with the ECB be removed (the respondent may apply for re-accreditation after a reasonable period of time has elapsed, as specified by the *Standards Panel*).

Appeals

Grounds

26. Where the *Standards Panel* has determined that a compliance issue has been found proven and/or a sanction has been imposed on a respondent, the respondent may appeal to the *Independent Assessor* on one or more of the following grounds:
- a) the decision was based on an error of law and/or fact;

- b) the decision was unjust because of a serious procedural error and/or procedural irregularity;
- c) the decision was irrational; and/or
- d) new material evidence has come to light which was not reasonably available at the time of the original decision.

Lodging and responding to an appeal

- 27. The respondent must serve a written notice of appeal on the ECB within 21 days of the decision to be appealed. Appeals served after 21 days will not be valid and will be dismissed unless the *Independent Assessor* is satisfied that there are exceptional circumstances which justify extending this time period.
- 28. The notice of appeal must state the grounds of the appeal and be signed by or on behalf of the respondent. A notice of appeal which is not in writing; does not contain the grounds of appeal; and/or is not signed by or on behalf of the respondent will not be valid and will be dismissed.
- 29. The ECB must file and serve any notice of response responding to the notice of appeal no later than 21 days after receiving the notice of appeal.

Impact on sanction

- 30. The fact that an appeal has been made has no effect on the enforcement of the sanction of the Standards Panel save that a decision to publish may be deferred until after the *Independent Assessor's* decision, at the *Independent Assessor's* discretion.
- 30. If either party wishes there to be a stay in the enforcement of the sanction then that party must apply to the *Independent Assessor* in writing for such a stay setting out the circumstances which justify a stay being granted.
- 32. The *Independent Assessor* may order a stay in the enforcement of the sanction where exceptional circumstances exist which mean that it would be unjust to enforce the sanction pending determination of the appeal. Such a decision of the *Independent Assessor* cannot be appealed and will take immediate effect.

Consideration by *Independent Assessor*

- 33. The *Independent Assessor* will consider the appeal in private on the papers which the parties have submitted.
- 34. The *Independent Assessor* will not consider evidence that was not originally before the *Standards Panel* unless new evidence of a material nature has become available which could not reasonably have been available previously. The *Independent Assessor* will have discretion as to whether or not to consider any such new evidence.

Decision of *Independent Assessor*

35. The *Independent Assessor* may:

- a) dismiss the appeal;
- b) allow the appeal and quash the original decision appealed against;
- c) vary the sanction imposed by the *Standards Panel* to one or more sanctions of greater or lesser severity;
- d) remit the compliance issue back to the *Standards Panel* for reconsideration at a meeting where there are exceptional circumstances which require the case to be reconsidered, such as where new evidence of a material nature has come to light which was not reasonably available at the time of the original decision.

36. The ECB will give to the respondent notice of the *Independent Assessor's* decision and the reasons for their decision as soon as practicable.

37. All decisions of the *Independent Assessor* are final, will take immediate effect and are binding on all parties.

38. There is no further right of appeal under these rules from a decision of the *Independent Assessor*.

General powers of management of the *Standards Panel*

39. The *Standards Panel* may: -

- a) extend or shorten the time for compliance with any rule;
- b) adjourn or bring forward a meeting;
- c) require a party or a party's representative to provide further evidence or respond to the *Standards Panel's* questions;
- d) direct that part of any proceedings be dealt with as separate proceedings;
- e) stay the whole or part of any proceedings;
- f) order that two or more compliance issues against the same respondent be considered at the same meeting where they are of a similar kind or are founded on the same facts;
- g) order that compliance issues against two or more respondents be considered at the same meeting where it would be just to do so, and the compliance issues arise out of the same circumstances;
- h) exclude an issue from consideration;
- i) dismiss or determine a compliance issue after a decision on a preliminary issue; and/or
- j) take any other step or make any other order for the purpose of managing or dealing with the case and furthering the objective in Rule 1.

Service of documents

40. Notices or other documents will be sent electronically, unless it is agreed between the respondent and the ECB that they should be sent by post.
41. Notices and other documents sent by prepaid post will be deemed to be received by the addressee on the third working day after the date of posting to an address within the UK and on the fifth working day after the date of posting to an address outside the UK.
42. In the absence of any undeliverable report, notices and documents sent electronically will be deemed to have been received immediately after the point of sending.
43. In proving service of a notice or other documents, it will be sufficient to show that the notice was properly addressed and sent to the last address (including any email address) notified by the respondent to the ECB and recorded on the ECB's database of accredited enforcement firms.

Publication

44. Where a sanction is imposed on a respondent by a *Standards Panel* or agreed between the parties under a consensual order, this will be published, as it is in the public interest to do so.
45. In exceptional circumstances, the *Standards Panel* may decide that publication is inappropriate or that the name of the respondent should be anonymised.

Glossary

“Compliance issue” means an issue with apparent non-compliance with the ECB’s Professional Values and Standards of Practice which the ECB becomes aware of, or which is identified by the ECB from monitoring or supervision visits.

“Conflict of interest” means an interest which might influence, or be perceived to influence, the judgement of a Standards Panel member in carrying out their panel member duties.

“Consensual order” means an agreement prepared by the ECB for acceptance by the respondent for the disposal of a compliance issue on agreed terms.

“ECB” means the Enforcement Conduct Board.

“Enforcement Agent” means an individual who is responsible for seeking to recover money owed in order to satisfy a writ, warrant or liability order, including by taking control of goods.

“Enforcement Firm” means a business or organisation that employs or engages enforcement agents.

“Enforcement process” means the process of seeking to recover money owed in order to satisfy a writ, warrant or liability order, including by taking control of goods.

“Independent Assessor” means an independent person who has been appointed by the ECB to determine any appeal against a sanction imposed by the Standards Panel in accordance with these rules.

“Note of concern” means a note, published on the ECB’s website, which sets out the concerns of the Standards Panel in relation to an enforcement firm arising from a compliance issue.

“Respondent” means an enforcement firm in relation to whom a compliance issue is being considered.

“Rules” means these Non-Compliance and Sanctions Rules.

“Standards Panel” means a panel drawn from the ECB Board Members to consider a compliance issue in accordance with these rules.

Part D

Definitions

Term	Definition
Accredited firm	A firm that has signed up to the ECB's accreditation criteria
Body Worn Video	A video camera worn by an enforcement agent during the enforcement process.
Complainant	A person who is considering making a complaint or raising a concern, or whom has made a complaint or raised a concern, in relation to the actions of an enforcement agent or enforcement firm. This includes a representative of the person who is the subject of the complaint.
Enforcement agent	An individual who is responsible for seeking to recover money owed in order to satisfy a writ, warrant or liability order, including by taking control of goods.
ECB	Enforcement Conduct Board.
Enforcement firm	A business or organisation that employs or engages enforcement agents.
Enforcement process	The process of seeking to recover money owed in order to satisfy a writ, warrant or liability order, including by taking control of goods.

Part E

Responding to this consultation

The consultation will close on **7 November**.

Please send your response to **contact@enforcementconductboard.org**

Please indicate if you would like your response to remain confidential and/or unattributable. Otherwise, we will assume that you are content for your response to be published.

We would also be happy to schedule time to meet with people, during or after the consultation period, to discuss your views on our work. Please contact us via **contact@enforcementconductboard.org** if you would like to do so.

We look forward to receiving your responses.

We will publish a report on the consultation paper, alongside our approach to complaints and sanctions, prior to launching them in advance of the ECB becoming fully operational from January 2025.