

ECB response to our complaints handling and sanctions consultation

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Executive Summary

1. The ECB is grateful to all those who have been engaged in the development of our approach to complaints handling and sanctions consultation.
2. We received 24 formal responses to our consultation, in addition to wider targeted engagement as the guidance was being developed. This included:
 - Meetings with complaints leads across the enforcement industry.
 - Meetings of our complaints working group with representatives from industry and debt advice organisations.
 - Depth interviews with those who have lived experience of enforcement.
 - Engagement with the ECB stakeholder engagement forum, comprised of leaders across the enforcement and debt advice sectors.
 - Meetings with CIVEA and HCEOA members to discuss the approach to complaints in more detail.
 - Meetings with several Local Authorities.
 - Meetings with relevant Ombudsman schemes including representatives of the Local Government and Social Care Ombudsman, the Public Services Ombudsman for Wales, the Parliamentary and Health Services Ombudsman, the Energy Ombudsman, the Communications Ombudsman and the Financial Ombudsman Service.
3. Overall, the feedback received was positive, with respondents engaging constructively with our proposals for complaints and providing thoughtful feedback on improvements or amendments to the guidance and policies proposed. We thank everyone who contributed for their input.
4. Based on the responses received, we have retained the substance of the guidance and policies we consulted on. In acknowledgment of the constructive suggestions provided by stakeholders we have made targeted amendments to the proposals to incorporate suggestions made to us and to further expand on areas which respondents felt needed greater clarity.
5. The final guidance on complaints will be published on our website by **13 December 2024**.

Background

6. The ECB is the independent oversight body for the enforcement industry. We were set up with agreement between the enforcement industry and leading debt advice charities including Money Advice Trust, Christians Against Poverty and Step Change. Our mission is to ensure that everyone who experiences enforcement action is treated fairly.
7. In October 2024, we published a consultation on our approach to complaints handling and sanctions. The consultation set out our proposals for guidance that will accompany the standards for complaints (available to read [here](#)), the ECB's complaint handling process, the ECB's guide to remedy, the ECB's decision review process and the ECB's non-compliance and sanctions rules.
8. You can read more about why we are developing new complaints processes on our website [here](#). You can also read more about why we are drafting new standards for the enforcement sector on our website and what this means [here](#).
9. We were interested in hearing from all stakeholders with an interest in fair enforcement, including industry, consumer groups and the debt advice sector. We were also particularly interested in hearing from those who have lived experience of enforcement complaints processes.
10. The consultation sought responses on specific questions in relation to our complaints guidance, the ECB's complaints handling process, the ECB's guide to remedy, the ECB's decision review process and the ECB's non-compliance and sanctions rules. Responses came from enforcement firms, debt advice organisations, industry membership bodies and relevant ombudsman services. This report takes account of both the formal responses to the consultation and the feedback that the ECB has received through its wider workshops and engagement.

11. The consultation closed on **Thursday 7 November 2024** and received 24 responses from the following parties:

Respondent type	Respondents
Debt Advice	Taking Control Coalition: AdviceUK Citizens Advice Christians against Poverty Community Money Advice Debt Justice Institute of Money Advisers Money Advice Trust PayPlan StepChange Debt Charity
Enforcement Firms	Direct Collection Bailiffs Ltd Court Enforcement Services Wilson and Roe High Court Enforcement Group Ltd Newlyn Dukes JUST CDER Group Marston
Industry Bodies	The Civil Enforcement Association (CIVEA) The Civil Enforcement Association CARE panel High Court Enforcement Officers Association (HCEOA) Institute of Revenues, Rating and Valuation (IRRV)
Ombudsman	Local Government and Social Care Ombudsman (LGSCO) Public Services Ombudsman for Wales (PSOW)

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

Consultation responses

Part A - Guidance to the Standards on complaints

Q1: Do you have any feedback on the content of the Guidance that accompanies the Standards on Complaints?

13. The responses we received on the guidance that accompanies the standards on complaints were broadly supportive of the approach we have proposed. Most respondents agreed with the core principles in the guidance and the feedback we received was mostly constructive suggestions for small improvements and areas where more clarity would help firms to better understand the process.
14. There were some comments about consolatory payments, and we have addressed those in the response to the ECB's Guide to Remedy below.
15. There were a number of more substantive points that were raised by respondents:
- a. Clarity on timeframes – a number of respondents asked for further clarification over when the 5 and 20 working day timeframes commenced for assessing a complaint and whether these timeframes ran concurrently or in tandem.
 - b. Notice of Enforcement – Some respondents felt that it was not appropriate to provide information about the complaints process in the Notice of Enforcement. Some felt that the Notice could not be amended and others felt it was too early in the process to provide complaint information.
 - c. Providing a written summary after resolution of a complaint at the informal stage – There were mixed views from respondents about whether a written summary should be provided following resolution of a complaint at this stage. Some respondents felt it was an unnecessary bureaucratic burden whereas others thought it was critical to provide clarity on the resolution that has been agreed.
 - d. Signposting to other avenues for complaints resolution – Some respondents felt that the ECB should require firms to signpost more clearly to alternative routes to resolving a complaint, such as referring it to the Local Government and Social Care Ombudsman and the Public Services Ombudsman for Wales.
 - e. Updating the complainant at 10 working days – There were some responses that stated they thought the requirement to update a complainant at 10 working days if their complaint had not been resolved was an unnecessary ask and would potentially add to the time required to resolve the complaint.
 - f. Guidance on how to welcome complaints – Some firms requested further guidance on how they could demonstrate they were welcoming complaints in practice.

ECB response

16. We are grateful for the considered responses in relation to our complaints guidance. In relation to the numerous suggestions for small improvements or clarifications to the guidance we have considered these and amended the guidance accordingly. In relation to the more significant feedback outlined above, the action we have taken is set out below:
- a. Clarity on timeframes – We have updated the guidance to clarify that the 5/20 working days for the informal and formal stages begins from the point at which a firm acknowledges a complaint (which they have 2 working days to do). We have also re-drafted the guidance to clarify that the formal and informal stages are discrete from one another and so do not run in tandem. However, as set out in the guidance it should not be the case that every complaint is funneled through an informal and then formal stage. A judgement should be made at the point of acknowledgment as to whether this is a complaint that can be resolved informally or whether it should be logged as a formal complaint from the outset. We are not proposing that the clock stops while the firm is waiting for information from the complainant, but we will take that time into account when reviewing the firm's handling of a complaint.
 - b. Notice of Enforcement – As set out in our response to our earlier consultation on standards we intend to carry out a piece of work looking at the efficacy of the NoE, reviewing what should be communicated at this stage. We want to develop this with people experiencing enforcement and test this with firms and debt advice organisations. Any changes to the prescribed format of the NoE would need to be agreed by the Ministry of Justice, and we will work closely with them on that. In advance of that work, we remain of the view that all correspondence from the firm, including an early and initial communication with the person subject to enforcement must include information about how to complain in line with the requirement in the standards for firms.
 - c. Providing a written summary after resolution of a complaint at the informal stage – At the end of the resolution stage, we believe that it is important that both parties are absolutely clear about what has been agreed. We also recognise that in some cases sending a written summary might not be appropriate, for example, where the complainant wishes to have no further contact from the firm. However, on balance we believe the default position should be on providing a short written summary unless there is a good reason not to. And so, we have amended the guidance to make that clear.
 - d. Signposting to other avenues for complaints resolution – Our guidance already states that firms may want to notify complainants of other routes to resolve their complaint where appropriate, in addition to the complainant's right to refer their complaint to the ECB. We have further expanded this to give examples of some of the routes they may refer to, specifically the LGSCO, PSOW and (where appropriate) the creditor's own process.
 - e. Updating the complainant at 10 working days – As stated in the consultation document, we think that it's right that firms have 20 days to resolve any formal complaints. However, we do not expect the majority of complaints to require this length of time to resolve. For that reason, we think it's appropriate for firms to update the complainant as soon as they become aware that the 20 working day timeframe cannot be achieved. This may be earlier than at 10 working days but it could also be nearer to 20 working days. We agree that we should not be prescriptive about when the update is provided and we have amended the guidance to reflect that. The wider point is that we think it's important that complainants are kept updated on how their complaint is progressing.

f. [Guidance on how to welcome complaints](#) – In our view firms welcome complaints by following the guidance in paragraphs 12 to 23 of the Guidance. Firms can promote the use of the complaints by ensuring information on how to complain is present in their correspondence with people experiencing enforcement (FS7.2) and that the complaints section of their website is easy to access (paragraph 14 of the Guidance). In addition to this, firms should ensure that everyone working in a front facing role including self-employed agents understands the complaints process and can advise someone on how to complain.

**Q2: 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?**

17. The feedback we received in relation to this question indicates that the majority of respondents are supportive of our definition of a complaint and think that this is in line with how they currently operate. Some respondents expressed concern that the way we have defined a complaint could leave room for people who wish to complain about the fact they have been subject to enforcement action at all, regardless of whether that action was carried out in line with the ECB’s standards.

18. In addition to this, debt advice respondents expressed concern that there may be cases where a complainant has a complaint but also makes a service request within the same piece of correspondence. They wanted reassurance that the definition of a complaint was sufficient to ensure that any complaints expressed in this way would be picked up and treated as a complaint at the same time as the firm progressing the service request portion of the correspondence.

ECB response

19. We are pleased that our definition of a complaint has been well received and that it is broadly in line with how much of the sector currently operates. In relation to concerns about the idea that the definition allows for complaints about the act of being subject to enforcement, we are clear that any distress caused because of the fact that someone is subject to enforcement is not a complaint about the enforcement firm but the creditor. We fully appreciate that this can be distressing and that people might well be dissatisfied that they are subject to enforcement. However, that is not a complaint about the action of the enforcement firm. It is a complaint about the actions of the creditor and the relevant court that made the writ or order.

20. In response to the concerns expressed by debt advice respondents, we have amended our guidance to give firms clarity on how to respond to complaints which contain within them a service request.

Q3: 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?

21. Respondents were supportive of our approach that we will work with the accredited firm in relation to resolution of complaints and most respondents stated that they believed the onus should be on the High Court Enforcement Officer to have adequate mechanisms in place to be kept informed by the accredited firm they have sub-contracted their work to about any complaints.

ECB response

22. We welcome the feedback we received in relation to this question. Given the ECB accredits firms as opposed to individuals, it is our intention that in relation to any complaints we will deal with the accredited firm in question and the complainant directly. In cases where the accredited firm has acted as a sub-contractor to an HCEO that is not employed by them, our expectation is that the HCEO will agree, as part of the terms of taking on the work, how the accredited firm will keep them informed about any complaints in relation to their work, including if they are escalated to the ECB for resolution.

Part B – The ECB’s Complaint Handling Process, Guide to Remedy and Decision Review Process

Q4: Do you have any feedback on the ECB’s complaints handling process?

23. Respondents were generally supportive of the ECB’s complaints handling process. Many provided useful suggestions in terms of minor amendments, requests for clarification or additions. There were some comments about the remedy section of the process, and we have addressed those in the response to the ECB’s Guide to Remedy below.

24. The following more substantive points were made:

- a. Defining ‘reasonable time’ in relation to complaints - Some enforcement firms sought reassurance that we would not look at a complaint until it had exhausted their complaints process, while others felt that it would be useful if the process clarified what we meant by giving firms a reasonable opportunity to consider a complaint.
- b. Creditors – Some respondents wanted clarification about whether we would accept complaints from creditors.
- c. Visibility of positive feedback - Some respondents felt the sharing of positive feedback should take a more central role in the process.
- d. Accuracy of information on debt advice – Debt advice respondents wanted to ensure that the list of advice organisations was accurate and representative of the services those organisations could offer.
- e. Responsibility of firms in relation to self-employed agents - One respondent asked for clarification about our approach where the action being complained about had been taken by a self-employed agent.

- f. Use of the EAC2 process and abusive behaviour – Some respondents requested clarification over whether we would refer complaints to the EAC2 process and requested clarity over whether the complaints process would consider complaints where serious concerns were raised about the abusive behaviour of individual enforcement agents.
- g. Availability of body-worn video footage - Some respondents emphasised the importance of body worn video footage being retained by firms to ensure that it is available for consideration by us and other complaint handlers. One respondent suggested that where relevant evidence was not available, it might be more effective to try to mediate an outcome rather than seek other evidence from elsewhere.
- h. Clarity over complaints we will not investigate - There was a general consensus that the areas we had identified as ones we may not be able to investigate were the right ones. Some respondents suggested further exclusions around complaints from creditors, complaints around disputes about the law, complaints where there is an on-going court case or a Part 85 claim. Debt advice felt that we should be flexible in our approach and were concerned about ruling out complaints about ownership of goods as the court process is complicated and expensive with the potential for costs to be awarded.
- i. Interaction with other routes for resolution of complaints - Some respondents questioned our role in the complaints process where there was already a statutory complaints process in place, such as the LGSCO or PSOW. Comments received included that the statutory scheme would take precedence, that we should not investigate a complaint that had been investigated by a local authority and that we should make complainants aware of their right to complain via the statutory route.
- j. Providing a provisional decision - Some respondents questioned whether the provisional decision should be issued to both parties and felt it might undermine our independence.
- k. Further information on the pool of technical experts - There was also an interest in receiving more information about the pool of technical experts in terms of their appointment and ensuring appropriate representation.

ECB response

25. We are pleased that the proposed complaints process received support, with helpful suggestions for amendments. We have reviewed the process and made amendments where they have added useful clarification and explanation, but not substantively changed our approach. We have also reviewed the process and made amendments to ensure that it properly reflects our approach to taking into account the circumstances of each individual and their vulnerabilities in our decision-making process. In relation to the more substantive issues raised, we have outlined our response to these below:

- a. Defining 'reasonable time' in relation to complaints - Generally, we will not investigate a complaint until it has exhausted the complaints process at the firm. We believe early resolution of complaints is most effective for all parties and we want that to succeed. However, we also believe that complainants should have the option to come to us where the firm has significantly delayed the consideration of a complaint and/or is not engaging in the complaints process. It is for that reason that we have the option to investigate a complaint where the firm has had a reasonable opportunity to consider it. That would usually occur after the 20 working days for the formal complaint response had passed. Decisions about accepting a complaint for investigation where the firm has not responded to it would involve discussions with the complainant and with the firm. We would be seeking information about the firm's approach to the complaint to date and its plan for swiftly reaching a decision on it.

- b. Creditors – Under paragraph 6(b) of our complaints process we can accept complaints from creditors. However, those complaints are much more likely to be about commercial or contractual matters or have a remedy by way of legal proceedings. We do not believe that we are the appropriate body to consider those types of complaints and our complaints process reflects that.
- c. Visibility of positive feedback - We agree that the sharing of positive feedback is an important part of any complaints process. We have amended the process so that is specifically included.
- d. Accuracy of information on debt advice – We have amended the list of Debt Advice organisations so that it reflects the updated information we have received.
- e. Responsibility of firms in relation to self-employed agents - In relation to points raised about complaints resulting from the action of self-employed agents. We are clear that we accredit firms, not individuals. For this reason, in our complaint standards and guidance, firms are expected to take responsibility for the actions of their contractors. We believe that is appropriate as it provides a clear and straightforward means for an individual to seek redress for the poor service provided by enforcement firms and the individuals it contracts to. Any recommendations for remedy made by us will be addressed to the firm.
- f. Use of the EAC2 process and abusive behaviour – We will investigate complaints where serious concerns are raised about the abusive behaviour of individuals. However, we will not generally signpost complainants to the EAC2 process as we do not consider this to be appropriate in most cases. On the rare occasions we uncover serious issues that warrant a referral to the EAC2 process, we will discuss matters with the parties and take a referral forward ourselves if the firm does not do so. In addition to this, we are clear that the focus of the complaints process is on continuous improvement, so we will also want to make recommendations to prevent a reoccurrence of the behaviour that gave rise to the complaint.
- g. Availability of body-worn video footage - It is important that we have the relevant evidence to investigate a complaint. For this reason we have included the requirement to retain BWV footage in the monitoring standards for firms. Under that standard, firms are required to retain BWV for as long as is appropriate for someone to submit a complaint and where a complaint has been made, for a period of 12 months from the date of the complaint. In relation to mediating a resolution, we can seek the resolution of a complaint at any stage of our complaints process. However, we think there is merit in highlighting that where evidence is missing, we have the option of trying to mediate an outcome rather than seek evidence elsewhere, which may not be forthcoming.
- h. Clarity over complaints we will not investigate - Like other complaint handlers, we have identified complaints that we might decide not to investigate. We are pleased to see that these have been broadly met with support. We believe that we should consider each case on its own merits and do not intend to make a blanket rule about removing complaints from our remit without first taking into account the individual circumstances of a case. We believe there is merit in adding to the issues we will factor into our considerations before deciding to accept a complaint for investigation. For example, whether the complaint is being investigated by another organisation, whether the complaint relates to a dispute about the law and whether the complainant has already launched legal proceedings on the same matter.

- i. [Interaction with other routes for resolution of complaints](#) - We have developed our standards and complaints process keeping in mind the statutory complaints processes. We believe we should be open and transparent about the complaints process available and we will advise complainants, where appropriate, about the statutory process and their right to invoke it. We are not closing the doors to the established routes for complaints handling, but we are opening a new door for those who want a speedy and targeted resolution of complaints about the acts of enforcement agents and enforcement firms. We believe it is important that, as the body that sets those standards, we are the ultimate arbiter of them and that we assess complaints against them in an impartial way. Local authorities in this situation are the creditor, and so are not independent entities in the context of a complaint. As such, we do not believe it would be appropriate to rule out a complaint coming to us solely on the basis that it had been considered by a local authority. We will, however, endeavour not to consider a complaint in tandem with a Local Authority, as we will with any other body. There will be some complaints we will not investigate because they have followed the statutory process or because it is more appropriate for them to follow the statutory process. We will obtain information about those complaint numbers and outcomes through our accreditation and oversight regime. We will also work with the LGSCO and PSOW on developing an MOU setting out how we will work together going forward.
- j. [Providing a provisional decision](#) - We see the provisional decision stage as an opportunity for all parties to share any evidence-based concerns about the content of the decision, enabling us to fully consider those concerns before finalising the decision. Not having a provisional decision stage only postpones the submission of those concerns until after the decision has been finalised and it is more difficult to amend. To ensure our independence we believe the provisional decision should be issued to both parties.
- k. [Further information on the pool of technical experts](#) - In response to the consultation we have decided to broaden the representation of the pool of technical experts so that it includes experts from debt advice and we are in the process of recruiting to the pool.

Q5: 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.

- 26. Respondents were supportive of the timeframe to put complaints to the ECB. Some wanted clarification on how the process might work in different scenarios and sought reassurance that the time limit would not be open ended. Debt advice respondents felt that we could strengthen the reasonable explanation for the delay in submitting a complaint and factor vulnerabilities into our decision-making. Others suggested we should reflect the factors a court would consider when accepting a claim out of time.
- 27. Some respondents also felt there would be merit in enforcement firms having a time limit to accept complaints.

ECB response

28. We are pleased that the proposed timeframe received support, together with helpful suggestions around the decision-making process for accepting a complaint out of time. We agree that it is sensible to amend the process so that it includes a reference to vulnerability and includes the factors the court would take into account when considering whether to accept an out of time claim.
29. We have the option of taking measures to stop our consideration and investigation of a complaint where the complainant stops engaging with us. If the complainant returns to us after we have closed the complaint, the usual time limits would apply. The original submission of the complaint in time is not open-ended.
30. We do not consider that it would be appropriate to set a time limit within which individuals must put their complaints to enforcement firms. As enforcement firms are first-tier complaint handlers we believe that individuals should retain the right to complain to enforcement firms and receive a response. To do otherwise would impact negatively on more vulnerable individuals, who often take longer to engage the complaints process. However, we recognise that the longer a person takes to complain, the more likely it is that the complaint investigation will not reach an evidence-based finding.

Q6: 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?

31. We received a divergence of views in response to this question. Some respondents were surprised by the timeframe, given the 20 working-day timeframe given to enforcement firms to respond. Others were concerned about the timeframe because they believed enforcement action would be placed on hold while the complaint was with us. Respondents also thought that we could complete our investigations quicker than the 90 calendar days proposed.
32. Against that, other respondents felt that the timeframe was appropriate and challenging, given the time delays that can occur in obtaining relevant evidence. Some respondents felt that the timeframe was appropriate as a starting point and were pleased that it would be reviewed.

ECB response

33. We welcome the differing views that we have received. We are not proposing that enforcement firms place all enforcement action on hold whilst there is a complaint with us. There may be some exceptional cases where we might ask firms to put enforcement on hold but those would be very exceptional indeed.
34. We will report on our performance in resolving complaints both within 90 calendar days and at shorter increments, keeping the timeframe under review. We will amend the target after we are operational and have a better sense of whether it is realistic to set a shorter timeframe.

Q7: 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?

35. Responses to this question provided helpful differing perspectives. Some respondents were of the view that the onus should be on the High Court Enforcement Officer to put in place suitable contractual arrangements with any sub-contractors so as to ensure they are kept abreast of any complaints or potential sanctions breaches that have occurred in relation to writs in their name.
36. However, other respondents were of the view that the ECB should inform any HCEO about a complaint or potential sanctions breach that related to a writ in their name. There were also interesting points raised about the interaction between the ECB, the courts and the HCEOA in relation to complaints that may enter into legal proceedings and how the ECB should respond in these circumstances.

ECB response

37. We welcome the divergence of views on this matter and recognise that HCEOs will want to be kept informed about complaints and findings in relation to writs that are enforced in their names. The question for us is what is the most appropriate way to ensure that the HCEO is updated.
38. We remain of the view that the HCEO should ensure that the level of information they want to receive is provided by the enforcement firm as part of their contractual arrangements. To do otherwise, would involve the ECB sharing information about the complainant with the HCEO, which would not be for the purposes of the investigation and may well be in contravention of GDPR. However, where we deem it necessary to get evidence from an individual HCEO in relation to a complaint or an investigation about a breach of our standards, we may contact them directly.
39. As we set out in our complaints process, where a complaint comes to us that is better suited to consideration by the courts, then it is within our gift to decide not to investigate on that basis. In making that decision we will take into account the circumstances of the case, the complaint made and outcome sought before reaching a view.
40. We can consider complaints about HCEOs who are part of accredited firms but where those concerns relate to their certification that would be a matter for the HCEOA.

Q8: Do you have any feedback on the ECB's Guide to Remedy?

41. Responses to the ECB's guide to remedy were broadly supportive, with respondents welcoming the guide. Some respondents expressed the view that a £100-500 range for consolatory payments was higher than those typically awarded for complaints in the sector. Respondents also recommended being clear about managing expectations around consolatory payments and that they should only be made in respect of a clear breach of the standards.
42. Some respondents were concerned about the proposals for consolatory payments in relation to financial loss and impact on an individual's health. They felt that in practice this would be challenging to evidence and might be open to exploitation. Some respondents also expressed a view that a consolatory payment shouldn't be awarded where a debt was still outstanding.

43. Some respondents sought clarity about the means for challenging a consolatory payment and whether they were mandatory.
44. Debt advice respondents also wanted to see further detail on other actions that would be taken as a result of an upheld complaint, particularly where issues with an individual enforcement agent had been identified.

ECB response

45. We welcome the support we have received for the guide to remedy, recognising that there is still work to do in developing the framework for consolatory payments. The Guide sets out how we will approach remedy but can be used by the sector as a tool to assist with their decision making. We have referred in the guide to consolatory payments often being in the range of £100 to £500. This is in line with other sectors, including parts of the public sector, and most payments are at the lower end of the £100-£500 range.
46. Our engagement with the sector shows that consolatory payments typically fall within this range. The remittance of the enforcement fee in full (£235) or in part is often offered as a remedy to a complaint and we would take into account the value of the remittance that had been offered when calculating the level of any consolatory award.
47. Through our engagement with the sector, we have learnt about the pragmatic decision making that takes place to provide a remedy for someone because they have suffered a negative impact as a result of the way the process works rather than because something had gone wrong. We want to encourage that approach so have included that within the guide. We recognise that some feel this is a departure from the approach taken by the LGSCO but we believe that it is important that a remedy can be provided where someone suffers an unintended negative impact because of the way the system works or because of the strict application of the rules.
48. We recognise that decisions about consolatory payments can be difficult and may involve seeking evidence, such as financial or medical information. We will be led by the principle that we would be awarding a consolatory payment for the impact of the poor service or breach in standards on an individual. It would not be awarded for the emotional impact that many will suffer because they are subject to enforcement action.
49. Overall, consolatory payments will be awarded to provide a remedy for the non-financial impact of poor service or a breach in standards on an individual. It is appropriate that a remedy is provided for that, and it is separate to any monies that may be outstanding on the debt that was being enforced.
50. The guide to remedy focuses on personal remedy as well as systemic remedy. We want to be able to share the learning from complaints, both positive and negative, to bring about wider service improvements across the sector as well as the individual firm concerned. It would not be appropriate within our decisions to set out any disciplinary measures we expect a firm to take in relation to an individual member of staff. To do so could be a breach of GDPR and would not be appropriate. Individual disciplinary action is not a remedy to a complaint. However, where we have serious concerns about the actions of an individual, we will take those forward separately with the relevant firm as part of our oversight role and have the option of utilising the EAC2 process where we consider that to be appropriate.

51. We will set out the basis for our recommendation for a consolatory award in our provisional decision and both parties will have the opportunity to comment on that and provide any relevant additional information. Once the decision has been finalised, the award must be paid by the firm, in line with our Standards (FS6.5).

Q9: 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?

52. Respondents were supportive of the ECB's proposal to develop a framework for consolatory payments in the future and welcomed the opportunity to give views on this in advance of publication. Some respondents were keen to ensure that the makeup of the working group involved in developing the framework was suitably representative of industry.

ECB response

53. We welcome the positive feedback we have received on our proposal to develop the framework on consolatory payments next year. We agree that the working group should be representative and it includes representatives from across the sector (including smaller and larger firms, High Court and Civil enforcement) as well as debt advice organisations.

Q10: Do you have any feedback on the Decision Review Process?

54. Respondents were mostly supportive of our proposed decision review process. Respondents noted that it mirrors the approach taken by the courts and suggested a few improvements including the suggestion that we have a process to manage vexatious complaints and that we ensure our list of advice organisations is accurate.

55. Some respondents expressed a view that firms should be offered the right to review their decisions in the same way as the ECB and some debt advice respondents expressed concern that the right to a decision review was not automatic and would only be granted in specific circumstances. They also suggested that the decision review should be undertaken by someone independent from the ECB.

ECB response

56. Again, it is positive that the proposals for the Decision Review Process have been well received. Similar to our other documentation, we have amended the list of Debt Advice organisations so that it reflects the updated information we have received.

57. We recognise that managing challenging behaviour can be complex and time consuming. Along with our complaints policies we are developing other policies that will support our complaints work and the work of the ECB more widely. This will include the development of our unreasonable behaviour policy. It is through our unreasonable behaviour policy that we will set out the way we intend to manage unreasonable behaviour, which includes unreasonable demands on our time and unreasonable levels of contact. It will apply to all of our work, not just the management of complaints.

58. We believe that it is right for us as the independent complaint handler to operate a Decision Review Process, but to limit the circumstances in which it can be activated. That is because, in most cases we will already have been able to consider and address concerns about the decision at the provisional decision stage.
59. The Decision Review Process is in place for those cases where one of the parties to the complaint provides new evidence or can show that we have not properly considered the evidence we did have. The relevant party also has to show the impact that would have had on the decision.

Part C – Sanctions

Q11: Do you have any feedback on the draft Non-Compliance and Sanction rules and procedure?

60. Responses to this question welcomed the detail provided on the ECB's approach to sanctions, following the consultation on the oversight framework in July. However, respondents were concerned about the severity of the impact any sanction applied to a firm might have, particularly if the sanctions are to be published and the perceived lack of escalation in the sanctions, citing that publication of any sanction would have an equally detrimental commercial impact on an enforcement firm which would negate the ECB's proposed escalation routes.
61. Respondents stated their view that there should be a clearly defined process for determining which sanction, if any, is to be applied. That this should be based on extensive evidence, taking into account the commercial impact on a firm and that this process should be consulted on before implementation.
62. Respondents also suggested that there should be independent legal advice incorporated as part of the decision making process.
63. Respondents gave views on the level of indemnity cover the ECB proposed. Some respondents felt this ought to be higher in order to account for the potential commercial loss to firms if a sanction was incorrectly applied. However, they noted this would need to be balanced with the additional cost of an insurance product like this which would fall to firms to fund.

ECB response

64. We welcome the constructive feedback on the sanctions process we have set out. In relation to the proposal to publish sanctions, we understand the potential severity of the impact this could have on a firm and that would be considered prior to any decision to publish a sanction. As we set out in the oversight model we consulted on in the summer, it is our intention that sanctions will be used as a last resort in cases where our other oversight tools including supervised action plans and informal engagement with the firm have failed to address the non-compliance. However, we recognize that it is important that each of our sanctions is impactful and that there is scope to escalate action where necessary. With this in mind and in response to the feedback we received, we have amended the sanctions rules in two ways:
- a. Firstly, we have amended the sanctions so that the first two sanctions (Note of Concern and Direction) are not, by default, published publicly.

b. Secondly, we have added a new sanction - the decision to publish a Note of Concern or Direction. This decision could be taken by the panel in tandem with the decision to issue the Note of Concern or Direction, but generally will be an escalation following a failure to address the underlying issue following a Note of Concern or Direction.

65. We have also amended the sanctions rules to outline the considerations the panel will take into account when determining whether to publish a Note of Concern or Direction. Based on the feedback we have received this includes the potential commercial impact on an organisation of a sanction being applied to them balanced against the potential risk of harm to people experiencing enforcement.

66. In addition to this we have amended the sanctions rules to include an independent legal representative who will be present at any meetings of the Standards Panel and who will give unprejudiced advice to the panel on legal matters.

67. Finally, we have given consideration to the views expressed about the level of indemnity cover the ECB takes out to cover any legal challenges. As articulated in the consultation, £5m is the extent of the cover we have been able to source on the market. This covers the turnover of all but the largest firms and, for this reason, we think it is proportionate to cap our legal indemnity at this level. However, we will continue to investigate whether a higher level of cover can be achieved and what the cost of this would be.