

Memorandum of Understanding between the Local Government and Social Care Ombudsman and the Enforcement Conduct Board.

Introduction:

This Memorandum of Understanding (MoU) sets out the framework to support the working relationship between the Local Government and Social Care Ombudsman (LGSCO) and the Enforcement Conduct Board (ECB), to drive improvements in enforcement practices in England.

While this MoU does not create or impose legally binding rights or obligations on the part of the LGSCO or the ECB, both organisations commit to following its provisions.

Each organisation will make their staff aware of what is in the MoU. They will keep staff updated about it, and about the responsibilities it places on them.

The MoU will be made public and placed on both organisations' websites, which we consider to be the best way of bringing it to the attention of the public.

Roles of the parties:

The LGSCO investigates complaints from the public about injustice caused by maladministration or service failure by a local authority or other organisation within jurisdiction. This includes the actions of the enforcement firms and agents that local authorities have contracted out enforcement activity to. The LGSCO can recommend a suitable remedy (which can include financial redress) for any injustice found.

The ECB provides independent oversight of the enforcement industry to ensure that all those who are subject to enforcement action in England and Wales are treated fairly. The ECB investigates complaints about potential poor enforcement practices in England and Wales and can recommend a suitable remedy where poor practice is found to have occurred and it has caused an injustice to an individual.

Working together:

Complaints may come to the LGSCO and ECB which fall within the jurisdictions of both organisations and this MoU sets out the key principles both organisations will follow in managing those complaints.

Both organisations will have the needs of the complainant at the heart of any decisions on case handling. We will have named individuals who will liaise over any issues.

Casework

The LGSCO and the ECB will be guided by the following principles, in managing complaints to them:

- a) *ECB's Standards*: The LGSCO take into account the ECB's Standards for the behaviour of Enforcement Firms and Agents when deciding on complaints about local authority contracted-out enforcement activity.
- b) *Concurrent complaints*: If, at any stage, it appears the ECB and the LGSCO are considering the same complaint, they shall, with the consent of the complainant, consult about the complaint and liaise with the complainant to decide how best to progress matters. The ECB will not continue investigating a complaint while the same matter is being investigated by the LGSCO.
- c) *Decided complaints*: The ECB will not investigate a complaint where the LGSCO has already considered and decided on the merits of the same complaint. The LGSCO will consider the findings of the ECB investigation when deciding on a complaint that has already been resolved by the ECB, for example the remedy offered through the ECB's investigation.
- d) *Signposting*: The LGSCO and the ECB will signpost complainants to each other, where they are satisfied the complaint properly falls within the remit of the other organisation and not within their own remit. This would include complaints to the ECB about the actions of the local authority and complaints to the LGSCO about non-local authority enforcement or local authority contracted-out enforcement that does not fall within the remit of LGSCO or meet the threshold to launch an investigation.
If consent for a direct referral has been given by the complainant, the LGSCO and the ECB may directly refer new complaints between them.
- e) *Signposting at the end of an investigation*: Where the ECB investigates a complaint about local authority contracted-out enforcement, at the conclusion of the complaint it will signpost the complainant either to the local authority complaints process or direct to the LGSCO, as appropriate.

Supporting the ECB's oversight role

The ECB plays a key role in ensuring that everyone subject to enforcement is treated fairly. This might in the most serious cases or where repeated issues have been identified which result in the ECB submitting an EAC2¹ complaint to ask the court to consider whether an enforcement agent is a fit and proper person to hold a certificate.

To support the ECB in that work the LGSCO will, where appropriate, recommend councils require contracted-out enforcement firms to notify the ECB of the outcome of an LGSCO investigation if the LGSCO finds fault with the actions of the enforcement agent or firm.

¹ EAC2 process is the process by which a person can complain to the County Court about the actions of the Enforcement Agent and the County Court will decide whether the Enforcement Agent's certification should be removed.

Information Sharing

The LGSCO and the ECB will share relevant and appropriate information to support their respective casework processes. This will include, on request:

- a) Confirmation about whether either organisation has received the same complaint.
- b) If the same complaint has been received, confirmation about the stage the complaint is at within the respective casework process (including whether it has been closed).
- c) Relevant information about the decision on the complaint if it has been published.

Both organisations recognise that all processing of personal data (including the sharing of personal data) must be carried out following the General Data Protection Regulation, The Data Protection Act 2018, The Human Rights Act 1998, and all relevant legislation about these matters and respective Codes of Practice, frameworks or other policies about confidential personal information and information issues. Both organisations agree the sharing of personal data will be considered on a case-by-case basis and carried out in a manner consistent with the Data Sharing Code of Practice published by the Information Commissioner's Office.

LGSCO and the ECB agree consent is required for information to be shared between LGSCO and the ECB. Unless reasonable adjustments dictate otherwise, consent should be in writing, though a note of oral consent is acceptable in the first instance, to be followed up with written consent. Where someone has given their consent for another person to represent them in dealing with their complaint, and where LGSCO or ECB are satisfied that representative is a suitable person, consent for data sharing can be accepted from the representative.

The ECB recognises the LGSCO's responsibilities under the Freedom of Information Act 2000. Where the LGSCO receives a request under the Act for information received from the ECB, the LGSCO agrees to take reasonable steps to consult with the ECB on the proposed disclosure and the application of exemptions. The ECB recognises the responsibility for disclosure lies with the LGSCO.

Liaison

The LGSCO and the ECB recognise there will be areas of mutual interest in sharing insights and data at an organisation level. This sharing could help to identify repeated failings in enforcement and drive improvements at the case level and across the industry. It may also result in highlighting issues with the contracting out process and the operation of the enforcement process overall.

The LGSCO and the ECB have agreed they will:

- a) meet and communicate every three months at Assistant Ombudsman (LGSCO) and Complaints Manager (ECB) level or above to discuss matters of mutual interest, including information, insights and data;
- b) seek to promote understanding of their respective roles; and

c) notify each other in advance of relevant activity or a publication on local authority enforcement.

Review schedule:

Representatives from the LGSCO and the ECB will review the operation of this MoU every three years or after a significant change in legislation, policy or practice in either organisation, to ensure that it reflects any developments and changes in working practices.

Signatures:

Amerdeep Somal
Local Government and Social Care Ombudsman
Date: 15 April 2025

Chris Nichols
Chief Executive Officer of the Enforcement Conduct Board
Date: 30 April 2025