



ENFORCEMENT
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Consultation on ECB Standards for Enforcement Work - vulnerability and ability to pay

September 2025

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Consultation on ECB Standards for Vulnerability and Ability to Pay in Enforcement

Foreword

The ECB is the independent oversight body for debt enforcement work in England and Wales. We have an important mission, to ensure that everyone who experiences enforcement action is treated fairly.

In October 2024 we launched Version 1 of our Standards for enforcement providers, which came into effect in January 2025. Our complaints function also launched in January 2025, and we have continued since then to build and implement our oversight model. We are now fully operational across all our functions.

This consultation paper now introduces our proposed Standards for how those delivering enforcement services should address Vulnerability and Ability to Pay considerations in their work. These areas of the Standards are critical to achieving our mission and ensuring that people experiencing enforcement in vulnerable circumstances, including some of the most marginalised people in society, do not sustain unfair or worse outcomes.

Expectations in this area are in urgent need of updating and improvement to reflect wider progress in vulnerability practice since 2014, when requirements on vulnerability were last set out. In recognition of the complexity and sensitivity of the issues to be addressed in these areas, we took the decision in 2024 to give more time and focus to them, and we are now fulfilling the commitment to deliver them in 2025.

The proposals in this consultation have been developed through extensive engagement with stakeholders with a range of perspectives on these important issues. We are extremely grateful for the time that people have already put in to share their views. We are also heartened by the response – we are proposing Standards that will lead to a significant shift in how these areas are approached and it is encouraging that our discussions to date have been so productive.

We now encourage all those with a stake in this area to review the detailed proposals for the draft Standards set out in this consultation paper and let us know what you think. We really want to hear your feedback to help us to get this right.

Following consultation, we will refine and finalise these Standards. We are planning to launch them by January 2026.

We look forward to hearing from you.

Chris Nichols
CEO, Enforcement Conduct Board

1) Background

1. The ECB is the independent oversight body for the enforcement sector. Our mission is to ensure that everyone who experiences enforcement action is treated fairly. To achieve this, we set Standards, monitor compliance with these Standards and take action where there are breaches. We also run an independent complaints adjudication scheme for members of the public who believe that they have not been treated fairly through the enforcement process.
2. The ECB exercises its oversight of the enforcement industry through an accreditation scheme for firms that undertake enforcement work under the Taking Control of Goods Regulations 2013. In order to be accredited, firms need to sign up to the ECB's accreditation criteria. The accreditation framework then sets out a range of powers that the ECB can exercise to ensure that accredited firms are meeting the criteria and that there is accountability where these are not met, including sanctions.
3. We have accredited over 40 firms across the civil and high court enforcement sectors, achieving coverage of over 96% of the market for debt enforcement work under the Taking Control of Goods Regulations, based on the volume of work completed.
4. Further background on the ECB, including our current business plan, can be found on our website here: [Enforcement Conduct Board Business Plan 2025-26](#)

ECB Standards for Enforcement

5. In March 2025 we published version 1.1 (V1.1) of our Standards for Enforcement Firms and Standards for Enforcement Agents, which supplemented V1 of the Standards with guidance in specific areas where this had been requested. These set a new benchmark for fair enforcement, and all ECB accredited enforcement firms have committed, through the accreditation criteria, to meet these Standards.
6. When we consulted on V1 of the Standards for Enforcement work, we stated our intention to develop our Standards for Vulnerability and Ability to Pay over a longer timeframe, due to the sensitivity and complexity of the issues involved. These are key issues that required more time and specific focus to address properly.
7. We have been working to develop the Vulnerability and Ability to Pay Standards since April. During this time, we shared a discussion paper with industry, the debt advice sector and other interested parties which set out our thinking and the key principles we were working towards and invited feedback.
8. We want to thank all those who have responded individually or participated in the significant engagement activity that we have carried out so far. This has included:
 - Three workshops with debt advisers and national debt advice charities
 - Four workshops attended by a wide range of accredited enforcement firms
 - Presenting at the Taking Control Group, a coalition of debt advice organisations who helped set the blueprint for the ECB's creation

- Speaking at events and conferences to socialise the Standards with local authorities and creditors, including the Institute of Revenues Rating and Valuation (IRRV) regional forums and Local Authority Civil Enforcement Forum conference.
9. It is important that the ECB hears the views of both the people who carry out enforcement and those who experience it. To this end, we have also commissioned an independent research company to test how Vulnerability and Ability to pay Standards could work in practice with enforcement agents and people who have previous experience of enforcement. This has comprised:
 - Six workshops with individuals who have experienced enforcement in situations that could make them vulnerable to harm due to their personal circumstances.
 - Depth interviews with people with low English proficiency.
 - Four workshops with enforcement agents.
 10. We have reflected early findings from the research in the draft Standards that we are now sharing for consultation. However, this work is ongoing and the full findings from this work will be taken into account alongside consultation responses.
 11. We have now developed draft Standards for consultation. Annexes A-F contain the draft of the ECB's Standards for Vulnerability and Ability to Pay as well as the definitions we are using in each area for the purposes of the Standards. This includes a set of Standards for firms and a separate but linked set of Standards for enforcement agents, which follow the same structure. The remainder of this part of the consultation explains the approach and content of the draft Standards and the outcomes that the ECB is seeking to achieve with them.
 12. As this is the first time anyone will have seen the draft Standards, we look forward to receiving responses to this consultation and feedback on the draft Standards. We will analyse all responses we receive with a view to developing and finalising the draft Standards for publication by January 2026. We will also publish a report on the consultation including what we heard and explaining how we have responded to the feedback.

2) Overall approach to Standards

- 13. The National Standards do not adequately address the important subjects of vulnerability and ability to pay, and these were not covered in detail in V1 of the ECB's Standards. It is important that these areas are now addressed properly.
- 14. Our intention is that the new Standards take account of the significant progress that has been made in recent years in understanding how vulnerability affects people navigating and engaging with a range of essential sectors, particularly utilities, finance and Government. At the same time, it is important that our Standards recognise the specific nature and realities of enforcement work. We also recognise that many in the enforcement industry have already made considerable efforts to develop their approaches to vulnerability that go beyond the core requirements from the 2014 Ministry of Justice National Standards.

An outcomes focused approach

- 15. In line with the approach in V1 of the Standards, these new sections are outcomes focused. Each section of the Standards begins with a headline aim that firms and agents must meet. We have also set separate headline objectives for the identifying and responding sections of each of the Standards. In each case the requirements for agents flow from those for firms. These aims and objectives express the outcomes that we expect to see as a result of the Standards being implemented. They are followed by a series of more prescriptive requirements that would need to be in place to be able to demonstrate that these outcomes are being met.
- 16. An outcomes focused approach reinforces the fact that it is for firms and agents to take responsibility for complying with the Standards and empowers them to make judgements, within the overall framework of the Standards. We do not believe that it would be practical or desirable in these important areas to create a more prescriptive model that sets out exactly how firms and agents should act in specific circumstances. This would encourage a tick-box compliance type approach and could not cater for the wide range of circumstances that they will encounter in the real world.
- 17. We believe that the approach in the draft Standards leaves scope for firms to innovate and to take a proportionate approach to meeting the objectives. It also allows agents to exercise individual judgement within the framework of the Standards and the policies and processes set by the firms that they are working for. This is particularly important in the areas of vulnerability and ability to pay as we move away from a list of characteristics to an approach which recognises that vulnerability is fluid and dynamic and will require everyone involved in the enforcement process to take responsibility for making good judgements on a case-by-case basis.
- 18. We recognise that this outcomes focused approach will place significant onus on firms to develop their strategies and approaches to meeting the new Standards and we want to ensure an implementation period and approach that recognises this. This is discussed further below.

Responsibility on enforcement firms and enforcement agents

19. The current National Standards are predominantly aimed at enforcement agents with some expectations placed on enforcement firms. In contrast, the ECB Standards for Enforcement set explicit Standards for agents, which flow from separate Standards for firms.
20. Implementing the Vulnerability and Ability to Pay Standards and contributing to the ECB's ambition that the enforcement process will become 'safe by design' – which we explain in more detail below - will require firms to play a key role. This is no small undertaking and in most cases it will require changes to systems, policies and practices to foster an organisational culture that supports a 'vulnerability first' mindset and focus on ensuring people have opportunities to repay their debts fairly and sustainably. Firms will also need to set clear expectations about the behaviours that they expect to see from frontline staff and the agents who carry out work on their behalf as well as ensuring that they have the skills and tools that they need to deliver their roles.

Define, Identify, Respond

21. The ECB's discussion paper set out a new three step framework for addressing vulnerability and ability to pay, based on defining, identifying and responding to each issue. This is underpinned by the aim of ensuring an enforcement process which is 'safe by design'.
22. We want firms, frontline staff and agents to adopt this approach, which will be grounded in everyone involved in enforcement working to a shared understanding of what we mean by vulnerability and ability to pay. In the remainder of this consultation paper, we provide further explanation of what both definitions and 'identifying and responding' to vulnerability and ability to pay could mean in practice at different stages of the enforcement process. We also highlight areas where we have adapted our approach in response to the feedback we have received to date.
23. It is important to note that in this paper we are proposing technical definitions of vulnerability and ability to pay for the purposes of the draft Standards and for enforcement sector audiences who will need to ensure compliance with them. The definitions are consistent with those used in other regulatory frameworks that have been in operation for some years. We recognise that they are not drafted in plain English, and we acknowledge that this may present accessibility challenges for some important audiences, particularly the public.
24. The ECB is considering developing more accessible public-facing definitions as part of our wider work to provide information to support the public and people experiencing enforcement to understand and engage more effectively with the enforcement process. This would be to supplement the technical definitions that would be the basis of the

Standards and our oversight work. We welcome feedback and ideas on how we might approach this in responses to the consultation.

The role of creditors

- 25.** The Standards also highlight the important role of creditors and the significance of their influence on achieving fair outcomes for people experiencing enforcement, particularly those in vulnerable circumstances. This was also acknowledged in the MoJ's National Standards.
- 26.** While we recognise that the ECB's Standards do not apply to creditors, we want to set expectations that firms will work closely with their creditor clients to meet the requirements of the Standards. This is particularly important in supporting early identification and assessment of vulnerability and ability to pay before a case is passed to enforcement, or in sharing information where it is available. Creditors also have a key role in taking action when acute vulnerability or no ability to pay is identified and a case is returned to them.
- 27.** The new Standards are intended to achieve outcomes which deliver improvements for all concerned. The ECB recognises the need for creditors to be able to recover the debts owed to them fairly. In many cases, creditors are seeking payment of public money which is needed to fund provision of essential local services, including those provided to their most vulnerable residents.
- 28.** It is important for the ECB to be clear on our expectations of firms in relation to their creditors and to acknowledge that creditors will also need to take action to ensure fair outcomes for people experiencing enforcement. We want to take the opportunity of this consultation to understand more about the role the ECB could play in supporting engagement between enforcement firms and their creditor clients in this important area. In future years we want to increase our overall focus on creditors, and this could include developing advice and guidance on good vulnerability and ability to pay practice from creditors. We would welcome feedback and views on this point from interested parties and respondents to the consultation.

Ministry of Justice Taking Control of Goods Regulation Standards

- 29.** The Ministry of Justice (MoJ) recently consulted on changes to the Taking Control of Goods Regulations.¹ In its response, MoJ indicated that several of the proposals consulted on were not being taken forward to avoid duplication with the ECB's Standards development work, particularly on vulnerability and ability to pay. In line with this, the

¹ <https://www.gov.uk/government/consultations/taking-control-of-goods-regulations-consultation/outcome/taking-control-of-goods-regulations-consultation-response#:~:text=To%20support%20the%20sustainability%20of,uplift%20those%20fees%20by%205%25.>

objectives of the draft Standards we are consulting on in this paper align with some of the MoJ's proposals and objectives, including:

- Increasing the number of debts settled at the earlier and cheaper compliance stage and giving more people the opportunity to repay their debts through payment arrangements without an enforcement visit.
- Providing opportunities to reinstate payment arrangements when a payment has been missed before proceeding to enforcement.
- Facilitating access to debt advice for people experiencing enforcement and increasing the amount of time they have to access it.
- Acting on notification that a debt is subject to the Debt Respite Scheme (Breathing Space).
- Requiring agents and HCEOs to consider whether it is appropriate to proceed with enforcement action when someone is identified as vulnerable and refer the case to for further evaluation to the creditor or firm that they work for.
- Standards for assessing people subject to enforcement's ability to repay their debt.
- Developing a shared definition of vulnerability and ability to pay appropriate to the enforcement context.

- 30.** The new Standards also build on the Government proposal that where someone has sought debt advice, and the provider requests an extension of the compliance period, the firm should extend it to a minimum of 28 clear days from the date the Notice of Enforcement is sent.

Engaging with third parties

- 31.** Third parties will often become involved in the enforcement process. For example, family members or residents of the same household who are present at the time can be 'bystanders' to an enforcement visit or become engaged in the process. This role can also become more active if they become 'remote' intermediaries, interacting with an agent when the person who owes the debt is not present or is on the phone. The ECB recognises that in some cases third parties, particularly family and friends, can also play a role in helping someone experiencing enforcement to repay their debt either in full or in part.
- 32.** V1.1 of the ECB's Standards place expectations on enforcement firms and enforcement agents relating to engagement with third parties in the course of their work, and provide guidance on what this means in practice. These are intended to ensure the safety and protection of all concerned, including reassuring third parties and preventing situations from escalating. They also set out the circumstances in which information about the debt and the person who owes it can be shared to achieve this while as far as possible, maintaining confidentiality and compliance with data protection law.
- 33.** The new Vulnerability and Ability to Pay Standards will slot into the framework of the Standards. However, V1.1 of the Standards doesn't explicitly address wider protections for third parties who may be vulnerable or in financial difficulty themselves.

34. Whilst the new draft Standards on Vulnerability and Ability to Pay primarily apply to actions in relation to the person who is directly receiving the enforcement action, the new Standards for Agents in both areas include a subsection setting out how these principles should apply to third parties, where relevant. We have not proposed new Standards relating to third parties for firms because we think the situations where they would apply would predominantly happen during enforcement visits. However, firms would be expected to fulfil their responsibilities for ensuring that agents comply with the Standards including those relating to third parties. There is further information on this in the relevant sections later in this consultation paper. This was not an issue that we covered explicitly in the engagement so far and so we particularly welcome views on these areas in consultation responses.

3) Vulnerability Standards

36. Our draft vulnerability Standards and definitions are available at Annexes A-C of this consultation paper. The intention is for Standards, when finalised, to be added to the existing ECB Standards, in a consolidated Version 2. In this section, we provide the context, explanation and background to the content of these draft Standards.

The issue

37. Estimating the scale of vulnerability in the enforcement context is challenging. As costs of living continue to rise, incidence of financial vulnerability including among more traditionally resilient groups is increasing, with 24% of UK households projected to be struggling by the end of 2025.² It is likely that someone already in financial difficulty will be experiencing other vulnerabilities which may also be driving it.

38. In May 2024, 13.1m (24%) adults in the UK had low financial resilience and 26.4m (49%) had characteristics of vulnerability.³ Three in five (61%) of StepChange's debt advice clients who experienced enforcement action in the first half of 2024 had an additional vulnerability beyond their financial situation. The Money and Mental Health Policy Institute recently found that 73% of people in council tax arrears who have been in contact with enforcement agents have experienced a mental health problem.

39. In defining vulnerability in enforcement, we want to move away from the limited list of 'characteristics and conditions' in the 2014 NS, to reflect wider developments in practice which recognise that vulnerability is a fluid state which can potentially affect anyone and be temporary, permanent, or fluctuating in nature. We are proposing to use the model developed by the FCA, which identifies four key drivers of vulnerability:

- **Health** - physical and mental health conditions, severe or long-term illness, hearing or visual impairments, low mental capacity, cognitive impairments.
- **Life Events** - major life changes with temporary or longer lasting impacts such as bereavement, job loss, relationship breakdown, and individuals in specific or transient life circumstances such as prison or care leavers and refugees.
- **Resilience** - low resilience to withstand financial or emotional shocks due to low or erratic income, over indebtedness, low savings, and lack of a support structure.
- **Capability** - poor literacy or numeracy skills, low confidence or knowledge of financial matters and managing money, low digital literacy, and/or digital exclusion.

² UK Financial Vulnerability Outlook, Baringa, September 2024

https://www.baringa.com/globalassets/insights/financial-vulnerability/baringa-uk-financial-vulnerability-outlook_september-2024.pdf

³ Key Findings from the FCA's Financial Lives 2024 Survey, FCA, May 2025.

<https://www.fca.org.uk/publication/financial-lives/financial-lives-survey-2024-key-findings.pdf>

40. This list shows that vulnerability is complex and that the drivers can be both cause and effect. More importantly, it increases the risk of someone experiencing harm, including inadvertently, when their circumstances and needs are not recognised and responded to appropriately. This can include different types of loss, detriment or disadvantage with varying degrees of severity of impact.
41. We think there are some specific areas of potential harm in the enforcement process. Financial harm is the predominant or inherent harm, particularly in relation to ability to pay, but in combination with the overall experience of the enforcement it can lead to wider consequences. We are particularly concerned about some of the additional harms that we have set out below:
- **Financial harm** – in addition to the baseline of financial hardship caused by needing to pay a significant bill unexpectedly, escalating fees and interest can significantly increase the original debt. Loss of high value possessions, particularly cars needed to access work or fulfil caring responsibilities can further increase financial pressures and contribute to the additional harms outlined below.
 - **Emotional and psychological harm** – stress, anxiety, worry and fear can be caused by receiving legal notices, multiple communications, and the prospect of a visit by an agent, all of which can drive or worsen poor mental health. Embarrassment, shame and stigma can cause isolation if neighbours, friends and family become aware of or witness the situation. Aspects of the process, particularly enforcement visits can re-traumatise or be triggering, for example to domestic abuse victim-survivors.
 - **Physical harm** – the stress of the enforcement process could exacerbate existing conditions, such as high blood pressure and cardiovascular conditions, weaken the immune system or cause insomnia. Self-rationing of food, heating and other essential resources due to increased financial hardship can impact health due to living conditions becoming unsafe.
 - **Social and relational Harm** – financial pressures and family or friends being drawn into the enforcement process can cause tensions and potentially lead to relationship breakdown.

Safe by design - a shift in approach and narrative

42. We believe that, at present, relatively small numbers of people experiencing enforcement are identified as 'vulnerable' by firms and agents and that this is not consistent with the prevalence of people experiencing some form of vulnerability that we might expect to see based on wider population data.⁴ However, when someone is formally acknowledged as vulnerable, they are often provided with a good level of support from dedicated welfare teams or specialists. In practice, we think this reflects the fact that current discussion of vulnerability in enforcement is often centred around cases of severe or acute vulnerability.

⁴ 'Financial Lives 2024 survey – Vulnerability and Financial Resilience, FCA, May 2025.

<https://www.fca.org.uk/publication/financial-lives/fls-2024-vulnerability-financial-resilience.pdf>

UK Financial Vulnerability Outlook, Baringa, September 2024

https://www.baringa.com/globalassets/insights/financial-vulnerability/baringa-uk-financial-vulnerability-outlook_september-2024.pdf

43. Vulnerability poses a potential risk of harm to those experiencing enforcement action if it is not identified and responded to appropriately. However, in many cases we think this harm could be mitigated with a range of more flexible and less intensive support options than referral to a welfare team. Consequently, we believe that there needs to be a cultural shift in how the sector views vulnerability.
44. We think that this will mean moving to a position where a much higher prevalence of people experiencing vulnerability is recognised but in many cases this is responded to in a more tailored and nuanced way. This new position will mean that vulnerability is accepted as a common feature of most enforcement activity, and that consideration of its impact on the person experiencing enforcement is integral to the standard approach to enforcement. Everyone involved in the process should recognise this and be able to respond appropriately.
45. Ultimately, our draft Standards make clear that we do not believe that identifying vulnerability means that enforcement should automatically cease or that everyone who is identified as vulnerable will need to receive intensive support from welfare teams or specialist staff.
46. From our workshops and engagement with industry so far, we believe that some firms are already taking a similar approach but may not be thinking of or describing it in exactly this way. For others, this might represent more of a change and necessitate significant work to update systems, policies and processes and ensure that staff and agents have the skills, behaviours and support that they will need to move to this new approach and mindset.

Overall proposed approach to vulnerability

47. The enforcement process can be stressful for anyone experiencing it. We want to move to a “safe by design” or “vulnerability first” approach which ensures that people in vulnerable circumstances subject to enforcement action do not experience additional harms or achieve worse outcomes than those who are not. This means that everybody involved in the process will need to be alert to this and act in a way that seeks to mitigate the risks of additional, foreseeable harms and does not exacerbate existing vulnerability.
48. We want to move away from the focus on individual characteristics and start thinking about how someone’s overall circumstances are affecting them, and assessing what this means for their ability to engage with the enforcement process and repay their debts. Instead of ‘is this person vulnerable?’, the question should be ‘how does this person’s vulnerability affect their ability to engage with the enforcement process and is there something I or someone else could do to help?’.
49. The overall framework we are proposing is based on three stages:
 - i) **Define** – working to a common definition of vulnerability which recognises that it is complex, dynamic and could affect lots of people in different ways.

- ii) **Identify** - we want firms to develop approaches to vulnerability that mean that from the start of the process and throughout, they are looking to identify potential vulnerabilities and harms that might be relevant to the enforcement process.
- iii) **Respond** – where vulnerabilities are identified, we want firms to be responding appropriately to mitigate the risk of these people experiencing additional harms. This could be managed through the normal approach, by allowing a wider range of adjustments to be made without involving specialist teams and without unrealistic evidential barriers. In some cases, there may be a need for additional support from specialist staff or teams. There will also be a limited category of cases of extreme or acute vulnerability where it would not be safe to continue, and enforcement should pause or cease.

Defining ‘Vulnerability’

50. Achieving the change that we want to see makes it essential that everyone in the enforcement sector is working to a shared definition of vulnerability. In our early engagements, we initially proposed the following definition of vulnerability.

“People who, due to their personal circumstances or characteristics, face a higher risk of experiencing physical, psychological, financial or other harms when those involved in carrying out enforcement activities are not acting with sufficient care”.

51. In our stakeholder workshops we heard a balance of views on the draft definition of vulnerability, with some concerns raised that it was too wide and would increase the problem of ‘false’ vulnerability claims. Similarly, we heard that it did not concretely address how to identify vulnerability, in view of the high prevalence and wide variety encountered in enforcement, particularly the spectrum of mental health. We heard that this is the predominant vulnerability identified and the hardest to respond to appropriately.
52. The intention of the new definition and approach is to provide a framework that enables firms and agents to work within and exercise their judgement on how best to respond and proceed when vulnerability or potential vulnerability is identified. Some welcomed this, and we believe that it remains the right approach. We do not intend to be prescriptive about types of vulnerability and exactly how firms should approach providing vulnerability support to these different presentations.
53. We received feedback that the wording ‘face a higher risk’ made the definition too wide and a suggestion that the phrase ‘especially susceptible to experiencing harm’ could helpfully refine the definition, and we have accepted this change. There were also concerns about how someone involved in enforcement would be considered to have acted with ‘sufficient care’. We agree that this should relate to more specific expectations and have adjusted it to link to the specific requirements of the ‘identify and respond’ components of the Standards. Taking account of the feedback we have received so far, the new definition of vulnerable/vulnerability for the purposes of the draft Standards is set out below.

‘A person subject to enforcement is defined as being vulnerable or experiencing vulnerability for the purposes of these Standards at a time when, due to their personal circumstances, they are especially susceptible to experiencing harm if those involved in carrying out the enforcement process do not identify the person’s vulnerability and provide appropriate safeguards or support. Vulnerability may be temporary, permanent or fluctuating in nature’.

Defining ‘potential vulnerability’

54. In drafting the Standards, we identified that the definition of vulnerability did not fully address how the process of identifying and responding to vulnerability is likely to work in practice. We have therefore introduced a new definition of ‘potential vulnerability’ that will be the first stage of identifying vulnerability in most cases.

55. This is the point at which a firm, frontline staff member or agent recognises indicators that someone’s characteristics or circumstances *could* make them especially susceptible to harm but has not yet established whether it is safe to proceed with the standard enforcement process without putting in place adaptations or additional safeguards.

‘A person subject to enforcement is defined as being potentially vulnerable or experiencing potential vulnerability for the purpose of these Standards at a time when they are experiencing some or all of the personal circumstances described at VF2.2 of the Standards, but it has not yet been determined whether this means that they are especially susceptible to experiencing harm if those involved in carrying out the enforcement process do not identify the person’s vulnerability and provide appropriate safeguards or support.’

56. This definition is intended to support the principle that it is possible to continue with a standard approach to enforcement even when someone has characteristics or circumstances that could make them vulnerable to harm. In practice, this will require a firm or agent to assess the person’s situation and proceed only if they are satisfied that there are good grounds for deciding that it is safe to do so.

57. The fluctuating and sometimes temporary nature of vulnerability means that identifying and responding to it is unlikely ever to be a linear process. We expect that when *potential vulnerability* is identified, ongoing evaluation of whether the approach to enforcement remains safe and appropriate for the person experiencing it will be needed.

Q1 – Do you have any comments on the proposed definition of “vulnerability” and “potential vulnerability”?

3.1 Standards on Vulnerability for Enforcement Firms (Annex A)

58. The draft Standards on Vulnerability for Enforcement Firms are underpinned by the new approach to defining vulnerability discussed above, and framed by the identifying and responding approach. The full draft Standards are available at Annex A and the definitions that go alongside these are available at Annex C. The content of these is explained further below.

Headline Aim

59. The proposed headline aim for firms complying with the vulnerability Standards is that:

An enforcement firm ensures that enforcement agents and frontline staff who work for it identify, as far as possible, when a person subject to enforcement is vulnerable, and then respond to this in a way that mitigates the risk of additional, foreseeable harm to that person and does not exacerbate their vulnerability.

60. This sets the expectation that enforcement firms will foster a 'vulnerability first' culture and approach to enforcement, making this a priority within the business, embedding good practice, and enabling frontline staff and enforcement agents to prioritise taking action to identify and support vulnerable people.

Strategy for complying with the Standards

61. The new Standards require firms to have a vulnerability strategy in place. This underlines the importance of firms taking ownership for this area and developing approaches that are most appropriate for their particular work and circumstances (within the overall framework of the Standards). Although most firms will already have vulnerability policies, we think that improving outcomes for vulnerable people experiencing enforcement needs a cohesive approach that is central to the business. This may require a cultural shift, and firms will need to demonstrate how they are taking responsibility for embedding this into their business and making the necessary changes to their policies, systems, processes and practices.
62. Complying with the Standards will mean having specified oversight of the strategy at a senior level as well as all relevant policies and procedures and plans for addressing key areas that will influence delivery of the strategy. These include how the firm will ensure that frontline staff and agents have the right knowledge and skills to identify and respond to vulnerability. Firms will need to be able to demonstrate that their standard or routine approach to enforcement takes account of the scale and types of vulnerability among people subject to enforcement who are most likely to be present in the work they undertake, and can be responsive to their needs.
63. We have heard concerns about the risks that some approaches to remuneration and contracting pose to good vulnerability practice and firms will need to outline how these and any other risks will be mitigated. In the workshops we heard from a range of firms

that they have similar strategies in place and that responding appropriately to vulnerability is already a part of KPIs used in the business.

Identifying vulnerability

Objective

64. For firms, the objective for identifying vulnerability is that:

An enforcement firm ensures that it and those who work for it take reasonable and proactive steps at the earliest opportunity and throughout the enforcement process to identify and record whether, and in what way, a person subject to enforcement is vulnerable or potentially vulnerable.

Early identification and creditors

65. Early identification and intervention is a key focus of the ECB's approach to vulnerability, and the Standards incorporate a range of measures to reinforce this. Firstly, firms will be expected to try to gather information about the personal circumstances of the person experiencing enforcement as soon as a case is received from the creditor.

66. In the workshops we heard about the challenges firms face in accessing information before, or when a case is passed to enforcement. Creditors have a critical role to play in early identification of vulnerability and ensuring that only suitable cases are passed to enforcement. However, firms shared their concerns about the current scarcity of information received with cases and the limited range and effectiveness of alternative sources, which can also come at a cost.

67. This aspect of the Standard is intended to encourage creditors and firms to work together better to meet this challenge. We recognise that in circumstances where a creditor refuses to engage and assist a firm in this regard, this will limit the firms' ability to act. The drafting of the Standards seeks to recognise this.

68. Firms may choose to explore other sources of information, including vulnerability specific or specialist resources. We do not intend to be prescriptive, but we expect the firm to take a proportionate and reasonable approach for the type and size of their business.

Opportunities for identification

69. In the absence of prior information, the onus is on everyone involved in the enforcement process to listen and look out for indicators of vulnerability as well as enabling people experiencing enforcement to disclose details of their vulnerability. The draft Standards require firms to embed specific opportunities, including allowing time to enable frontline staff and agents to recognise indicators of vulnerability and probe for further information as appropriate. We think this will mean removing deterrents or barriers, for example harmful KPIs or unnecessary time limitations.

- 70.** Getting identification of vulnerability right is so important that the Standards contain ‘red lines’ on acknowledging and evaluating all disclosures and evidence of vulnerability provided by someone experiencing enforcement. Disregarding a disclosure without any meaningful acknowledgement or assessment or treating it disrespectfully will be a breach of the new Standards.

Communication

- 71.** Complying with the Standards will also require firms to ensure that frontline staff and agents have the skills and tools to communicate sensitively in a way that facilitates disclosure. Other communication channels including written material and websites could also be used to indicate that support might be available. This part of the Standard is not intended to be prescriptive, and we heard in the workshops that firms already have a variety of approaches to communicating information about vulnerability.

Evidence of vulnerability

- 72.** We also heard that some firms believe that ‘evidence-led’ approaches to confirming vulnerability are the most effective way to ensure that someone is identified as vulnerable and given the support and adjustments they need. On the other hand, concerns were expressed by debt advisers about the high evidence bar that can be set by firms and the difficulties people have in accessing evidence, for example from healthcare professionals, in a timely way. We think it is reasonable for firms to request evidence to support identification and verify vulnerability disclosures in some cases, but we expect the process not to be burdensome and for reasonable time to be given to someone to gather information.

Recording, storing and sharing information

- 73.** The Standards include a range of requirements about recording, storing and sharing information, which is particularly important to improving vulnerability outcomes. We do not intend to be prescriptive about how firms do this. For example, in the workshops we heard about a range of approaches including the use of vulnerability ‘flags’.

Responding to vulnerability and potential vulnerability

Objective

- 74.** The responding to vulnerability objective for firms is:

When an enforcement firm identifies that a person subject to enforcement is vulnerable, it assesses how to respond appropriately to this in a way which mitigates the risk of additional, foreseeable harm and puts in place appropriate measures to address this.

- 75.** This section is about ensuring that the firm and the frontline staff or agents working for it make effective evaluations of the person experiencing enforcement’s circumstances, and have a range of appropriate support options to enable a response tailored to meeting their individual needs. We do not intend to be prescriptive about how firms provide vulnerability support, but we want them to develop responses that are appropriate to the size of the business and nature of the work they are undertaking. In the future, we plan to provide guidance and highlight good practice.

76. The Standards follow the approach we set out in our discussion paper, grouping appropriate responses into three categories:

- (i) making adaptations to the enforcement process
- (ii) referring or signposting to internal or external specialised support (including welfare teams), or
- (iii) ceasing enforcement altogether.

Within the first two categories there are a wide range of options. In our discussion paper we set out some examples of firms' existing good practice which were shared with us. These include accessibility measures such as simultaneous translation or alternative information formats, being flexible with timings or temporarily pausing enforcement, and signposting and referral partnerships with local and national third sector organisations.

77. We anticipate that firms embracing the 'safe by design' approach will have vulnerability strategies that should allow for a potentially wide range of cases to be handled through adaptations to the enforcement process. The other two categories of response are likely to be more established routes at many firms.

Safely proceeding with enforcement when potential vulnerability is identified

78. At VF4.9 the draft Standards also acknowledge that there will be some cases where a potential vulnerability has been identified, but the firm or agent's evaluation of the person's circumstances is that it is safe to continue with the standard approach to enforcement. This Standard makes it clear that this must be kept under review. It also relies on the firms having embraced and developed its 'safe by design' approach so that its usual approach to enforcement is suitable for some people who are experiencing certain types of potential vulnerability. We intend to provide guidance on this point.

Linking to previous cases

79. V5.2 contains a new specific requirement to link cases involving vulnerability so that firms and agents can respond proactively and appropriately to people with known vulnerabilities. This will avoid placing the burden on people of discussing or providing evidence of their circumstances multiple times as well as enabling firms to take proactive steps to ensure that they receive the right support. We do not intend to be prescriptive about how firms should achieve this.

Learning and improvement

80. It is particularly important that there is a culture of learning and continuous improvement in relation to vulnerability, as the consequences of not doing so will fall hardest on those who are at greatest risk of harm from experiencing enforcement. The Standards contain a requirement for firms to carry out outcomes-focused vulnerability audits and make any necessary improvements based on the findings of these. The intention is that this will go significantly beyond checking compliance with policies and procedures.

Q2 – Do you have any comments on the draft Standards on Vulnerability for Enforcement Firms?

3.2 Standards on Vulnerability for Enforcement Agents (Annex B)

81. The full draft Vulnerability Standards for Enforcement Agents are available at Annex B and the definitions that go alongside these are available at Annex C. The content of these is explained further below. They are based on the new definitions of *potential vulnerability* and *vulnerability* and the ‘define, identify, respond’ framework.

Headline vulnerability aim

82. The headline aim for the Standards for agents is:

An enforcement agent identifies, as far as possible, when a person subject to enforcement is vulnerable, and then responds to this in a way that mitigates the risk of additional, foreseeable harm to that person and does not exacerbate their vulnerability.

83. The ECB’s view is that achieving the improved vulnerability outcomes that we set out in our discussion paper will mean agents:

- i) Proactively and consistently looking out for indicators that someone is potentially vulnerable or vulnerable and could experience harm while undergoing the enforcement process, or as a result of it.
- ii) Providing appropriate support ranging from an ‘accessibility’ based approach to facilitate someone’s ability to engage with the process to more intensive support provided by a firm’s welfare team or more specialist third parties.
- iii) Ceasing enforcement when the level of someone’s vulnerability makes it unsafe to proceed, even with adaptations to the process.
- iv) Recording when they have identified vulnerability to ensure that the firm and others involved in the enforcement process are aware of the needs and circumstances of the person experiencing enforcement and can respond appropriately at all touchpoints.

Identifying vulnerability

84. The objective for identifying vulnerability for agents is:

An enforcement agent takes reasonable and proactive steps at the earliest opportunity and throughout the enforcement process to identify and record whether, and in what way, a person subject to enforcement is vulnerable or potentially vulnerable.

85. This objective requires agents to have a ‘vulnerability first’ mindset, proactively looking out for indicators of vulnerability from the outset of the enforcement visit. The Standards set out some ‘red lines’, of which the principal requirement is that agents must not disregard indicators of vulnerability, particularly disclosures by the person experiencing enforcement, or treat these disrespectfully.
86. Agents will need to be aware that the fluctuating nature of vulnerability means that identification is a continuous activity throughout the enforcement process rather than a one-off assessment. Similarly, the Standards are intended to emphasise the importance of appropriate communications and the need to take into account potential vulnerability and vulnerability to enable someone to engage with the enforcement process safely.

- 87.** As we set out in the discussion paper, a key aspect of the Standards is the provision that an enforcement agent can, and should, proceed with a standard enforcement process, provided that they are satisfied that this will not cause harm to the person experiencing it. This principle and Standards are underpinned by the new definition of ‘potential vulnerability’.

Responding to vulnerability

- 88.** The objective for responding to vulnerability for agents is:

When an enforcement agent identifies that a person subject to enforcement is vulnerable, they use their judgement to respond appropriately to this in a way which mitigates the risk of additional, foreseeable harm. The enforcement agent must work with the enforcement firm(s) they work for to put in place appropriate support to address this.

- 89.** Responding to an identification of vulnerability will require agents to make an assessment of the person experiencing enforcement’s support needs and take steps to put this in place. A key principle is that identifying support needs does not mean that the case will need to be moved from the agent to a welfare or specialist team if the agent can provide the right support or facilitate access to it themselves.
- 90.** This could mean using their skills and any tools, for example simultaneous translation services, provided by the firms they work for to address accessibility needs. However, when higher or more complex support needs are identified, they should be signposting or referring to appropriate support, including welfare teams or external sources.
- 91.** In the workshops we heard that agents are increasingly becoming the ‘last line of defence’ for people in acutely vulnerable circumstances. This is often where the case should not have been passed to enforcement, identification of the person’s vulnerability has not happened at Compliance stage, or they have been unable to engage with the process. In these circumstances, we do not expect agents to provide intensive support other than any emergency measures. Referring the case back to the firm or creditor is an appropriate course of action.

Vulnerability of third parties

- 92.** Within the pre-existing framework from the National Standards, it is already a requirement for agents to be aware of the risk that a third party may be vulnerable or potentially vulnerable. For example, an agent is required to withdraw where the person who owes the debt is not present and there is a vulnerable third party (consistent with para 72 of the National Standards).
- 93.** The ECB’s new Vulnerability Standards for Agents include a section on Third Parties. This will require an agent to be constantly alert to vulnerability and proactively taking steps to respond, and we think that this should also apply to third parties to an appropriate extent.

94. This could mean that where a *potentially vulnerable* or *vulnerable* third party becomes actively involved in the enforcement – even if the person who owes the debt is present – and the agent is interacting with them directly, the agent will need to make a judgement about which aspects of the ‘identify and respond’ elements of the Standards to implement. This could necessitate them adapting their approach to enforcement, for example changing their communication style, providing someone with appropriate support or signposting them to it, or even withdrawing.
95. In all cases, the ‘red lines’ set out in the new Vulnerability Standards must be complied with when dealing with third parties, particularly where they are showing signs of *potential vulnerability* or *vulnerability* or make a disclosure of *vulnerability* or *inability to pay*. Agents must not ignore indicators or dismiss or disrespect disclosures and should always acknowledge these appropriately.
96. We would not expect an agent to assess or address the third party’s situation and needs beyond the individual interaction. For example, there would be no requirement to flag or record details of their vulnerability as part of an ongoing case, unless their circumstances have a material impact on the person who owes the debt, or could affect future enforcement activity such as a return visit or interaction with other frontline staff.

Q3 – Do you have any comments on the draft Standards on Vulnerability for Enforcement Agents (including the proposed application to third parties)?

4) Ability to Pay Standards

97. Our draft Ability to Pay Standards and definitions are available at Annexes D-F of this consultation paper. The intention is for Standards, when finalised, to be added to the existing ECB Standards, in a consolidated Version 2. In this section, we provide the context, explanation and background to the content of these draft Standards.

The issue

98. People experiencing enforcement are often juggling multiple debts and other financial commitments with little prospect of being able to repay them in the immediate or short term, and sometimes, at all. More sizeable debts, for example council tax arrears, will be particularly difficult for many people to pay in full immediately. The FCA's most recent Financial Lives survey showed that 24% of all UK adults have low financial resilience with 7.6m (14%) having low savings and 4.5m (8%) already in financial difficulty, missing payments in more than three of the last 6 months. A range of debt advice organisations estimate that between forty and fifty per cent of their clients have deficit budgets, and this figure is expected to rise.

99. As a result, the reality is that many people will not be able to settle their debts in full immediately, some will need an extended period over which to pay and other may not be in a position to pay at all. It is important that enforcement takes place with an acceptance of the reality of this situation.

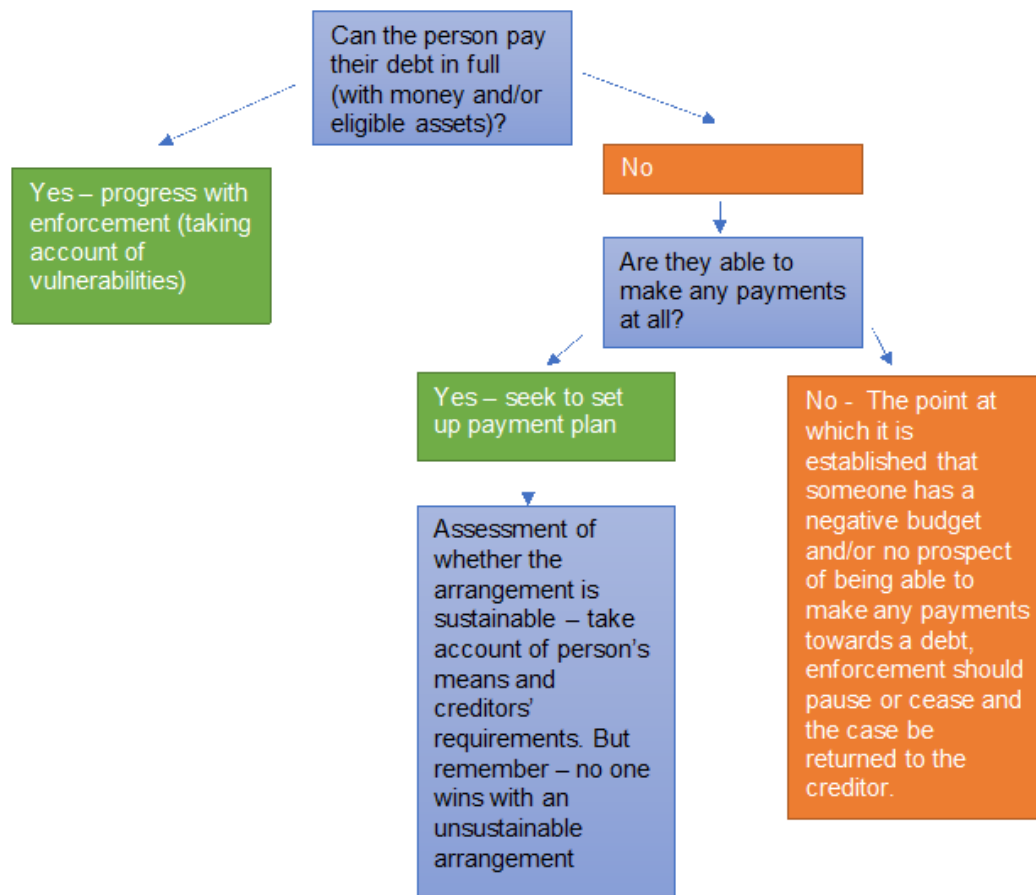
Proposed overall approach to ability to pay

100. We recognise that the enforcement process is there to ensure that when a warrant or liability order has been issued, wherever possible, the person who is subject to it should repay their debt in full as swiftly as possible. This could include through the seizure of eligible assets, as long as this is done lawfully. The ECB's wider Standards set the guardrails for ensuring that enforcement is carried out fairly.

101. We also recognise that the repayment approach needs to be sustainable for the person who owes the debt. If payment is secured or payment plans are agreed that are not sustainable, it could have the following impacts:

- a)** They put their own, or their families', physical and mental wellbeing at risk by not leaving enough money to cover basic living costs
- b)** The arrangement breaks before it is completed, and the debt is not repaid; the creditor does not recover the money owed and the enforcement firm and agent do not receive their fees (i.e. everyone loses).

102. Taking all of this into account, the diagram below shows how we think payment should be approached. We recognise that in practice, the point at which an assessment can be made will vary in each case.



103. We believe that this diagram depicts how things are working some of the time at the moment. In other words, we do not believe that this is a revolutionary suggestion. However, there are three key areas where we would like to drive consistent improvement across the market with our Standards. These are:

- i) **Stopping overly persistent pursuit of payment in full where it is established that the person is not able to do so.** This carries clear risks without benefits. We believe that our existing Standards, particularly on remuneration and contracting structures, should help significantly here. The proposed approach to vulnerability will also contribute.
- ii) **Ensuring a consistent focus on the sustainability of agreed payment plans.** Putting a stop to unrealistic or unsafe payment plans that will either break or lead to people being unable to meet basic living costs. This is easier said than done but is absolutely crucial. We believe that if this is done right, it could lead to more and better payment plans that actually increase overall collections and help more people to settle and move on from their debts.
- iii) **Encouraging a greater focus on agreeing sustainable payment plans in the Compliance stage, so that enforcement stage fees can be avoided where possible.** We recognise the challenges in this regard in relation to the ability to assess assets and would like to explore options here further.

Defining ability to pay – outcomes and categories

Ability to pay outcomes

- 104.** We are aware that there are a wide range of views on what constitutes an ability to pay a debt or ‘affordability’. Consequently, our discussion paper proposed an approach to ability to pay based on the ‘outcome’ that we want the whole industry to be working towards set out below:

Enforcement action that has been carried out fairly will result in an outcome where an individual is able to repay as much of their debt as is feasible in a way that is sustainable and as efficient as possible for their circumstances.

- 105.** By ‘sustainable’ we mean that someone should be able to pay basic living expenses while maintaining their debt repayments. In practice, this means that firms and agents will not pursue repayment terms that are evidently unaffordable but make good judgements about the approach that will enable creditors to recover what is owed while remaining sustainable for the person in debt. This also means that wherever appropriate, ability to pay calculations should be based on an objective standard using reliable financial information.
- 106.** The proposed ability to pay outcomes that we expect firms and agents to achieve are now embedded into the Standards and we will discuss the practical steps required to do so in the relevant sections of this consultation.
- 107.** We have made a change to the substantive wording in response to industry feedback. ‘Repay has much of their debt as is feasible’ has been replaced with ‘satisfy as much of their debt as is feasible’ to reflect that eligible assets can be included in assessing what someone is able to pay towards a debt.
- 108.** All of the Standards are underpinned by the principle that where assets are identified that could be used to satisfy the debt these can be seized. This should be carried out in compliance with legal requirements, and the ECB’s wider Standards. Where vulnerability has been identified, agents should also consider whether seizing an asset could potentially have a secondary impact that exacerbates the vulnerability.
- 109.** The new outcome is:
- An enforcement firm/enforcement agent ensures that it and those who work for it carry out the enforcement process fairly, in a way which ensures that a person subject to enforcement is able to satisfy as much of their debt as is feasible in a way that is sustainable and as efficient as possible for their circumstances.*
- 110.** This outcome reflects the ECB’s intention that the introduction of the new Ability to Pay Standards will result in more people being able to repay their debts on sustainable terms that do not put them or others at risk of harm. We want to see firms enabling more payment arrangements to be made at the Compliance stage, potentially over longer

timeframes. This should bring benefits to everyone, with more people who have the intent of repaying their debts but cannot repay in full immediately being given the opportunity to do so, and creditors receiving repayments where unsustainable arrangements would have broken without the debt being repaid.

Categories of ability to pay

111. In drafting the Standards, we decided that introducing three new ‘categories’ of ability to pay would give greater clarity and assist firms, frontline staff and agents to identify which approach to seeking repayment is most suitable for the situation of the person experiencing enforcement. For the purposes of the Standards, a person subject to enforcement will fall into one of the following ability to pay categories:

(a) ability to pay in full: the person is able to pay a debt in its entirety immediately (with money and/or eligible assets) whilst still paying for their basic living costs or;

(b) ability to pay in part: the person is not able to pay a debt in its entirety immediately, but is able to make some payments (with money and/or eligible assets) towards the debt whilst still paying for their basic living costs or;

(c) no ability to pay: the person has no means at all in the foreseeable future of paying their debt (with either money or eligible assets).

112. These categories aim to help identify the ‘can’t pays’ - people who intend to repay their debt but are unable to do so either at all, or in full at the time of enforcement – and decide the best approach to enabling them to repay on sustainable terms. We anticipate that in cases of no ability to pay, the most appropriate course of action is to return the case to the creditor.

113. As with vulnerability, there are a range of options that could enable someone to repay their debt, but these will need to be tailored to their individual circumstances without pressure to pay in full where it is clear that they are unable to do so. We discuss this further in the identifying and responding sections of this paper.

Q4 – Do you have any comments on the proposed ability to pay outcome and the categories of ability to pay?

4.1 Standards on Ability to Pay for Enforcement Firms (Annex D)

Define

- 114.** The Standards on ability to pay for Enforcement firms are underpinned by the new approach to ‘defining’ ability to pay into three categories of people experiencing enforcement.
- 115.** The definition of ability to pay takes the form of a ‘headline aim’ in the Standards for Enforcement Firms:

An enforcement firm ensures that it and those who work for it carry out the enforcement process fairly, in a way which ensures that a person subject to enforcement is able to satisfy as much of their debt as is feasible in a way that is sustainable and as efficient as possible for their circumstances.

Strategy

- 116.** This aim sets the expectation that firms will create an environment focused on achieving sustainable approaches to repayment. This should enable more people who cannot repay their debt in full to pay on terms that allow them to pay off the debt whilst still being able to meet their basic living costs.
- 117.** Firms will need to have in place a strategy which addresses the key areas that will determine compliance with these Standards. These include identifying where responsibility for oversight of complying with the ability to pay Standards is located within the firm, the support that will be provided to agents and frontline staff to comply with the Standards and how areas that create risks of non-compliance, particularly remuneration and contracting, will be addressed.
- 118.** In our workshops we heard that creditors’ requirements largely shape how the firm approaches ability to pay. For example, some clients are prepared to accept very small repayments in preference to a case being returned where others will press for the full amount or a shorter term, even where there is evidence that this is unlikely to be possible. It is important that these requirements are clearly articulated as a core part of the strategy and that agents and frontline staff understand how to work within these parameters.

Identifying the ability to pay category of a person subject to enforcement

Objective

- 119.** The objective for firms’ compliance with the ‘identifying’ component of the ability to pay Standards is that:

An enforcement firm ensures that it and those who work for it take reasonable and proactive steps at the earliest opportunity and throughout the enforcement process to identify which ability to pay category applies to a person subject to enforcement.

The Standards

- 120.** In order to achieve this objective and comply with the Standards firms will need to try to obtain as much financial information relevant to the case at the earliest stage possible of the enforcement process. This will require firms to work with creditors wherever possible as well as taking steps to enable and encourage the person subject to enforcement to engage and disclose their circumstances. This should be used to make an early assessment of whether someone could potentially repay their debt in full, in part, or has no means of doing so at all.
- 121.** As with the vulnerability Standards, we heard concerns about the challenges of obtaining different types of financial information as well as the cost and limitations of their use in establishing ability to pay. We also recognise that financial situations are dynamic, and information can be incorrect. We would expect firms to take a proportionate approach to obtaining information to support early identification of ability to pay, wherever possible.
- 122.** Concerns were raised in workshops about the difficulty of identifying assets at Compliance stage, which makes it hard to assess someone's ability to pay a debt. We reiterate the principle reflected in the definition of ability to pay that firms and agents may still make an assessment of assets and seize these in partial payment where doing so is appropriate and compliant with existing legislation and the ECB Standards. Where vulnerability has been identified, this will also require agents to take into account any additional impact that seizing the asset could have on the person experiencing enforcement, and be satisfied that it will not put them at risk of sustaining any of the harms outlined at paragraph 41.

Responding to evidence in relation to the ability to pay category of a person subject to enforcement

Objective

- 123.** The new Standards will require firms to take steps to meet the following objective for responding to an assessment of ability to pay:

After an enforcement firm has identified that a person subject to enforcement does not have the ability to pay in full, it responds appropriately to this, providing the person with the opportunity and support to enable them to satisfy all or part of the debt in a sustainable way, where possible.

- 124.** The 'red lines' that we set out in the discussion paper that where it has been identified that someone cannot pay in full, they should not be pressured to pay their debt in full or agree to an unsustainable payment plan are also part of the new Standards. Enforcement should also cease, with the case being returned to creditor where someone has no ability to repay their debt (APF5.2) - for example, where there is a negative budget. We heard that most, but not all, creditors would expect firms and agents to cease enforcement or return the case where there is evidence that someone has no ability to pay.

- 125.** There are also specific requirements for the firm to have procedures to enable frontline staff to set up a payment plan at the Compliance stage and for agents, at the enforcement stage when someone is unable to pay in full but could pay in their debt in part.
- 126.** The primary aim is to ensure that someone is given the most reasonable opportunity to repay their debt on sustainable terms and to maintain payment arrangements agreed. The Standards therefore expect firms to extend the compliance period where appropriate to allow further time for an arrangement to be made, for example if an individual has demonstrated an active commitment to seek debt advice. In addition, when a payment is missed, firms will be expected to try and re-establish the payment plan or revise it where it is no longer sustainable, before moving to enforcement.
- 127.** The new Standards align with the requirements of the Statutory Breathing Space scheme and the Ministry of Justice's proposals for extending the compliance period in all cases and when requested by a debt advice provider. However, we would expect firms to make a judgement about what is reasonable on a case-by-case basis, including considering extending beyond the minimum periods where necessary.
- 128.** AP5. reflects the ECB's objective that where it is appropriate for someone subject to enforcement to access debt advice and they evidence an intention to seek it. This should be facilitated by firms making a referral and pausing enforcement or extending the Compliance period.
- 129.** When someone has completed an Income and Expenditure assessment with a regulated adviser this should be factored into the assessment of whether a payment plan is acceptable and sustainable. The Standards therefore require firms to take these into account in addition to their own methods. We heard concerns from debt advisers about the effectiveness and objectiveness of income and expenditure approaches that do not use the Standard Financial Statement. We were also told about firms developing approaches to determining income and expenditure based on the SFS to align with practice in related sectors.
- 130.** We heard in the workshops that as financial situations are dynamic it is usual practice for payment arrangements to be reviewed, including to identify whether they can be increased. The Standards will therefore require firms to review payment plans regularly to ensure that they remain sustainable and revise them as appropriate.
- 131.** Firms will also be expected to record and retain data relating to ability to pay and payment plans for a variety of purposes, including providing customer support and complaints. We have not specified a retention period as we understand that most firms will retain data in line with procedures for compliance with GDPR requirements.
- 132.** We have introduced a new requirement on agents to record a justification for their decision that a payment arrangement was sustainable for the person experiencing enforcement. For example, this could include evidence of financial circumstances that

they have seen. We intend this to be used primarily for firm's internal audit and compliance processes and do not want it to be onerous, but we need to find a consistent and practical approach.

Q5 – Do you have any comments on the draft Standards on Ability to Pay for Enforcement Firms?

4.2 Standards on Ability to Pay for Enforcement Agents (Annex E)

Headline Aim

133. The headline aim for the Standards for agents is that:

An enforcement agent carries out the enforcement process fairly, in a way which ensures that a person subject to enforcement is able to satisfy as much of the debt as is feasible in a way that is sustainable and as efficient as possible for their circumstance.

134. Achieving this headline aim and the improved outcomes the ECB is seeking will mean agents:

- i) Proactively and consistently making efforts to identify whether someone experiencing enforcement is unable repay in full or at all early in the enforcement process.
- ii) Setting up sustainable payment plans that are less likely to break and enable someone to repay their debt sustainably without putting them at risk of harm.
- iii) Facilitating access to debt advice where appropriate.

Identifying the ability to pay category of a person subject to enforcement

Objective

135. The objective for identifying ability to pay for an agent is:

An enforcement agent takes reasonable and proactive steps at the earliest opportunity and throughout the enforcement process to identify which ability to pay category applies to a person subject to enforcement.

136. In practice, an agent is often best placed to decide what someone is realistically and sustainably able to pay, including through an assessment of assets. Where someone has money or assets that could cover the debt, the enforcement can proceed to seek to recover the debt, in line with the ECB's Standards.

137. However, enforcement visits are also the final safety net that can uncover an inability to pay in full (or at all) because someone has felt unable to engage for precisely this reason. If an agent identifies that someone has no ability to repay their debts in the foreseeable future, they should be suspending or ceasing enforcement and returning the case to the creditor, particularly where there are indicators of other vulnerabilities and related risks.

138. We set out some 'red lines' for agent conduct in our discussion paper which are reflected in the 'identifying' Standards (APA4.4). This requires agents to acknowledge and respond to evidence or indicators that someone is unable to repay their debt in full

or at all, and make a proper evaluation at this stage. Agents must not dismiss disclosures or treat them disrespectfully (APA4.4).

- 139.** In order to comply with the remaining 'identifying' Standards, agents will need to communicate supportively with the person experiencing enforcement to enable them to provide relevant information about their financial circumstances.

Responding to evidence in relation to the ability to pay category of a person subject to enforcement

- 140.** The headline responding to ability to pay objective for agents is:

An enforcement agent carries out the enforcement process fairly, in a way which ensures that a person subject to enforcement is able to satisfy as much of the debt as is feasible in a way that is sustainable and as efficient as possible for their circumstances.

- 141.** The 'red lines' in the responding element of the Standards requires agents to cease or pause enforcement when there is evidence that someone has no ability to repay their debt (APA5.2) and stops them from pressuring people to pay in full where there is evidence that they are not able to do so, or to agree to repayments that are not sustainable for their circumstances (APA5.3).
- 142.** Where there is evidence that someone has multiple debts and is likely to have a longer debt repayment journey, it may be appropriate for the agent to refer or signpost them to debt advice (APA5.4).
- 143.** Agents will be required to enable people who are unable to repay their debt in full to participate in a constructive negotiation to reach a sustainable payment plan. This includes using appropriate and effective communications and any tools available to enable someone to engage with the process of budgeting calculations, which can be particularly challenging for those with low financial capability (APA5.6).
- 144.** Some concerns have been expressed about the practical implications of assessing income and expenditure during an enforcement visit and we recognise the challenge and do not want to create expectations that make it impractical for payment arrangements to be made on the doorstep. This is particularly important given that we want to encourage greater use of payment plans where appropriate. We have also heard about a variety of good practice which is working effectively and have sought to set the expectations in APA5.6 at a sufficiently high level to enable sensible and proportionate approaches.
- 145.** The ability to pay Standards are underpinned by expectations that Agents should record and share relevant information and data about the case with the firm they are working for. This is to ensure that relevant information about cases is available to individuals at all touchpoints through the life cycle of the case and to facilitate firms' ability to meet the ECB's Standards for evaluation and monitoring.

- 146.** When an agent has agreed a payment arrangement, they will also need provide a justification for how they have satisfied themselves that it is sustainable. We heard some concerns about this requirement in the workshops and as we envisage it being used mainly for firms' internal audit and quality assurance processes we do not intend it to be onerous. For example, one suggestion we have discussed is that Agents might be required to include a brief commentary at the end of their Body Worn Video recording to note that they are satisfied that the agreement made will be sustainable with a brief explanation of why.
- 147.** Although the focus of the Standards is on ensuring a sustainable repayment approach, the ECB is clear that this does not preclude Agents from making an assessment of assets or recovering (seizing) them where this is appropriate.

Third parties

- 148.** The Ability to Pay standard has primarily been drafted to relate to the person being enforced against. There are already specific requirements in v1.1 of the Standards including the terms on which an enforcement agent can discuss a debt with and/or accept payment from a third party. The 'red line' here is that agents must not coerce a third party into paying a debt by 'using threats, force, repeated or prolonged demands' (AS1.23), or abuse or misrepresent their powers to do so (AS1.22).
- 149.** We do not think it is appropriate to extend the ability to pay Standards fully to third parties who are freely offering a payment without having been coerced. However, we would expect agents to be mindful of the interaction between vulnerability and ability to pay. This could include looking out for any obvious indicators that a third party voluntarily making an offer to pay is in financial difficulty and could potentially be in the category of 'no ability to pay'. We have therefore set out a specific subsection on the expectations in this regard for Enforcement Agents when dealing with third parties.

Q6– Do you have any comments on the draft Standards on Ability to Pay for Enforcement Agents, including the proposed application to third parties?

5) Next Steps

Implementation

149. What we heard in the workshops confirmed our view that much of what we are proposing is consistent with good practice that is already happening in many firms, at least some of the time. However, we appreciate that the proposals amount to a sizeable shift in the way that vulnerability and ability to pay is thought about and approached, and we recognise that it would not be practical to make changes of this scale overnight.

150. It is important that, once finalised, the new Standards on Vulnerability and Ability to Pay are implemented swiftly, so that the benefits can begin to be felt. At the same time, it is important that we give enforcement firms time to consider and develop their approaches to delivering the work needed to implement and embed the cultural and operational changes that will be required to meet the new Standards. Enforcement Agents will also need a proportionate amount of time to update their skills and knowledge and adjust their approach to enforcement to comply with the Standards, as well as completing any actions, for example undertaking training, required by the firms that they work for.

151. Our initial proposal is that we would expect firms to demonstrate that they have fully worked up plans for implementation in place within 3 months of the Standards launching, with a proposed deadline of the end of March/beginning of Q2 2026. Firms will then have a further six months to deliver the plans with the objective of having operationalised and fully implemented the Standards by October 2026. We welcome feedback on how practical it will be for firms to deliver these actions and meet the proposed timelines.

Q7 – Do you have any general comments on the draft standards or the ECB’s approach to developing them, as set out in this consultation paper?

Q8 – Are there proposals in this consultation paper that you think would impose a cost or other burden that is disproportionate to the intended outcome? Are there alternative ways it could be achieved?

Q9 – Do you have any comments on the proposed approach to implementing the standards?

Timetable for finalising the Standards and how to respond

152. We want to hear your feedback on the ECB’s approach to vulnerability and ability to pay and the draft Standards. This consultation will remain open until **Friday 31st October** and we will review all responses received by then. Please submit responses to contact@enforcementconductboard.org.

153. 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.

- 154.** We welcome written comments from any interested parties including enforcement agents and people who have personal experience of enforcement and/or those who support them. Please email contact@enforcementconductboard.org
- 155.** We look forward to receiving your responses and we will take account of these in finalising the Standards which we intend to publish by **January 2026**, along with our response to the input we have received to this consultation. The intention is for the new Standards on Vulnerability and Ability to Pay, when finalised, to be added to the existing ECB Standards, in a consolidated Version 2 (which will replace the existing Version 1.1).

Annex A – Standards on Vulnerability for Enforcement Firms

Standards on Vulnerability for Enforcement Firms

Headline Aim

- VF1. An *enforcement firm* ensures that *enforcement agents* and *frontline staff* who work for it identify, as far as possible, when a *person subject to enforcement* is *vulnerable*, and then respond to this in a way that mitigates the risk of additional, foreseeable *harm* to that person and does not exacerbate their *vulnerability*.

Definition of *vulnerable* and *vulnerability*

- VF2. A *person subject to enforcement* is defined as being *potentially vulnerable* or experiencing *potential vulnerability* for the purpose of these Standards at a time when they are experiencing some or all of the personal circumstances described at VF2.2 below, but it has not yet been determined whether this means that they are especially susceptible to experiencing *harm* if those involved in carrying out the *enforcement process* do not identify the person's *vulnerability* and provide appropriate safeguards or support.

- VF2.1 A *person subject to enforcement* is defined as being *vulnerable* or experiencing *vulnerability* for the purposes of these Standards at a time when, due to their personal circumstances, they are especially susceptible to experiencing *harm* if those involved in carrying out the *enforcement process* do not identify the person's *vulnerability* and provide appropriate safeguards or support. *Vulnerability* may be temporary, permanent or fluctuating in nature.

- VF2.2 The personal circumstances referred to at VF2 and VF2.1 above, could include any or all of the following:

- | | |
|---------|--|
| VF2.2.1 | Health: physical and mental health conditions, severe or long-term illness, hearing or visual impairments, low mental capacity, cognitive impairments. |
| VF2.2.2 | Life events: major life changes with temporary or longer lasting impacts such as bereavement, job loss, relationship breakdown, and individuals in specific or transient life circumstances such as prison or care leavers and refugees. |
| VF2.2.3 | Resilience: low resilience to withstand financial or emotional shocks due to low or erratic income, over indebtedness, low savings, and lack of a support structure. |
| VF2.2.4 | Capability: Poor literacy or numeracy skills, low confidence or knowledge of financial matters and managing money, low digital literacy, and/or digital exclusion. |

Strategy for complying with these Standards

VF3. An *enforcement firm* has in place a clear strategy and policies and procedures for complying with these Standards, which are based on the types and prevalence of *vulnerability* likely to be present within the firm's business model, and ensuring the *enforcement agents* and *frontline staff* who *work for* it comply with the ECB's Standards on Vulnerability for Enforcement Agents. These must be regularly reviewed and updated as needed. Through its strategy and policies and procedures a firm must:

- VF3.1 identify where responsibility sits for ensuring that it is complying with these Standards (which should be at an appropriately senior level), and makes clear how this will be achieved.
- VF3.2 outline the ways in which it remunerates and engages *enforcement agents* and *frontline staff* who *work for* it, and sets any targets or key performance indicators, for example in relation to timescales, to ensure that they do not act as a disincentive to complying with these Standards.
- VF3.3 outline the training, guidance and tools which it will provide to *enforcement agents* and *frontline staff* who *work for* it so that they have the appropriate knowledge and skills to carry out the *enforcement process* in a way which complies with these Standards and the ECB's Standards on Vulnerability for Enforcement Agents.

Identifying vulnerability

Objective:

VF4. An *enforcement firm* ensures that it and those who *work for* it take reasonable and proactive steps at the earliest opportunity and throughout the *enforcement process* to identify and record whether, and in what way, a *person subject to enforcement* is *vulnerable* or *potentially vulnerable*.

An enforcement firm must:

- VF4.1 take reasonable steps to obtain and use information available from creditors and any other sources accessible to them about the personal and financial circumstances of a *person subject to enforcement* to enable the firm to identify at the earliest opportunity whether the person is *vulnerable* or *potentially vulnerable*.
- VF4.2 ensure that there are opportunities at each stage of the *enforcement process*, for *enforcement agents* and *frontline staff* who *work for* the firm to identify that a *person subject to enforcement* is *vulnerable* or *potentially vulnerable*.
- VF4.3 ensure that all communications with a *person subject to enforcement* are developed in such a way so as to enable them to disclose any needs or circumstances which might suggest that they are *vulnerable* or *potentially vulnerable*.
- VF4.4 where it has been identified that a *person subject to enforcement* is *potentially vulnerable*, have a procedure in place to enable a decision to be made as to whether the person is *vulnerable* (such as escalation to a more senior colleague or obtaining additional information or evidence from the *person subject to enforcement*).

- VF4.5 where additional information or evidence is required from a *potentially vulnerable person subject to enforcement* to enable the firm to decide how to respond, ensure that the process for obtaining that additional information or evidence is reasonable and not overly burdensome for the *person subject to enforcement* and, where appropriate, pause the *enforcement process* for a reasonable period to allow this to take place.
- VF4.6 ensure that each disclosure and all evidence confirming that a *person subject to enforcement* is *vulnerable* or *potentially vulnerable*, is appropriately evaluated. Such disclosures or evidence must never be dismissed without appropriate evaluation, or be treated disrespectfully by an *enforcement firm* or those who *work for it*.
- VF4.7 have in place an appropriate system to enable those who *work for* the firm to record any assessment that has been undertaken of whether a *person subject to enforcement* is *potentially vulnerable* and how this might affect their ability to engage with the *enforcement process*. These records should be kept up to date and retained for an appropriate period of time after the enforcement process has concluded, in line with the firm's GDPR policy or any other relevant policy.
- VF4.8 ensure that, where a *person subject to enforcement* has been identified as *vulnerable* or *potentially vulnerable*, this is shared with those *enforcement agents* and *frontline staff* who *work for* the firm who are dealing with *the person subject to enforcement* and, where appropriate, with the creditor.
- VF4.9 proceed with the *enforcement process* in the standard way while acknowledging and taking into account the personal circumstances at VF2.2, where the *person subject to enforcement* is initially identified as being *potentially vulnerable*, but it is then determined that, for the time being, the *enforcement process* can be carried out in the standard way without making the person especially susceptible to experiencing *harm*. This should be kept under review throughout the *enforcement process*.

Responding to vulnerability

Objective:

- VF5. When an *enforcement firm* identifies that a *person subject to enforcement* is *vulnerable*, it assesses how to respond appropriately to this in a way which mitigates the risk of additional, foreseeable *harm* and puts in place appropriate measures to address this.

An enforcement firm must:

- VF5.1 ensure that *enforcement agents* and *frontline staff* who *work for* it take appropriate steps when it has been determined that a *person subject to enforcement* is *vulnerable*. This may include:
- VF5.1.1 making adaptations to the *enforcement process*, such as providing additional support to the *person subject to enforcement*, placing the case on hold, or adapting communications with the *person subject to enforcement*;
 - VF5.1.2 in more complex cases, or in circumstances in which a higher degree of support is needed, signposting or referring a *person subject to*

- enforcement* to sources of internal or external specialised support which can be provided by welfare teams or advisers;
- VF5.1.3 where there are indicators of acute *vulnerability* such that it is not safe to proceed with enforcement, ceasing the *enforcement process* altogether.
- VF5.2 where it has been identified that a *person subject to enforcement* is *vulnerable* or *potentially vulnerable*, have a system which links multiple cases relating to the same person so they can be dealt with together.
- VF5.3 have in place a proportionate process for internally auditing the following, to ensure compliance with these Standards, and the *ECB's* Standards on Vulnerability for Enforcement Agents:
- VF5.4.1 evaluations of whether a *person subject to enforcement* is *vulnerable*;
- VF5.4.2 plans or adaptations which have been put in place to support *people subject to enforcement* who are *vulnerable*;
- VF5.4.3 outcomes of the *enforcement process* for *people subject to enforcement* who are *vulnerable*.
- VF5.4 ensure that a suitably experienced person within the *enforcement firm* is responsible for reviewing the internal audits referred to at VF5.3, and ensuring that improvements are made to the firm's policies and procedures for identifying and responding to *vulnerability* as a result.

Annex B - Standards on Vulnerability for Enforcement Agents

Standards on Vulnerability for Enforcement Agents

Headline Aim

- VA1. An *enforcement agent* identifies, as far as possible, when a *person subject to enforcement* is *vulnerable*, and then responds to this in a way that mitigates the risk of additional, foreseeable *harm* to that person and does not exacerbate their *vulnerability*.

Definition of *vulnerable* and *vulnerability*

- VA2. A *person subject to enforcement* is defined as being *potentially vulnerable* or experiencing *potential vulnerability* for the purpose of these Standards at a time when they are experiencing some or all of the personal circumstances described at VA2.2 below, but it has not yet been determined whether this means that they are especially susceptible to experiencing *harm* if those involved in carrying out the *enforcement process* do not identify the person's *vulnerability* and provide appropriate safeguards or support.
- VA2.1 A *person subject to enforcement* is defined as being *vulnerable* or experiencing *vulnerability* for the purposes of these Standards at a time when, due to their personal circumstances they are especially susceptible to experiencing *harm* if those involved in carrying out the *enforcement process* do not identify the person's *vulnerability* and provide appropriate safeguards or support. *Vulnerability* may be temporary, permanent or fluctuating in nature.
- VA2.2 The personal circumstances or characteristics referred to at VA2 and VA2.1 above, could include any or all of the following:
- VA2.2.1 Health: physical and mental health conditions, severe or long-term illness, hearing or visual impairments, low mental capacity, cognitive impairments.
 - VA2.2.2 Life events: major life changes with temporary or longer lasting impacts such as bereavement, job loss, relationship breakdown, and individuals in specific or transient life circumstances such as prison or care leavers and refugees.
 - VA2.2.3 Resilience: low resilience to withstand financial or emotional shocks due to low or erratic income, over indebtedness, low savings, and lack of a support structure.
 - VA2.2.4 Capability: Poor literacy or numeracy skills, low confidence or knowledge of financial matters and managing money, low digital literacy, and/or digital exclusion.

Complying with the *enforcement firm's* strategy

- VA3. An *enforcement agent* complies with the strategy and policies and procedures in place within the *enforcement firm(s)* they *work for* in order to adhere to these Standards and the ECB's Standards on Vulnerability for Enforcement Firms. This includes undertaking all training and making use of guidance documents on *vulnerability*

provided by the *enforcement firm(s)* they *work for* so that they have the appropriate knowledge and skills to carry out the *enforcement process* in a way which complies with these Standards and the ECB's Standards on Vulnerability for Enforcement Firms.

Identifying vulnerability

Objective:

VA4. An *enforcement agent* takes reasonable and proactive steps at the earliest opportunity and throughout the *enforcement process* to identify and record whether, and in what way, a *person subject to enforcement* is *vulnerable* or *potentially vulnerable*.

An *enforcement agent* must:

VA4.1 proactively look for indicators that a *person subject to enforcement* is *vulnerable* or *potentially vulnerable*, both within any information received about the person, and during contact with the person.

VA4.2 ensure that all communications with and conduct towards a *person subject to enforcement* are developed or delivered in such a way so as to enable them to disclose any needs or circumstances which might indicate that they are *vulnerable* or *potentially vulnerable*.

VA4.3 acknowledge and respond appropriately to all disclosures and any evidence provided that a *person subject to enforcement* is *vulnerable* or *potentially vulnerable*. Such disclosures or evidence must never be dismissed without appropriate evaluation, or be treated disrespectfully.

VA4.4 where a *person subject to enforcement* has been identified as being *vulnerable* or *potentially vulnerable*, record and share this information, including the results of any assessment of support needs and the person's ability to engage with the *enforcement process* in line with the policies and systems provided by the *enforcement firm(s)* they *work for*.

VA4.5 proceed with the *enforcement process* in the standard way while acknowledging and taking into account the personal circumstances at VA2.2 where the *person subject to enforcement* is initially identified as being *potentially vulnerable*, but it is then determined that, for the time being, the *enforcement process* can be carried out in the standard way without making the person especially susceptible to experiencing *harm*. This should be kept under review throughout the *enforcement process*.

Responding to vulnerability

Objective:

VA5. When an *enforcement agent* identifies that a *person subject to enforcement* is *vulnerable*, they use their judgement to respond appropriately to this in a way which mitigates the risk of additional, foreseeable *harm*. The *enforcement agent* must work with the *enforcement firm(s)* they work for to put in place appropriate support to address this.

An enforcement agent must:

VA5.1 use their judgement to take appropriate steps when it has been determined that a *person subject to enforcement* is *vulnerable*. This may include:

VA5.1.1 making adaptations to the *enforcement process*, such as providing additional support to the *person subject to enforcement*, placing the case on hold, or adapting communications with the *person subject to enforcement*;

VA5.1.2 in more complex cases, or in circumstances in which a higher degree of support is needed, signposting a *person subject to enforcement* to specialised support which can be provided by internal or external welfare teams or advisers;

VA5.1.3 where there are indicators of acute *vulnerability* such that it is not safe to proceed with enforcement, ceasing the *enforcement process* altogether.

VA5.2 comply and assist with internal audits carried out by the *enforcement firm* they work for to enable the firm to monitor compliance with these Standards, and the Standards on Vulnerability for Enforcement Firms.

Third parties

Identifying vulnerability

An enforcement agent must:

VA6. when a *third party* becomes actively involved in an *enforcement visit*, proactively look for any indicators during the *enforcement visit* that the *third party* is *vulnerable* or *potentially vulnerable*.

VA7. acknowledge and respond appropriately to any disclosure during an *enforcement visit* that a *third party* who has become actively involved in an *enforcement visit* is *vulnerable* or *potentially vulnerable*. Such disclosures or evidence must never be dismissed without appropriate evaluation, or be treated disrespectfully.

Responding to vulnerability

An enforcement agent must:

VA8. when they have identified that a *third party* who has become actively involved in an *enforcement visit* is *vulnerable* or *potentially vulnerable*, use their judgement to respond appropriately to this in a way which mitigates the risk of foreseeable *harm*. This may include:

VA8.1. making adaptations to the *enforcement process*, such as changing their communication style, providing additional support to the *third party* or signposting them to specialised support which can be provided by internal or external welfare teams or advisers;

- VA8.2. where there are indicators that a *third party* is acutely *vulnerable* such that it is not safe to proceed with the *enforcement visit*, withdrawing from the visit.
- VA9. where the *vulnerability* or *potential vulnerability* of the *third party* who has become actively involved in an *enforcement visit* may have a material impact on the way in which the *enforcement process* should be conducted in future, record and share this information, in line with the policies and systems provided by the *enforcement firm(s)* they *work for*.

Annex C – Definitions – Vulnerability Standards

Definitions – Vulnerability Standards

Term	Definition
<i>ECB</i>	Enforcement Conduct Board.
<i>Enforcement agent</i>	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, and is certified to act as an enforcement agent under section 64 of the Tribunals, Courts and Enforcement Act 2007.
<i>Enforcement firm</i>	A business or organisation that employs or engages <i>enforcement agents</i> .
<i>Enforcement process</i>	The process of seeking to recover money owed in order to satisfy a writ, warrant or liability order, including by taking control of goods.
<i>Frontline staff</i>	An individual (other than an <i>enforcement agent</i>) who works for or on behalf of an <i>enforcement firm</i> , and whom engages with <i>people subject to enforcement</i> .
<i>Harm</i>	Harm could include physical, psychological, financial or social and relational harm.
<i>People/person subject to enforcement</i>	A person or business who owes a sum of money and in respect of whom steps are being taken by an <i>enforcement agent</i> or <i>enforcement firm</i> , to recover that sum of money.
<i>Potentially Vulnerable/ Potential Vulnerability</i>	Defined in paragraph VF2 of the Standards on Vulnerability for Enforcement Firms and defined in paragraph VA2 of the Standards on Vulnerability for Enforcement Agents.
<i>Third party/parties</i>	Where the <i>person subject to enforcement</i> is an individual, anyone other than this individual. Where the <i>person subject to enforcement</i> is a business, anyone who does not <i>work for</i> or have a connection to the business.
<i>Vulnerable/ Vulnerability</i>	Defined in paragraph VF2.1 of the Standards on Vulnerability for Enforcement Firms and defined in paragraph VA2.1 of the Standards on Vulnerability for Enforcement Agents.
<i>Work for</i>	Work for either as an employee or as a contractor.

Annex D – Standards on Ability to Pay for Enforcement Firms

Standards on Ability to Pay for Enforcement Firms

Headline Aim

- APF1. An *enforcement firm* ensures that it and those who *work for* it carry out the *enforcement process* fairly, in a way which ensures that a *person subject to enforcement* is able to satisfy as much of their debt as is feasible in a way that is *sustainable* and as efficient as possible for their circumstances.

Definition of *ability to pay in full*, *ability to pay in part* and *no ability to pay*

- APF2. A *person subject to enforcement* will fall into one of the following *ability to pay* categories:
- (a) *ability to pay in full*: the person is able to pay a debt in its entirety immediately (with money and/or eligible assets) whilst still paying for their *basic living costs* or;
 - (b) *ability to pay in part*: the person is not able to pay a debt in its entirety immediately, but is able to make some payments (with money and/or eligible assets) towards the debt whilst still paying for their *basic living costs* or;
 - (c) *no ability to pay*: the person has no means at all in the foreseeable future of paying their debt (with either money or eligible assets).

Strategy for complying with these Standards

- APF3. An *enforcement firm* has in place a clear strategy and policies and procedures for complying with these Standards and ensuring the *enforcement agents* and *frontline staff* who *work for* it comply with the ECB's Standards on Ability to Pay for Enforcement Agents. These must be regularly reviewed and updated as needed. Through its strategy and policies and procedures, a firm must:
- APF3.1 identify where responsibility sits for ensuring that it is complying with these Standards (which should be at an appropriately senior level), and make clear how this will be achieved.
 - APF3.2 outline the ways in which it remunerates and engages *enforcement agents* and *frontline staff* who *work for* it, and sets any targets or key performance indicators, to ensure that they do not act as a disincentive to complying with these Standards.
 - APF3.3 outline the training, guidance and tools that it will provide to *enforcement agents* and *frontline staff* who *work for* it to ensure that they can assess financial information to identify which *ability to pay category* applies to a *person subject to enforcement* and, where appropriate, devise a *sustainable* payment plan with the *person subject to enforcement*.
 - APF3.4 identify acceptable payment parameters for different creditors and arrangements for working with creditors, including returning a case when a *person subject to enforcement* is identified as having *no ability to pay*.

Identifying the *ability to pay* category of a person subject to enforcement

Objective:

APF4. An *enforcement firm* ensures that it and those who *work for* it take reasonable and proactive steps at the earliest opportunity and throughout the *enforcement process* to identify which *ability to pay category* applies to a *person subject to enforcement*.

An *enforcement firm* must:

APF4.1 take reasonable steps to obtain information from creditors and, where appropriate, other information sources about the personal and financial circumstances of a *person subject to enforcement* to enable the firm to identify at the earliest opportunity which *ability to pay category* applies to that person.

APF4.2 ensure that *the enforcement process* is carried out in a way which enables the *person subject to enforcement* to disclose at the earliest opportunity any personal and financial circumstances which are relevant to their ability to repay their debt.

APF4.3 ensure that all available evidence in relation to the personal and financial circumstances of a *person subject to enforcement* which may be relevant to their *ability to pay category*, is appropriately evaluated. Such disclosures or evidence must never be dismissed without appropriate evaluation, or treated disrespectfully by an *enforcement firm* or those who *work for* it.

APF4.4 whenever practical, using financial information that has been obtained or provided for this purpose, seek to assess objectively which *ability to pay category* applies to a *person subject to enforcement*.

APF4.5 have in place an appropriate system to enable those who *work for* the firm to record every evaluation of which *ability to pay category* applies to a *person subject to enforcement*. These records should be kept up to date and retained for an appropriate period of time after the *enforcement process* has concluded, in line with the firm's GDPR policy or any other relevant policy

APF4.6 ensure that, where a *person subject to enforcement* has been identified as lacking the *ability to pay in full*, this is shared with those *enforcement agents* and *frontline staff* who *work for* the firm who are dealing with *the person subject to enforcement* and with the creditor.

Responding to evidence in relation to the *ability to pay* category of a person subject to enforcement

Objective:

APF5. After an *enforcement firm* has identified that a *person subject to enforcement* does not have the *ability to pay in full*, it responds appropriately to this, providing the person with the opportunity and support to enable them to satisfy all or part of the debt in a *sustainable* way, where possible.

An enforcement firm must:

- APF5.1 when it has been identified that a *person subject to enforcement* has *no ability to pay* and is *vulnerable*, seek to mitigate the risk to them of experiencing *harm* due to the *enforcement process*.
- APF5.2 when it has been identified that a *person subject to enforcement* has *no ability to pay*, stop pursuing payment, suspend or cease the *enforcement process* and return the case to the creditor.
- APF5.3 where there is evidence at the *compliance stage*, that a *person subject to enforcement* lacks the *ability to pay in full*, but may have the *ability to pay in part*, have a process in place which enables *frontline staff* who work for it to seek to agree a *sustainable* payment plan with the *person subject to enforcement*, before an *enforcement visit* is conducted.
- APF5.4 where appropriate, extend the minimum period of notice that must be given before a case moves from the *compliance stage* to the *enforcement stage*, to enable time for a *sustainable* payment plan to be put in place with the *person subject to enforcement*.
- APF5.5 where a *person subject to enforcement* has missed a single payment under a *sustainable* payment plan, not undertake another *enforcement visit* until the firm has made a reasonable attempt to secure the payment or, where appropriate, to revise the *sustainable* payment plan so that the *person subject to enforcement* is able to continue to repay the debt.
- APF5.6 where a *person subject to enforcement* has not recently obtained advice from a debt advice provider and where it is appropriate for the firm to make that suggestion, have in place a process for *frontline staff* or *enforcement agents* to refer or signpost a *person subject to enforcement* to a debt advice provider where there is evidence that the person lacks the *ability to pay in full*, or the *ability to pay in part*.
- APF5.7 where a *person subject to enforcement* has sought advice at the *compliance stage* from a debt advice provider and the debt advice provider contacts the *enforcement firm* or someone who works for it to request an extension of time before the case moves from the *compliance stage* to the *enforcement stage*, where appropriate, provide an extension beyond the minimum required period and in addition to the standard breathing space period under the Debt Respite Scheme to enable the person to obtain debt advice and/or to agree a *sustainable* payment plan.
- APF5.8 where a *person subject to enforcement* expresses a desire to seek debt advice and provides evidence that they are pursuing this, pause the *enforcement process* for a reasonable period to allow this to take place.
- APF5.9 where there is evidence at the *enforcement stage*, that a *person subject to enforcement* lacks the *ability to pay in full*, but may have the *ability to pay in part*, have a process in place which enables *enforcement agents* who work for it to seek to agree a *sustainable* payment plan with the *person subject to enforcement*.

- APF5.10 ensure that, when a payment plan is put in place, it is *sustainable*, and it is reviewed as and when appropriate, and revised if necessary to ensure it remains *sustainable*.
- APF5.11 where a *person subject to enforcement* has completed an Income and Expenditure assessment with a regulated debt advice provider, either at the *compliance stage* or after assets have been assessed at the *enforcement stage*, take this into account when determining the terms of a payment plan, to ensure this is *sustainable*.
- APF5.12 have in place an appropriate system to enable those who *work for* the firm to make a record of a payment plan which has been agreed with the *person subject to enforcement*. This record should include a justification from the *enforcement agent*, setting out how they decided that a payment plan would be *sustainable*. These records should be kept up to date and retained for an appropriate period of time after the *enforcement process* has concluded, in line with the firm's GDPR policy or any other relevant policy.
- APF5.13 ensure that, where a *person subject to enforcement* lacks the *ability to pay in full*, they are not placed under pressure to either pay their debt in full, or to agree to a payment plan which is not *sustainable*.

Annex E – Standards on Ability to Pay for Enforcement Agents

Standards on Ability to Pay for Enforcement Agents

Headline Aim

- APA1. An *enforcement agent* carries out the *enforcement process* fairly, in a way which ensures that a *person subject to enforcement* is able to satisfy as much of the debt as is feasible in a way that is *sustainable* and as efficient as possible for their circumstances.

Definition of *ability to pay in full*, *ability to pay in part* and *no ability to pay*

- APA2. A *person subject to enforcement* will fall into one of the following *ability to pay* categories:
- (a) *ability to pay in full*: the person is able to pay a debt in its entirety immediately (with money and/or eligible assets) whilst still paying for their *basic living costs* or;
 - (b) *ability to pay in part*: the person is not able to pay a debt in its entirety immediately, but is able to make some payments (with money and/or eligible assets) towards the debt whilst still paying for their *basic living costs* or;
 - (c) *no ability to pay*: the person has no means at all in the foreseeable future of paying their debt (with either money or eligible assets).

Complying with the *enforcement firm's* strategy

- APA3. An *enforcement agent* complies with the strategy and policies and procedures in place within the *enforcement firm* they *work for* in order to adhere to these Standards and the ECB's Standards on Ability to Pay for Enforcement Firms.

Identifying the *ability to pay* category of a *person subject to enforcement*

Objective:

- APA4. An *enforcement agent* takes reasonable and proactive steps at the earliest opportunity and throughout the *enforcement process* to identify which *ability to pay* category applies to a *person subject to enforcement*.

An *enforcement agent* must:

- APA4.1 undertake all training and make use of guidance documents on ability to pay provided by the *enforcement firm* they *work for* so that they can assess financial information to identify which *ability to pay* category applies to a *person subject to enforcement* and, where appropriate, agree a *sustainable* payment plan with the person.
- APA4.2 ensure that all communications with and conduct towards a *person subject to enforcement* enable them to disclose any personal or financial circumstances which are relevant to their *ability* to repay their debt.

- APA4.3 proactively look for indicators in any form of communication received about or from the *person subject to enforcement*, and during contact with the person, which would enable them to identify which *ability to pay category* applies to the person.
- APA4.4 acknowledge and respond appropriately to any disclosure and all information in relation to the personal and financial circumstances of a *person subject to enforcement* which may be relevant to their *ability to pay category*, including seeking further information where appropriate. Such disclosures or evidence must never be dismissed without appropriate evaluation, or be treated disrespectfully.
- APA4.5 whenever practical, using financial information that has been obtained or provided for this purpose, seek to assess objectively which *ability to pay category* applies to a *person subject to enforcement*.
- APA4.6 make a record of any evaluation they undertake of which *ability to pay category* applies to a *person subject to enforcement*. These records should be kept up to date and retained for an appropriate period of time after the *enforcement process* has concluded, in line with the GDPR policy or any other relevant policy of the *enforcement firm* they work for.
- APA4.7 ensure that, where they have identified that a *person subject to enforcement* lacks the *ability to pay in full*, this is shared with the *enforcement firm* they work for.

Responding to evidence in relation to the *ability to pay category* of a *person subject to enforcement*

Objective:

- APA5. After an *enforcement agent* has identified that a *person subject to enforcement* does not have the *ability to pay in full*, they use their judgement to respond appropriately to this. The *enforcement agent* must provide the *person subject to enforcement* with the opportunity and support to enable them to satisfy all or part of the debt in a *sustainable* way where possible.

An *enforcement agent* must:

- APA5.1 when they have identified that a *person subject to enforcement* has *no ability to pay* and is *vulnerable*, seek to mitigate the risk to them of experiencing *harm* due to the *enforcement process*.
- APF5.2 when they have identified that a *person subject to enforcement* has *no ability to pay*, stop pursuing payment, suspend or cease the *enforcement process* and return the case to the creditor or *enforcement firm* they work for.
- APA5.3 when they have identified that a *person subject to enforcement* lacks the *ability to pay in full*, not place the person under pressure to either pay their debt in full, or to agree to a payment plan which is not *sustainable*.
- APA5.4 where a *person subject to enforcement* has not recently obtained advice from a debt advice provider and where it is appropriate for an *enforcement agent* to *make that suggestion*, refer or signpost a *person subject to enforcement* to a

regulated debt advice provider where there is evidence that the person lacks the *ability to pay in full*, or lacks the *ability to pay in part*.

- APA5.5 where there is evidence that a *person subject to enforcement* lacks the *ability to pay in full*, seek to agree a *sustainable* payment plan with the *person subject to enforcement*.
- APA5.6 when they are seeking to agree a *sustainable* payment plan with the *person subject to enforcement*, do so in a way which is constructive, allowing sufficient time for this to be agreed and using any tools to help assess income and expenditure provided by the firm they *work for*.
- APA5.7 make a record of any payment plan which has been agreed with the *person subject to enforcement* and provide a justification setting out why the *enforcement agent* is satisfied that the payment plan is *sustainable*. These records should be kept up to date and retained for an appropriate period of time after the *enforcement process* has concluded, in line with the GDPR policy or any other relevant policy of the *enforcement firm* they *work for*.

Third parties

During an *enforcement visit*, an *enforcement agent* must:

- APA6. when a *third party* offers to pay all or some of the debt of a *person subject to enforcement*, identify any obvious indicators that the *third party* is not able to make this payment whilst still paying for their *basic living costs*.
- APA7. acknowledge and respond appropriately to any disclosure or evidence that indicates that the *third party* is not able to make a payment they have offered whilst still paying for their *basic living costs*. Such disclosures or evidence must never be dismissed without appropriate evaluation, or be treated disrespectfully.
- APA8. not accept an offer by a *third party* to pay all or some of the debt of a *person subject to enforcement*, where there are obvious indicators that, or there has been a disclosure that, the *third party* is not able to make the payment whilst still paying for their *basic living costs*.

Annex F: Definitions – Ability to Pay Standards

Definitions – Ability to Pay Standards

Term	Definition
<i>Ability to pay category or categories</i>	The three categories defined in APF2 and APA2.
<i>Ability to pay in full</i> <i>Ability to pay in part</i> <i>No ability to pay</i>	Defined in paragraph APF2 of the Standards on Ability to Pay for Enforcement Firms and defined in paragraph APA2 of the Standards on Ability to Pay for Enforcement Agents.
<i>Basic living costs</i>	the expenses required to cover the essential needs of a <i>person subject to enforcement</i> . These costs could, for example, include expenses for housing, food, transportation, utilities, and healthcare.
<i>Compliance stage</i>	This includes all activities from the receipt of instructions up to but not including the first <i>enforcement visit</i> .
<i>ECB</i>	Enforcement Conduct Board.
<i>Enforcement agent</i>	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, and is certified to act as an enforcement agent under section 64 of the Tribunals, Courts and Enforcement Act 2007.
<i>Enforcement firm</i>	A business or organisation that employs or engages <i>enforcement agents</i> .
<i>Enforcement process</i>	The process of seeking to recover money owed in order to satisfy a writ, warrant or liability order, including by taking control of goods.
<i>Enforcement stage</i>	This comprises of all activities from the first attendance at the premises up to but not including the sale or disposal stage.
<i>Enforcement visit</i>	The attendance of an <i>enforcement agent</i> to a property in an attempt to recover money owed in order to satisfy a writ, warrant or liability order, including by taking control of goods.
<i>Frontline staff</i>	An individual (other than an <i>enforcement agent</i>) who <i>works for</i> or on behalf of an <i>enforcement firm</i> , and whom engages with <i>people subject to enforcement</i> .
<i>Harm</i>	Harm could include physical, psychological, financial or social and relational harm.
<i>People/person subject to enforcement</i>	A person or business who owes a sum of money and in respect of whom steps are being taken by an <i>enforcement agent</i> or <i>enforcement firm</i> , to recover that sum of money.
<i>Sustainable</i>	Repayment terms which a <i>person subject to enforcement</i> can reasonably meet while paying for their <i>basic living costs</i> .
<i>Third party/parties</i>	Where the <i>person subject to enforcement</i> is an individual, anyone other than this individual. Where the <i>person subject to enforcement</i> is a business, anyone who does not <i>work for</i> or have a connection to the business.
<i>Vulnerable/vulnerability</i>	A <i>person subject to enforcement</i> is defined as being vulnerable or experiencing vulnerability for the purposes of these Standards at a time when, due to their personal circumstances or characteristics, they face a higher risk of experiencing harm if those involved in carrying out the

	<i>enforcement process</i> do not identify the person's vulnerability and provide tailored support. Vulnerability may be temporary, permanent or fluctuating in nature. Harm could include physical, psychological, financial or social and relational harm. The personal circumstances or characteristics could include any or all of the following: Health: physical and mental health conditions, severe or long-term illness, hearing or visual impairments, low mental capacity, cognitive impairments. Life events: major life changes with temporary or longer lasting impacts such as bereavement, job loss, relationship breakdown, and individuals in specific or transient life circumstances such as prison or care leavers and refugees. Resilience: low resilience to withstand financial or emotional shocks due to low or erratic income, over indebtedness, low savings, and lack of a support structure. Capability: Poor literacy or numeracy skills, low confidence or knowledge of financial matters and managing money, low digital literacy, and/or digital exclusion.
<i>Work for</i>	Work for either as an employee or as a contractor.