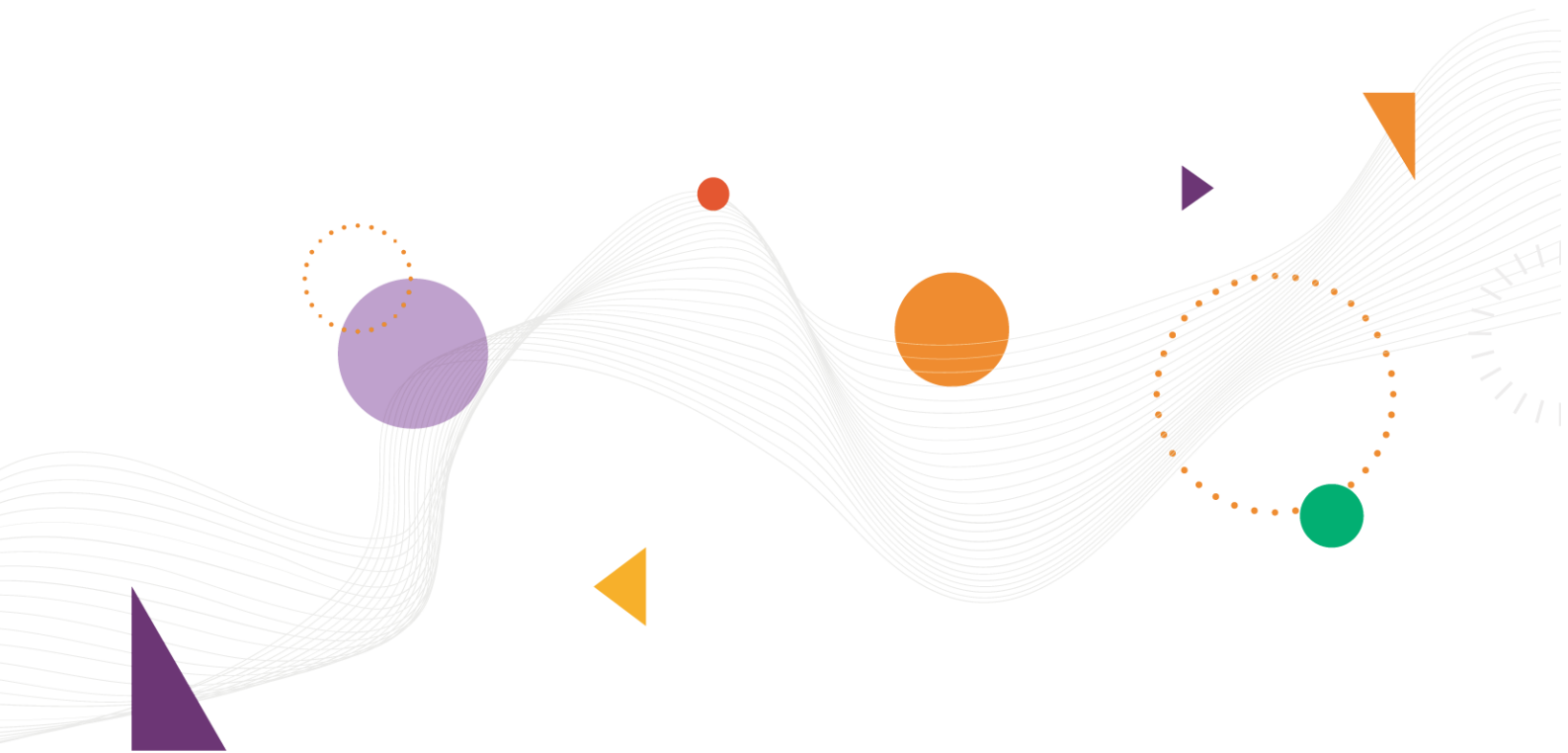


StepChange response to Enforcement Conduct Board: Draft Business Plan 2024/25

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Summary

StepChange Debt Charity is a specialist not-for-profit provider of debt advice and debt solutions supporting people across the UK. In 2023, 620,069 people contacted StepChange seeking debt advice or guidance with their problem debt and over 180,000 people completed full debt advice through our online and telephone service.

We are grateful for the opportunity to respond to this Enforcement Conduct Board (ECB) consultation on its Draft Business Plan 2024/25. Together with our frontline debt advice partners and a wide range of advocates, we called for and subsequently welcomed the establishment of the ECB as a step in the right direction to bringing about robust oversight of the bailiff sector.

Responses to questions

Q1. Do you have any comments on the proposed priorities for 2024-25?

StepChange broadly welcomes the commitments laid out by the ECB in its Draft Business Plan. Evidence from our frontline debt advisers shows that financially and otherwise vulnerable people are experiencing aggressive and unfair enforcement action at alarming levels – from rejection of reasonable repayment offers through to misrepresentation of enforcement powers and threatening and intimidating behaviour. To give just a few examples of the types of concerning cases which come through to us every month:

- *Amara**, who suffers with extreme anxiety and cares for her Dad who is bedbound, received a note from an enforcement firm to call regarding council tax arrears. Amara told us that the enforcement agent (EA) was extremely aggressive, telling her that if she didn't pay in full that day he would come back and arrest her, that she would never get any benefits again and she would still owe the money for the debt. Amara called StepChange in tears and extremely worried.
- *Rachel**, who is disabled, had her car clamped by an EA despite a clearly displayed blue badge being present in the window. The EA has proceeded to tell the client that if she pays £400, he will take the clamp off. When she contacted him to say she has the money he then told her that she now needs to pay another £100. Little regard was shown to her vulnerability throughout the process.
- *Sonia's** home was visited by High Court Enforcement Officers (HCEOs) while she was out. After receiving no response at the house, one HCEO rang the doorbells of two of Sonia's neighbours to ask questions, during which time her financial situation was made clear to the neighbours. One HCEO was also seen to photograph a neighbour's vehicle. Sonia was distressed and embarrassed to find out her neighbours had been made aware that she is being pursued for a debt.¹

A new, clear and comprehensive set of standards for enforcement work

We are glad to see the ECB commit to producing an up-to-date and comprehensive set of standards for enforcement work, and note that the organisation has so far been proactive in its engagement with stakeholders on this topic. These standards should go above and beyond existing rules and guidance and serve as an opportunity to drive positive change in the enforcement sector, with refreshed approaches to crucial areas such as vulnerability, affordability, bailiff behaviour and communications. We also welcome the ECB's acknowledgment that these standards must incorporate and apply to both individual agents and enforcement firms more widely.

¹ Names marked with an asterisk have been changed for privacy.

Long-term sustainability of independent oversight in this sector

We are particularly pleased that the ECB has indicated that ensuring the long-term sustainability of independent oversight in the enforcement sector will be a core priority for the year ahead, and signalled that this would be boosted by obtaining targeted statutory powers.

As we have consistently vocalised – while we welcome the establishment of the ECB as a progressive move – there are clear limits to the current voluntary regulation approach which must be rectified. As it stands, the ECB is reliant on the backing of the enforcement industry – the exact group it is assigned to regulate – for its continued existence, which is an inherently unstable setup. Statutory underpinning for the ECB would enable the organisation to fully deliver on its mission to ensure that everyone who experiences enforcement action is treated fairly through providing sustainable, independent footing.

The Ministry of Justice (MoJ) has already committed to review the case for giving the ECB statutory underpinning by November 2024, and we welcome continued efforts by the ECB to highlight how doing so would help facilitate sustainable and independent oversight of the sector. This binding regulation should include, amongst other elements, statutory, enforceable standards and powers to: compel membership; raise a levy for membership costs; apply sanctions for non-compliance; and compel firms to comply with the independent complaints function.

More consistent and reliable engagement from creditors in driving fair enforcement

While we note that the ECB does not have oversight over creditors who instruct bailiffs, we welcome its acknowledgment of the key role that creditors have to play in driving fair enforcement. All too often, StepChange hears of situations where creditors have passed our clients onto enforcement action despite this move being preventable or inappropriate for their personal circumstances, leading to harm and negative outcomes. Work to increase support from creditors and commitments to only work with ECB accredited providers, and influence fair creditor behaviour more widely, are therefore a vital part of the solution.

A reliable and objective evidence base

We note that the ECB intends to prioritise building a reliable and objective evidence base as part of its plans for the year ahead, which is welcome. The experiences of people facing bailiff enforcement and the advisers who interact with them must be central to this piece of work.

From StepChange's perspective, there is already a considerable amount of evidence about enforcement available from our debt advice clients, as well as through other stakeholders operating in this space. This includes qualitative case studies which describe personal experiences in detail, and support stakeholders in both identifying trends and demonstrating some of the tangible harms arising from poor bailiff practice.

We are keen to continue working with the ECB to surface the experiences of people facing bailiff enforcement and share relevant case studies and data from our client base. However, we understand the need for the ECB to gather evidence in a way that appears objective to all stakeholders and will happily engage in conversations around how we can best contribute to the generation of a reliable and objective evidence base.

Q3: Do you have any comments on the draft budget and levy?

The ECB must have sufficient funding and resources to allow it to deliver on this business plan and achieve its wider mission on a long-term, ongoing basis. We welcome the expansion of its staff team to reflect the creation of new operational oversight roles including complaints handling and supervision and audits, as the ECB must have the ability to hire those with the necessary experience and expertise to successfully meet its objectives. It should also be able to continue to grow as an organisation and build resource.

However, we would like to reiterate that reliance on voluntary contributions from the industry is a risky funding model which is open to pitfalls. The lack of legal requirement on firms to pay for regulation means industry support – although currently present and welcome – could dwindle at any point and threaten the continued existence of the ECB. A statutory levy on eligible firms to make financial contributions would be a more robust basis to enable the ECB to continue to advance and deliver on its remit into the future, as well as safeguarding its independence from outside influence.

We would urge the ECB to continue building relations with parliamentarians and senior officials to make the case for statutory underpinning in the crucial year ahead (an intention already laid out explicitly in the consultation documents), of which establishing secure, sustainable funding is an integral aspect.

Q4. Are there any other comments or observations that you would like to make?

StepChange is proud to support the ECB and we have been pleased with the progress the organisation has made since it was formed, including its co-operative approach to engagement with stakeholders on key issues.


This year could present a watershed moment for the bailiff industry, with the MoJ reviewing the case for statutory regulation and the ECB developing a new set of enforcement standards which have the potential to be transformative if designed, implemented and overseen properly. As the ECB points out, the industry currently refers to standards set out across the Taking Control of Goods Regulations 2014 and the accompanying non-statutory National Standards. These are insufficient and have not kept pace with developments in thinking and progressive approaches which exist elsewhere, including the financial services and energy sectors, when it comes to areas such as affordability and vulnerability.

We look forward to engaging with the ECB on these and other areas, as we collectively act to raise standards in the enforcement industry and ensure everyone experiencing enforcement action is treated fairly.

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