



ENFORCEMENT
CONDUCT
AUTHORITY

Chairperson of
the Board



Starfish

Welcome

Thank you for your interest in becoming the first Chairperson of the Enforcement Conduct Authority.

In 2020, the Centre of Social Justice (CSJ) brought together representatives from the debt advice and enforcement sectors to set out "a credible but ambitious path forward for enforcement, built on a shared determination to raise standards, protect vulnerable people, and ensure the industry is fit to meet the challenges of the coming decade." The subsequent publication in July 2021 of 'Taking Control for Good' sets out proposals for the independent, sustainable, and authoritative oversight of the industry via the Enforcement Conduct Authority.

In underlining the urgency for independent regulation, the CSJ report warns of a post-COVID-19 "tidal wave of debt" predicting that the estimated 3.5 million enforcement orders and warrants every year is expected to rise bringing many more people into contact with debt enforcement. The debt advice sector is warning of a false impression of wealth that hides increasing problem debt. StepChange reports that 36% of its clients have on average £1,292 in council tax arrears. Analysis by the Money and Pensions Service predicts that the number of people needing help with debt in the 18 months to the end of 2021 will have increased by more than 60%.

Local authorities face significant cost and income pressures exacerbated by the impacts of the COVID-19 pandemic. The National Audit Office reports that the likely combined cost and non-tax income pressures may be as high as £9.7bn in the current financial year. It is therefore vital for local authorities to collect debts effectively to minimise the funding gaps in their budgets. For example, in the 12 months to 31 March 2021, the total amount of council tax arrears increased by £847m over the figure for 2019-20, due in part to the Covid-19 pandemic temporarily reducing or delaying recovery action during 2020-21.

Therefore, the need to establish the Enforcement Conduct Authority (ECA) has never been more urgent. With a mandate to ensure the fair treatment of people in debt, the ECA will provide the independent supervision of enforcement that has been strongly advocated by both parliamentarians and the debt advice sector. In developing new protocols on vulnerability and affordable repayment, the ECA will help to ensure that people experiencing enforcement are able to access a more sympathetic and sustainable path out of debt.

As the first Chairperson of this new regulatory body, you will have the unique opportunity to both establish an important, high-profile organisation, and influence future statutory underpinning that will ensure the ECA's mandate is sustainably delivered for future generations.

We look forward to hearing from you in due course.

Marc W. Etches

About the Enforcement Conduct Authority

“The Enforcement Conduct Authority will make a real difference to protecting the vulnerable and driving up standards while improving the effectiveness of enforcement.”

Robert Buckland QC MP, Former Lord Chancellor and Secretary of State for Justice

Background

In England and Wales, 'enforcement agent' is the official name for bailiff. Instructing an enforcement agent is one method of civil debt enforcement. Different enforcement agents are used to collect different types of unpaid debt on behalf of creditors including local authorities, government departments and private individuals.

Some enforcement agents are officers of the court, others are self-employed, some are employees of a private debt collection company. All enforcement agents are formally certified to carry out enforcement action by way of taking control of goods and, if necessary, selling these to recover a debt.

The rules governing the actions of enforcement agents were updated by Government in April 2014, including the introduction of National Standards. However, there is no regulatory body to provide oversight of the industry. In 2017, a group of debt advice charities established the 'Taking Control' campaign to highlight concerns about the treatment of people in debt by the enforcement industry. This campaign called for independent regulation and a free and independent complaints mechanism to ensure people can get redress when enforcement agents break rules that govern their behaviour. In 2019, the Justice Select Committee published recommendations to improve the regulation of the industry, reflecting the concerns of the Taking Control campaign.

Enforcement Oversight Working Group

In 2020, the CSJ founded the Enforcement Oversight Working Group (EOWG), bringing together the enforcement and debt advice sectors for the first time to collaboratively develop a vision for reform. This included the following people:

- Russell Hamblin-Boone; Chief Executive, Civil Enforcement Association
- Matt Hartley; Head of Public Affairs & Engagement, Money Advice Trust
- Gareth Hughes; Chief Executive, Marston Holdings
- Carole Kenney; Director of Welfare and Customer Care, CDER Group
- Gareth McNab; Director of External Affairs, Christians Against Poverty
- Joe Shalam (Chair); Head of Financial Inclusion & Housing, Centre for Social Justice
- Peter Tutton; Head of Policy, Research & Public Affairs, StepChange Debt Charity.

This initiative set out to address the key challenges identified in recent years, including issues raised during the Ministry of Justice's call for evidence in 2018 and later the Justice Committee enquiry in 2019:

- the continued professionalisation of the enforcement sector, building on reforms introduced in 2014 and positive industry-led initiatives.
- measures to address inconsistent and, at times, inappropriate enforcement agent behaviour.
- reform to the 'fragmented and hard to navigate' complaints system.
- measures to bring the whole of the enforcement industry into line with wider advances in the treatment of people experiencing hardship or other vulnerabilities.
- independent, sustainable, and authoritative oversight of the industry.

To drive progress in resolving these issues, the EOWG established a consensus between the enforcement and debt advice sectors in setting out a Joint Framework for the establishment of a new, independent oversight body to be funded by the industry – the Enforcement Conduct Authority.

Enforcement Conduct Authority

The Enforcement Conduct Authority (ECA) will have the unambiguous mandate to ensure fair treatment and appropriate protection for people subject to enforcement. In doing so it will have regard to the need to protect people in financial difficulty or other vulnerable circumstances. It is expected that this mandate will be delivered by:

- raising standards through the development of new rules, conditions, and competencies, to be developed in consultation with the industry.
- supervising practice and issuing proportionate sanctions for rule-breaking and behaviour below the standard required of the industry.
- improving accountability through a standardised two-stage complaints process.
- independently adjudicating escalated complaints.
- introducing fair, affordable repayment and vulnerability protocols.

The ECA will empower enforcement firms to carry out their duty to courts, creditors, and taxpayers fairly and effectively, while equipping them with the tools needed to support people on a sustainable journey out of debt.

The delivery of this mandate is to be guided by five key principles:

Independence

The ECA will commit to upholding the principle of independence in all its activities. This relates (but is not limited) to aspects such as Board membership, those working for the ECA, as well as how the ECA will conduct its business.

Ambition

The ECA will commit to continually drive improvements in the enforcement sector through being ambitious in raising standards and collaborating with stakeholders to ensure fair treatment and appropriate protection for people subject to enforcement.

Proportionality

The ECA will work to the principle that any burden or restriction it imposes on individual agents, agencies and/or their activities should be efficient and necessary for the purpose of carrying out its mandate.

Collaboration

The ECA has been developed based on collaboration between the enforcement sector and the debt advice sector. The ECA will commit to maintaining a spirit of collaboration between the enforcement sector and the debt advice sector as far as is appropriate.

Transparency

The ECA will exercise its functions as transparently as possible. One of the key outputs to that end will be an annual publication reporting its activity and findings – this will be published, shared and submitted to the Secretary of State for Justice.

As a first and urgent priority, the OEWG is seeking to appoint a chairperson to lead the design and development of the ECA.

As set out in Parliament on 14 April 2021 by Lord True, the Ministry of Justice has made it clear that it will work closely with the EOWG to monitor the operation of the ECA and review its operation within two years. This time-period will allow for more evidence to be gathered around whether statutory underpinning is required. At that point, Government will consider whether there is a case for providing statutory powers to the ECA.

For more information about the creation of the ECA and its aims, please see: <https://www.centreforsocialjustice.org.uk/library/taking-control-for-good-introducing-the-enforcement-conduct-authority>

The ECA website is currently being developed: <https://www.e-c-a.org.uk/>

Role Profile

It is envisaged that the chairperson will appoint up to six board members to oversee the work of the ECA.

Mandate

The principal mandate of the ECA is to ensure fair treatment and appropriate protection for people subject to enforcement. In doing so it will have regard to the need to protect people in financial difficulty or other vulnerable circumstances.

Purpose

The purpose of the ECA is to standardise enforcement practices so that they can be independently monitored and audited for compliance against prevailing regulations and CIVEA code requirements.

It is important that the ECA and its board is seen to be independent and credible. The ECA will enable the enforcement sector to demonstrate complete accountability and responsibility.

Function

The ECA will have two broad functions:

1. Policy-based e.g. review the Taking Control of Goods: National Standards and develop new affordable repayment and vulnerability protocols.
2. Operations-based e.g. supervisory activities and risk-based monitoring (such as audits, reviews of firms' policies and procedures, compliance and complaints, reviews of enforcement agent footage, information requests and independent research).

The ECA should be transparent and publish reports on its findings. An annual report will be submitted to the Secretary of State for Justice.

Scope

The ECA will supervise all certificated enforcement agents and all firms that employ them. It is envisaged that the chairperson will devise a strategy to bring High Court enforcement officers, County Court bailiffs and civil enforcement officers within a short timeframe.

Duties

- Monitoring performance and conduct of the industry.
- Maintaining the integrity of the sector by investigating and acting on non-compliance.
- Adjudicating on escalated complaints.
- Overseeing the review and amendment of the existing National Standards.
- Deploying enforcement powers to take action to dissuade rule-breaking and to sanction firms as necessary.
- Issuing new guidance on vulnerability drawing on best practice from other organisations and sectors.

Competencies

This is a NED level appointment, which requires a credible individual to lead the ECA board in the establishment of the Enforcement Conduct Authority. The appropriate candidate may have experience in:

- Regulated industry.
- Public policy.
- Complaint resolution.
- Local government.
- NGO leadership.

Executive support

The chairperson role will be supported by an executive consisting of a chief executive, who will be responsible for day to day running of the ECA, plus two additional senior executives covering policy and compliance functions.

Person Specification

In your written application please provide evidence of your ability to meet the requirements of Part One of the Person Specification, set out below. Criteria set out under Part Two and Part Three will be explored at interview with selected candidates.

Part One Knowledge and Experience

- Outstanding strategic leadership experience, ideally gained as Chair within another organisation and / or a Public Committee of significant standing.
- Substantial experience of engaging with and influencing Government and across the broader political environment at the highest levels.
- Ready-made reputation and / or credibility in or with the enforcement, local government, not for profit, public policy and / or regulatory sectors.
- A strong interest in (and ideally experience of handling) matters relating to the enforcement industry and debt management/advice.
- Sound understanding of UK governance and matters of public interest.

Part Two Skills and Abilities

- High intellectual and strategic capacity.
- Able to handle sensitive, complex or contested issues.
- Sound judgement and is able to take an objective and dispassionate view.
- Strong relationship and alliance building skills with high capacity for self-reflection.
- Outstanding communication and interpersonal skills.

Part Three Personal Style and Attributes

- Independent stature and a clear and independent thinker.
- Insightful leadership style that guides the Board and Executive to fulfil their responsibilities.
- An adroit networker and diplomat who secures confidence immediately.
- Resilient.
- Committed to upholding the integrity and standards of the enforcement industry.

Terms of Appointment

Time commitment

This is a part-time appointment of five days per month.

The chairperson will be required to attend a maximum of five Board meetings a year.

This includes a strategy meeting to agree plans for the following year and the budget, and four standard meetings. An Audit and Risk Committee (twice a year) and Remuneration Committee meeting will take place at the end of the Board meetings.

Remuneration

The role is remunerated at £35,000 per annum.

Length of appointment

The term is 3 years, with provision to be reappointed for a second term (not exceeding 6 years in total).



How to Apply

We hope you will consider expressing an interest in this appointment.

To make an application, please go to <https://starfishsearch.com/jobs/eca-chair/> and click on the apply now button, with the following prepared:

- your CV or equivalent biographical information
- a supporting statement (no more than three sides of A4) that sets out your motivation for applying and your experience against Part One of the Person Specification.

We would also be grateful if you would also complete the Equality and Diversity monitoring form on the online application process. This form is for monitoring purposes only and is not treated as part of your application.

Closing date is **Friday 7th January 2022.**

Agreement of a longlist: w/c 10th January 2022.

If selected, you will be invited to meet (via remote means) with our advising consultants during w/c 17th January 2022.

Agreement of the final shortlist is likely to take place in w/c 24th January 2022.

Informal meetings / telephone calls will follow confirmation of the final shortlist and selected candidates will have the opportunity to speak with key stakeholders.

Formal interviews for shortlisted candidates are expected to take place in w/c 31st January 2022.

