



Civil Justice Council response to Ministry of Justice consultation on regulation of debt enforcement sector

Introduction

The Civil Justice Council (CJC) is an advisory public body, established under the Civil Procedure Act 1997. Its statutory duty is to review the civil justice system and make recommendations to the Lord Chancellor, the judiciary, and the Civil Procedure Rule Committee (CPRC) on the development of the civil justice system to make it more accessible, fair, and efficient. Improving access to justice for all underpins the CJC's work.

General remarks

The CJC welcomes the opportunity to respond to the Ministry of Justice (MOJ) consultation on the regulation of the debt enforcement sector. This response builds upon the findings and recommendations of the CJC's comprehensive report on civil enforcement ('the Enforcement Report'), published in March 2025, which examined the current enforcement landscape in England and Wales and identified significant areas for reform.¹

The Enforcement Report highlighted widespread concerns about the effectiveness, fairness, and accessibility of the current enforcement system, particularly in the County Court. It underscored the need for improved oversight, better protection for vulnerable debtors, and more efficient mechanisms for creditors seeking to enforce judgments. The report advocated for the creation of a single unified digital enforcement court, capable of consolidating enforcement processes and providing a more coherent and responsive system.

In this consultation response, the CJC reiterates its support for the establishment of a statutory independent regulator for the enforcement sector. This aligns with the Enforcement Report's call for stronger regulatory oversight and the statutory empowerment of bodies such as the Enforcement Conduct Board (ECB). The CJC believes that such a regulator should play a key role in setting standards, gathering data, monitoring conduct, and handling complaints, while legislative responsibility for core enforcement procedures should remain with the Government.

The CJC's response reflects its commitment to ensuring that enforcement is not only effective for creditors but also fair and proportionate for debtors—particularly those facing financial hardship. The Council continues to advocate for reforms that promote transparency, accountability, and access to justice across the enforcement sector.

¹ [CJC Report on Civil Enforcement \(April 2025\)](#)

Questions

Question 1: Do you agree that it is necessary to legislate to establish a statutory independent regulator for the enforcement sector? If not, please explain why.

The CJC **agrees** that it is necessary to legislate to establish a statutory independent regulator for the enforcement sector.

Question 2: Do you agree that responsibility for setting the legislative framework about how debts should be enforced using the Taking Control of Goods procedure should remain with the Government and not be devolved to an independent statutory regulator?

The CJC **agrees** that the responsibility for setting the legislative framework about how debts should be enforced using the Taking Control of Goods procedure should remain with the Government and should not be devolved to an independent statutory regulator.

Question 3: Do you think that an independent statutory regulator should play any role in reviewing the fees that the enforcement sector can recover when using the Taking Control of Goods procedure? Please explain why.

The CJC **agrees** that an independent statutory regulator could play a role in reviewing fees that the enforcement sector can recover, but that their role should be limited to the provision of information from their data gathering role to inform decisions. The responsibility for fixing the fees should remain with the Government and should not be devolved, so that there can be full Government oversight. Fees are contentious and can disproportionately impact upon the most vulnerable.

Question 4: If you agree, what role should a regulator play in reviewing fees?

The CJC considers that the role of the independent statutory regulator should be limited to an advisory role, providing information from data collection, but should not be concerned with the actual fixing or reviewing of fees which, because of the importance and sensitivity of fees, should remain with the Government.

Question 5: What objectives do you think should be set out in law for an independent statutory regulator to work towards?

The CJC considers that the independent statutory regulator should have a dual role in ensuring efficient and effective enforcement for those with the benefit of an order, together with the protection of debtors from unfair and aggressive treatment. These dual aims should be enshrined in statute: both to ensure effective process for enforcement (the CJC advocates ultimately for a single digital enforcement court) and to give debtors statutory protections.

Question 6: Do you agree that legislation should set out that an independent statutory regulator should produce standards and guidance for enforcement firms, agents and creditors about the use of the Taking Control of Goods procedure? If so, should the legislation set out who the regulator should consult about that guidance, and how frequently it should be reviewed?

The CJC **agrees** that legislation should set out that an independent statutory regulator should produce standards and guidance for enforcement firms, agents and creditors about the use of the Taking Control of Goods procedure. The legislation should specify who the regulator should consult – this list should include debt advice agencies – and how often it should be reviewed. The CJC advises that the regulator should be reviewed no less than every 2 years.

Question 7: Do you think that the Government should legislate to require all firms that enforce debts using the Taking Control of Goods process to be accredited or licensed by an independent statutory regulator?

The CJC **agrees** that all firms that enforce debts using the Taking Control of Goods process should be accredited or licensed by an independent statutory regulator, and that this should be set out in legislation.

Question 8: Do you think the Government should set out in law what a regulator's licensing conditions should be, or do you think that an independent statutory regulator should have the power to decide on its own licensing criteria?

The CJC **agrees** that the Government should set out in law what a regulator's licensing conditions should be.

Question 9: Do you think any changes should be made to the current certification and authorisation criteria for individual EAs and HCEOs, and if so, why?

The CJC **advocates** for changes to be made to the current certification and authorisation criteria for EAs, to ensure uniformity and to push up standards.

Question 10: Do you think that an independent statutory regulator should be solely responsible for accrediting individual EAs and HCEOs with the existing oversight by the District Judges and Lord Chancellor (via the Senior Master) removed, or do you think that the District Judge and Lord Chancellor (via the Senior Master) should retain a role in certification and authorisation?

The CJC **supports** retaining oversight by the District Judges and the Lord Chancellor (via the Senior Master of the King's Bench Division). Those who responded to the various consultations undertaken by the CJC on enforcement showed great support for the court-based system, combined with a desire to ensure greater effectiveness. A compulsory requirement to sign up for oversight of enforcement agents, together with the court's

oversight, will create the most effective means of ensuring a fair and effective system of enforcement.

Question 11: Do you think that an independent statutory regulator should be given powers to gather data from the enforcement sector?

The CJC **agrees** that an independent statutory regulator should be given powers to gather data from the enforcement sector. Through its work on civil enforcement, the CJC found that data from the enforcement sector – as with many sectors of the court system – is woefully lacking and so the CJC supports the introduction of effective methods for the gathering of data.

Question 12: What powers, if any, should they be given to ensure that data provided is accurate? What safeguards should be put in place, if any, to ensure that data requests are proportionate, and that the data is used effectively and appropriately?

The CJC does not feel in a position to answer this question.

Question 13: Do you think that an independent statutory regulator should be given powers to monitor the work of enforcement firms? If so, what should those powers be?

The CJC **agrees** that an independent statutory regulator should be given powers to monitor the work of enforcement firm. Enforcement firms should be compelled to respond to any reasonable request for information with respect to the carrying out of any enforcement visit, what steps were undertaken, and details of the outcome of any visit. The statutory regulator should have power to suspend the carrying out of enforcement visits by an enforcement firm if it fails to comply with industry standards, pending further investigation and appeal.

Question 14: In addition to powers to request data and carry out monitoring visits, do you think an independent statutory regulator should be given any further powers? If so, please explain why you think the power would be necessary.

The CJC does not express an opinion on this question.

Question 15: Do you think that an independent statutory regulator should be given statutory powers to consider complaints?

The CJC **agrees** that an independent statutory regulator should be given statutory powers to consider complaints.

Question 16: If you agree that an independent statutory regulator should consider complaints, do you think that District Judges and the Lord Chancellor (via the Senior Master) should still consider complaints against individuals? Or should their role in considering complaints be abolished?

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It is the view of the CJC that the District Judges and the Lord Chancellor (via the Senior Master) should no longer be considering complaints, other than maybe as an appellate body to any decision made by the statutory regulator.

Question 17: Do you think that the legislation should allow a statutory independent regulator to be able to share data with any other bodies? If so, please set out which bodies they should be able to share data with and for what purpose?

The CJC feels that there should be an ability to share data with other bodies, for the purpose of general oversight and research. The CJC do not consider that there should be a limit on the sharing of the data.

Question 18: What sanctions do you think that a statutory independent regulator should be able to impose on enforcement firms?

The CJC proposes that the statutory regulator should be able to impose the following sanctions on enforcement firms: (a) to fine (as a multiple of the sum being recovered); (b) to suspend the licence to be able to enforce; and (c) on repeat failures, to remove the licence, with the right to appeal.

Question 19: Do you have any views on what administrative status and accountability requirements a statutory enforcement regulator should have?

The CJC suggests that the regulatory body should have a distinct legal identity. It should be accountable to Parliament via a Minister. The board does not need to be appointed by Government. This would place the regulatory body somewhere between being an executive agency and an independent body.

Question 20: What appeal process do you think should be put in place to allow regulated entities to appeal decisions made by a statutory independent regulator?

The CJC considers that it is important to retain court oversight of the enforcement process – including appeals against decisions of the regulator. It is not necessary for the appeal to be by way of judicial review to the High Court; but the Senior Master of the King's Bench Division (under powers delegated by the Lord Chancellor) and the District Bench should be the appellate court.

Question 21: Do you agree an individual or firm should pay a fee in respect of any appeal to a tribunal or court?

The CJC **agrees** that an individual or firm should pay a fee in respect of an appeal to the Senior Master of the King's Bench Division or a District Judge, with the potential to recover the fee if the appeal is successful.

Question 22: What role do you think that the Lord Chancellor should have in the appointment of key posts within a statutory independent regulator?

The Lord Chancellor should have an oversight of the appointment of key posts – potentially through an independent appointments panel to prevent conflicts of interest, whether they be perceived or actual.

Question 23: If you do not think that the Lord Chancellor should have a role in the appointment process, please explain why and what other steps could be taken to ensure that key appointees have the appropriate experience and skills and have no perceived or actual conflicts of interest?

Please see the response to **Question 22**.

Question 24: Do you agree that an independent statutory regulator should be funded wholly by a mandatory levy on the sector, or should it also receive some funding from the Government? Please explain why?

The CJC **agree** that an independent statutory regulator should be wholly funded by the sector, following the model of the Financial Conduct Authority.

Question 25: Do you think that legislation should set out how a regulator's costs should be managed to avoid placing an undue financial burden on the sector? If so, what safeguards could be put in place?

The CJC does not express a view on this question.

Question 26: Do you think that legislation should set out how a regulator should account for how it has spent the money it receives? If so, please could you set out how?

The CJC does not express a view on this question.

Question 27: Do you think that county court bailiffs and local authorities and the individuals they employ to use the Taking Control of Goods procedure should be regulated by an independent statutory regulator? If so, please explain why.

Yes – with respect to local authority enforcement.

Responses to the CJC's consultation on enforcement indicated that County Court bailiffs have a very high reputation and the CJC would therefore question whether the system should be altered. Nevertheless, if there is to be a move towards one system – for example through a single digital enforcement court – then it is sensible for one body to have oversight of all enforcement, in order to ensure that there is consistency across the sector.

Question 28: Should a statutory independent regulator regulate any other types of civil enforcement activity?

Yes – the statutory independent regulator should regulate other types of civil enforcement activity, such as the enforcement of possession orders and enforcement of warrants under the Rights of Entry (Gas and Electricity Boards) Act 1954, insofar as these are not already regulated. Possession orders in the County Court are undertaken by bailiffs who, as detailed in the response to **Question 29**, already have a very high reputation for good conduct.

Question 29: For proposals likely to affect businesses, charities, or the public sector an Impact Assessment will be undertaken at consultation response stage. To assist with this, please provide a high-level outline of what costs or benefits (and, if possible, any monetary value) the proposals are likely to generate and, if appropriate, of any issues which might be of concern.

The CJC does not express a view on this question.

Question 30: Do you agree that we have correctly identified the range and extent of the equalities impacts for introducing a statutory independent regulator for the enforcement sector? Please state yes/no/maybe/don't know and give reasons. If possible, please supply evidence of further equalities impacts as appropriate.

The CJC does not express a view on this question.

Question 31: What do you consider to be the equalities impacts on individuals with protected characteristics for introducing a statutory independent regulator for the enforcement sector? Please give reasons.

The CJC does not express a view on this question.