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Question 1 Writ of Control, Warrant of Control & General—identifying assets

Question 2 Court delays in processing Claims and the issue of Writs (in particular)

Question 3 Issuing a Writ as a first step to establish the position of the Judgment Debtor—it either achieves payment (in full or by instalments) or provides a report indicating the next appropriate step in enforcement (if any) if payment cannot be achieved. Writs are preferred to Warrants as High Court Enforcement Officers are paid by results and try harder than County Court Bailiffs (CCB), interest at 8% is recoverable (Judgments Act 1838) for debts between £600 & £5,000 and reports on unsuccessful cases from HCEOs are generally comprehensive (with a photo of the address to which the Writ is directed) as opposed to being simple pro-forma, which is what CCBs produce.

Question 4 Warrants of Control. The introduction of Call Centres in the County Court enforcement process simply replicates steps already taken by most Judgment Creditors and delays the arrival of a CCB on the doorstep. CCBs are given high volumes of enforcement work which encourages cursory attention to individual cases, have restrictions on travel and working hours and are generally considered to be largely ineffective by many bulk users. CCBs are not paid by or given bonuses for successful recovery. Often bulk users rely on the County Court Judgment (CCJ) as the final step in any claim in the hope that the CCJ will affect the Judgment Debtor's credit rating and compel payment to achieve any new credit applied for.

Question 5 Writs of Control. The Judgment Creditor wants to receive payment under his CCJ. Writs and Warrants are the most used method of enforcement and should be promoted as a sensible first step once a CCJ has been entered. Judgment Creditors should be given a simple choice between HCEO & CCB as the most appropriate enforcement agent for his debt.

Question 6 The High Court & County Court Jurisdiction Order 1991 should be amended to allow enforcement of all CCJs (other than judgments based on agreements under the Consumer Credit Act) by HCEOs rather than having a £600 limit.

Judgment Creditors should be allowed to choose between HCEO & CCB by a simple tick box process rather than having to go through the N293A procedure.

Orders to Obtain Information should go back to a proper & rigorous process instead of the administrative process that it has become—it was intended to involve “cross examination of the severest kind”.

Question 7 No. The difficulty is getting debtors to engage with the enforcement process—the vast majority of CCJs are Default Judgments. Debtors now (since 2014) have a final opportunity to engage following receipt of a Notice of Enforcement giving, currently, 7 clear days before any enforcement action can take place, with debtors signposted to advice agencies on the Notice itself.

Questions 8, 9 & 10 No. The Enforcement Conduct Board is currently consulting on Standards, which seem to be taking into account current debt collecting standards & practices. The current National Standards: Taking Control of Goods (April 2014) are to be updated and improved by the proposed ECB Standards, which most of the civil enforcement industry have agreed to abide by.

Questions 11 to 26 Limited experience of the process under CPR Part 71 but it appears to have changed from a judicial cross examination to a tick box exercise supervised by a member of the court staff. More than one hearing appears to be standard. Only effective if used as a lever to question a director of an established company, which tends to bring the debt issue to a head.

Supply of Information about the debtor:

Part 4 of the Tribunals Courts & Enforcement Act 2007 (Ss 95 to 104) already provides for the Court to seek information from Government Departments, supervised by HMRC, about a Judgment Debtor, on the application of a Judgment Creditor, but the provisions have never come into effect and no Regulations have been drafted.

What a Judgment Creditor needs, particularly if his CCJ is a Default Judgment, currently about 85% of those issued, is information to allow him to decide whether some sort of enforcement is worthwhile and, if it is, what would be the appropriate method.

Clearly the Courts have decided that they do not have the resource to implement this helpful process and therefore an independent well-regulated group could undertake this function.

HCEOs are the most regulated group in the civil enforcement world under HCEO Regulations 2004 and are personally responsible and personally liable for action taken in the name of the individual HCEO. They currently have access to DVLA for searches against the database, free of charge and are subject to audit without notice to ensure that DVLA searches are only carried out in relation to a specific court judgment or order. They are also considered by the Judiciary to be Officers of the Court in their enforcement work.

HCEOs are not interested in enforcing against Can't Pay or Can't Cope Judgment Debtors but only against Won't Pays, who have the resources to settle judgment debts but choose not to do so. This would not therefore be a process to divert more work to the High Court which would be inappropriate for any Can't Pays or Can't Copes. Access to Government Databases and those of Banks and Building Societies would enable Judgment Creditors to obtain the information that they need to make an informed decision on enforcement.

Access to information of this sort would bring HCEOs more in line with their European counterparts and would provide a more rounded enforcement service which should avoid the blunt instrument of enforcement against goods being used in inappropriate cases.

Questions 27 to 32—Support for Debtors.

The problem is how to get debtors to engage when 85% of CCJs are entered by default.

Supply of information at each stage will help—the current Notice of Enforcement (NoE) period, giving a final chance for engagement before enforcement, of 7 clear days is likely to be extended to 14 or 28 days under current Government considerations and signposting to Debt Advice has been prescribed on the NoE since 2014.

Public Information programmes need to try and persuade the 10 to 15% of the population to treat debt seriously, with the possible additional sanctions of Driving Licence or Passport confiscation being an option for the Won't Pays

Questions 33 to 38—Proposed Improvements

Allow CCBs to concentrate on enforcing CCJs based on Consumer Credit Act Agreements, domestic Utility debt and Housing Possessions and leave enforcement of Money Judgments to HCEOs.

This would require amendment to the High Court & County Court Jurisdiction Order 1991, which current restricts use of HCEOs for CCJs below £600.00.

Questions 39 & 40—General

Ineffective enforcement reflects badly on the whole Civil Justice System, particularly for business debts where today's creditor can become tomorrow's debtor. Consideration must be given to the Can't Pays and the Can't Copes but those who can pay should be made to do so in a firm, fair but robust way.