Civil Justice Council Enforcement Working Group
Call for Evidence 11 July - 16 September 2024
Response from High Court Enforcement Officers Association (HCEOA)

10 September 2024

Dear Civil Justice Council Enforcement Working Group,

Thank you for this opportunity to provide input to the Civil Justice Council's (CJC) call for evidence. This document sets out the High Court Enforcement Officers Association's (HCEOA) response to your questions.

It has been prepared on behalf of our members, who are all fully trained and qualified High Court Enforcement Officers who are authorised by the Lord Chancellor to enforce High Court Writs. Their role is to enforce judgments to primarily collect unpaid debt that is owed to businesses and individuals across England and Wales. As an association we support them to do that by helping creditors, informing debtors, and supporting government.

We believe this is a valuable call for evidence that can help identify some priorities for improvements that can be made to the current system to make it significantly more effective. In summary we identify four key priorities as set out in responses to the questions below.

- Digitisation of the transfer up process
- Freedom of choice for court users
- Ensuring the profession is properly funded, and
- Improving engagement with debtors at an early stage, based around a single online information hub.

This needs to be combined with the ongoing work of the Enforcement Conduct Board (ECB) to ensure a balanced, fair and effective approach to enforcement, which reflects the needs and vulnerabilities of both debtors and creditors at every stage.

From a High Court enforcement perspective, no one understands High Court enforcement, how it is shaped by the complexities and peculiarities of the laws and regulations that govern it and what the practical impact of any changes will be, better than the professionals working within it.

On that basis, the Association is happy to discuss any of the issues raised here with the CJC team as it develops this work over the coming weeks and months.

Yours sincerely,

Alan J Smith

Chair

High Court Enforcement Officers Association

Your response is (public/anonymous/confidential):	Public
First name:	Alan J
Last name:	Smith
Location:	West Yorkshire, England
Role:	High Court Enforcement Officer
Job title:	Chair
Organisation:	High Court Enforcement Officers Association
Are you responding on behalf of your organisation?	Yes
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Alan J Smith – Chair – High Court Enforcement Officers Association

The full list of Call for Evidence questions is below:

PLEASE SEE ANNEX A - LIST OF ENFORCEMENT OF DOMESTIC JUDGMENTS FOR REFERENCE (INCLUDING ORDERS FOR SALE IN CHARGING ORDERS) THIS WORK IS NOT CONSIDERING POSSESSION ORDERS.

Your experience and awareness of enforcement

1) Which enforcement methods do you have experience of, if any?

All members of the High Court Enforcement Officers Association (HCEOA) are fully trained and qualified High Court Enforcement Officers who are authorised by the Lord Chancellor to enforce High Court Writs. Their authorisation is made under the High Court Enforcement Officers Regulations 2004.

Their role is to enforce judgments to primarily collect unpaid debt that is owed to businesses and individuals across England and Wales. As an association we support them to do that by helping creditors, informing debtors, and supporting government.

They enforce the following types of Writs:

- Writ of Control
- Writ of Possession
- Writ of Delivery
- Combined Writ of Control and Possession

2) Are there any barriers you have experienced in seeking to enforce or satisfy a judgment and, if so, what were they?

Our members have reported experiencing a number of different barriers in seeking to enforce a judgment, namely:

- Incorrect information about debtors provided – where HCEOs and enforcement agents are given incorrect information about a debtor e.g. address etc that requires time spent identifying the correct information.
- Debtor reluctance to pay – where debtors have the means and ability to pay but are reluctant to do so.
- Debtor inability to pay – this is different from, and less common than, reluctance to pay, but it does exist at times. The most common solution is to set up a payment plan if that is acceptable to the creditor and the debtor.
- Our members face issues with different courts when their solicitors are making applications for transfer of the judgment to the High Court for enforcement. The main issue is turnaround times, as any delay in the enforcement of the judgment can be at the detriment to the creditor.

3) Which of the attached enforcement mechanisms do you find to be most effective in obtaining a resolution, and why?

Our members find that the Writ of Control is an effective method of enforcing a judgment, but that the whole system could be redesigned to be more effective and to give greater freedom of choice to court users about how their debts are enforced.

We find that the Writ of Control is effective because until a High Court Enforcement Officer is involved the creditor may have had no engagement with the debtor, and it is the visit from an Enforcement Agent and the engagement with the debtor that brings about a resolution.

Where there is no resolution then the creditor gets a detailed report from the High Court Enforcement Officer of what action has been taken under the Writ and the position of the debtor. The key for creditors is that the High Court Enforcement Officers become the eyes and ears for them.

As High Court Enforcement Officers, our members are not responsible for enforcing via other methods mentioned here so it would not be appropriate for us to comment on them.

4) Which of the attached enforcement mechanisms do you find to be least effective in obtaining a resolution, and why?

As our members are not directly involved in the wider range of enforcement mechanisms set out by the CJC, we don't have direct experience in using them to obtain resolutions.

However, as set out in detail in our response to question six, our surveys of court users, which have taken place over many years, show they have significant concerns with the performance and effectiveness of the county court bailiff system, and this is hampering their efforts to enforce their judgments.

5) Do you consider any of the attached enforcement mechanisms should be promoted as being more effective than others?

There are two elements to this question.

The first relates to the permitted use of the different enforcement types, and it is here where we, and the vast majority of court users that have responded to our surveys, feel there needs to be greater freedom of choice (details set out in our answer to question six) that allow court users the option to choose which enforcement mechanism they feel is most effective for them.

The second element relates to the promotion/explanation of different enforcement mechanisms. We believe that these can all have a role to play, as they offer different options, each of which will be appropriate for creditors in different circumstances.

We believe that what is important for creditors, debtors, the enforcement marketplace, UK plc and the wider economy is that there is a single agreed source of information from a trusted and authoritative source (e.g. MoJ or Enforcement Conduct Board website). This should set out clearly and succinctly what the different enforcement mechanisms are, what they entail, why creditors might want to use them, and provides further information or contacts for creditors to use them. It should also be the home for appropriate information and support for debtors.

6) Are there any enforcement mechanisms that you consider should be amended or varied to make them more appropriate for modern litigation from the perspective of either the creditor or the debtor?

Yes – at present, any unregulated debt under £600 and all regulated debts must be enforced via the County Court Bailiff system. A system which hundreds of court users have told us is vastly overloaded with cases, causing significant backlogs, which have not improved since the Covid-19 pandemic. This is subjecting individuals and businesses to long, stressful delays and uncertainty with no other choice.

We believe that the Jurisdiction Order needs amending to allow claimants the freedom to choose the enforcement mechanism most appropriate for them, rather than this being mandated.

This can be easily done by making two small changes to a single piece of legislation.

- amending the High Court and County Court Jurisdiction Order 1991 to allow High Court Enforcement Officers to enforce judgments below £600 in respect of unregulated judgments
- expanding the same Order to allow High Court Enforcement Officers to enforce judgments relating to regulated debt above and below £600.

This solution is being backed by the Civil Court Users Association and the vast majority of the hundreds of court users who have responded to our various Freedom of Choice surveys over a number of years. Our most recent survey - https://www.hceoa.org.uk/campaigns/supporting-court-users - (2022) found that:

- 97% of court users would like the freedom to choose between a HCEO and County Court Bailiff to enforce their unregulated judgments under £600.
- 93% of court users support a further change allowing HCEOs to collect debts arising from Consumer Credit Act regulated agreements.
- 96% of court users are still concerned about County Court delays.
- Just 4% of court users feel the current system meets their needs.

These two small changes would:

- give thousands of individuals and businesses who are owed money a greater chance of reclaiming their debts
- help the economy to prevent today's creditors from falling into debt through no fault of their own
- give individuals and businesses the freedom to choose how their judgments are enforced
- help clear the huge backlog of cases in the County Courts
- give customers who want to continue using the County Court service every option to do so
- have no cost to the taxpayer.

This will mean a more effective, responsive and flexible service to judgment debtors and creditors alike with improvements in communications, payment arrangement handling and reporting, which will all lead to improved collections within shorter timescales.

By helping to improve the quality and reduce the cost of debt collection, these benefits can ultimately be passed back to customers through lower cost increases.

7) Do you consider that there should be further measures attached to any of the current enforcement mechanisms to ensure greater fairness and/or protections for debtors?

The HCEOA and its members are working closely with the MoJ and Enforcement Conduct Board (ECB) in this area. We have responded in depth to consultations from both

organisations in the past twelve months, most recently the ECB's consultation on its proposed new Standards. We strongly support the ECB in its role and are supportive of the principle of the new standards and the vast majority of the content within them.

Fair and effective enforcement is something our members strive to deliver at all times and is hugely important for all involved – both debtors and creditors. It is also something that is strongly supported by the public across England and Wales, where our members operate.

In order to better understand the public perception of enforcement and enforcement agents (bailiffs) in England and Wales, we commissioned an independent survey of the general public in spring 2024.

83% of over 2,000 respondents agreed or strongly agreed that fair and effective enforcement is a necessary part of the justice system. Full details of the survey are here - https://www.hceoa.org.uk/campaigns/understanding-public-opinion.

As an Association we and our members are committed to continuing to act in a responsible way that helps creditors, informs debtors and supports government at all times. Our focus is on ensuring and delivering a fair and effective enforcement system for all involved.

We also believe that appropriate measures need to continue to be taken – led by the ECB – to ensure there is appropriate privacy and security of any data stored and disposed of by any bodies in relation to the debtor.

8) Do you have experience of the court enforcement mechanisms interacting with debt collection standards and practices outside the court system?

Yes, our members provide High Court Enforcement Services, engaging with debtors and working with creditors, individuals, business, solicitors, debt collection agencies, and within the appropriate regulations and best practices.

9) Do you consider that the court enforcement mechanisms need to take into account debt collection standards and practices outside the court system and, if so, in what circumstances and in what ways?

The debt collection standards are used in the collection process once a judgment is granted then the enforcement process is governed by regulations and current National Standards. The Enforcement Conduct Board will become the oversight body with new Standards. The court system should take this into account.

10) If court enforcement is to take into account debt collection outside the court system, what practical steps do you consider should be undertaken?

We believe the practical steps are for those in the High Court sector to be accredited with the Enforcement Conduct Board (ECB) and to ensure they meet its standards. As of 2024 enforcement firms responsible for collecting approx. 97.5% of all High Court writs issued in England and Wales are accredited with the ECB.

Supply of information about potential judgment debtors

11) What steps, if any, do you consider the court could and should undertake to encourage greater engagement of potential judgment debtors (given the high number of default judgments)? [NB the Civil Justice Council (CJC) is reporting separately on pre-action protocols (PAP) including the debt protocol and the PAP is therefore not addressed in this list of questions.]

Engaging potential judgment debtors from an early stage is critically important.

At the heart of this should be an independent / government website (e.g. gov.uk or Enforcement Conduct Board), where the potential judgment debtor can access independent, accurate and authoritative information about the benefits of engaging and the consequences of not doing so. It should also prominently highlight a list of organisations where debtors can receive free advice and information.

This new online resource would act as a hub that all enforcement businesses could refer debtors to for independent guidance and could also include contact points for a range of debt advice agencies as well as links to the HCEOA and CIVEA websites.

In its wide-ranging Taking Control of Goods consultation from October 2023 – the Ministry of Justice consulted on proposals to amend the Notice of Enforcement and even potentially introduce a second Notice of Enforcement. We set out in detail in our response why we believe this is inappropriate – in summary:

- The focus should at all times be on the agreed key outcomes of i) improved levels of debtor engagement and understanding and ii) an increase in settlements at the Compliance Stage.
- This needs to be delivered in a way without providing 'information overload' to the debtor and without adding significant costs to enforcement activity which would need to be added to the compliance stage fee.
- The compliance stage is not the first opportunity the debtor has had to pay the debt. They will have received an initial invoice, a reminder, and in all likelihood follow ups via phone calls, texts or emails, as well as the letter before action, the claim, the judgment and the notice of enforcement.
- Extra paperwork or any proposal for a 'second NoE' will have an unnecessary and negative environmental impact in terms of issuing extra paperwork. We understand that this would be a smaller environmental impact than that caused by a visit, but this would only apply if settlements at Compliance Stage were increased and therefore visits were prevented by this proposal as it stands, which we don't believe would happen.
- There is potential to add to any debtor confusion and stress levels by doubling the amount of correspondence they receive with a 'second NoE'. With the number of pages suggested we believe this would be quite daunting and overwhelming to those people already struggling.
- We believe that a careful edit and streamlined presentation of the existing information included in the current Notice of Enforcement, complemented by better online resources to help debtors, would improve the quality of the information provided to the debtor and have a greater impact on settlement rates at the Compliance Stage.

- This new independent online resource (and an accompanying phone line) could act as a hub that all enforcement businesses could refer debtors to for independent guidance and could also include contact points for a range of debt advice agencies as well as links to the HCEOA and CIVEA websites.
- A 'second NoE' as per the Ministry of Justice's proposals, could not simply be a replica of the first, as they would need to be different, because there would be no deadline included in the first one. This would add further costs without, we believe, delivering an increase in settlements.
- It would have an impact throughout the enforcement process that would be far greater and far more environmentally friendly than issuing two additional sheets of paper to each debtor.

The Enforcement Conduct Board – in its current consultation on its proposed new standards has said that it "intends to carry out further work during the course of the coming year to identify the best way of getting people to engage with the NoE when it is sent." We support this work and will contribute to it and suggest the CJC does the same.

12) Should the court require details of a defendant at the commencement of proceedings in order to ascertain whether a defendant could satisfy a potential judgment? (For example, by specific questions being including in the Directions Questionnaire, including details of any debts being enforced outside the court system).

Yes – the more information the court or claimant has on the defendant then this can better assist the court and the claimant to decide what course of enforcement would be suitable.

13) If information about the means of a potential debtor is sought early in proceedings, what information would you consider to be helpful?

The courts should look to use the Money and Pension Service's Standard Financial Statement (SFS), a tool used to summarise a person's income and outgoings, along with any debts they owe.

14) What experience, if any, have you had with making use of the provisions of CPR part 71 (orders to obtain information from judgment debtors)?

N/A for HCEOA to respond as our members don't use CPR part 71.

15) If you have used the provisions of part 71 to obtain information about a judgment debtor's means, have you found the process effective?

N/A for HCEOA to respond as our members don't use CPR part 71.

16) If not effective, why not, and what changes would you make to the provisions relating to obtaining information from judgment debtors and does there need to be an amendment to part 71?

N/A for HCEOA to respond as our members don't use CPR part 71.

17) What would you consider to be an appropriate sanction/appropriate sanctions for a judgment debtor who fails to provide information to questions raised by the court?

N/A for HCEOA to respond as our members don't use CPR part 71.

18) If judgment is obtained, should the court provide details of the judgment debtor with the claimant at the time of judgment and, if so, what details should be provided (if any)?

Yes – subject to the court permitting it – the Claimant should be entitled to see this information so that they can decide on the relevant course of enforcement action.

19) What safeguards should be put in place with respect to any data sharing to ensure that it is reasonable and proportionate and not unfairly detrimental to the debtor?

Any 'debtor data' should only be supplied to the court initially, and then, if the court decides it is appropriate to share with the claimant, it should only be permitted for this information to be provided to the claimant or their legal representative. There should be clear guidelines developed regarding the use, retention, storage and disposal of this data.

20) Should the court have a role, independent of any applications made by any creditor, in obtaining details of the debtor?

Yes, we believe this should be part of the claim process whereby the court obtains information from the debtor (see below) and that it would be appropriate for there to be an obligation on the debtor to provide the relevant information.

Information on the claim form supplied by the creditor as to whether the debt is subject to the Consumer Credit Act 1974 would be helpful. This would allow more analysis of judgments.

Post judgment information obtained by the Court regarding the debtor's financial position is helpful, but also requiring the debtor to disclose their assets position would also assist the creditor in terms of determining what form of enforcement to take, i.e., taking control of goods/charging order/attachment to earnings.

21) Should the court and/or the judgment creditor be given access to information held by HMCTS and the DWP (or other government departments or agencies) to gather financial information on the judgment debtor?

Yes, we believe this would be appropriate, though we believe the information should only be released to the court in the first instance.

This is information that already exists and is held by government. Part 4, Sections 95 - 104 of the Tribunals, Courts and Enforcement Act 2007 - *Information requests and orders* should be enacted. This would then allow access to information held by Government departments. It would give the Court more visibility of the debtor's financial position and therefore their ability to pay the judgment.

22) What safeguards should be put in place to protect the individual with respect to financial information held by HMCTS and the DWP (or other government departments or agencies) and their privacy?

Safeguards are important for the protection of the judgment debtor's privacy. We believe this information should only be provided to the court – and it is then for the court to decide what information can be released to the claimant for the purpose of enforcement of the judgment. Unless the court decides it Is appropriate to release information to the claimant, the default position should be that the information sits purely with the court.

23) Should the court and/or the judgment creditor be given access to information held by third parties, such as banks and credit agencies, to gather financial information on judgment debtors?

Yes, we believe this would be appropriate though again we believe the information should only be released to the court in the first instance.

This would enable the court, with input from the claimant where appropriate, to decide the best method of enforcing the judgment.

24) What safeguards should be put in place to protect the individual with respect to financial information held by third parties, such as banks and credit agencies, and their privacy?

Safeguards are important for the protection of the judgment debtor's privacy. We believe this information should only be provided to the court – and it is then for the court to decide what information can be released to the claimant for the purpose of enforcement of the judgment. Unless the court decides it Is appropriate to release information to the claimant, the default position should be that the information sits purely with the court.

25) Would you welcome a change to legislation to allow either (17) or (19) above, which would include safeguards suggested under (18) and (20) above?

Yes – with the appropriate safeguards included.

26) What other protections do you consider should be available to the judgment debtor to prohibit all, or some, financial information being available either to the court or to the judgment creditor?

We don't believe any new protections are required, because this is already covered appropriately by existing regulations.

Support for debtors

27) Are you aware of any support or information provided to debtors following a judgment?

Yes – there is a wide range of support and information provided – please see answer to Q28 for details.

28) If so, what is that support or information?

There is a huge amount of information and support made available to debtors at three stages:

1) Prior to a judgment being made
2) During the judgment process
3) Following a judgment

By the time a judgment is made, the debtor has at this point already made a decision – for whatever reason – not to engage with the enforcement process up until that point. The Ministry of Justice has consulted on this area in 2023 with regards to providing more information within or alongside the Notice of Enforcement.

We have a number of concerns about the practicalities and value of this proposal, but the key one is that we think it simply won't solve the problem. Our suggestions for a more appropriate and effective solution are set out in our response to Q29.

Prior to a judgment being made: This ranges from standard information sent routinely with invoices and at the time purchases are made about the consequences of non-payment that are specific to the organisation and transactions involved, through to much broader information about avoiding and managing debt.

Should someone be in a situation where they haven't paid a debt, then where that debt is owed to a private company, a utility company or a local authority, there is then typically a wide range of information sent to the debtor which includes detail about support.

During the judgment process: During the judgment process a debtor will have access to a range of formal and informal information and support through the court processes.

Following a judgment: Once a judgment has been made the debtor will receive or have access to a wide range of support and information such as:

- Mandated information included on the Notice of Enforcement
- Guidance from individual enforcement agents and enforcement firms, whether in person, via telephone or through their websites
- Guidance from CIVEA/ HCEOA websites
- Guidance from a range of established debt advice charities
- Guidance from the Ministry of Justice and Enforcement Conduct Board

29) What, if any, (additional) information and support do you consider should be made available to debtors and at what stage?

Additional information and support for debtors, and, just as importantly, to prevent people from becoming debtors in the first place, is critical to improving the percentage of cases that can be resolved at the compliance stage, as well as preventing cases from ever requiring enforcement in the first instance.

We believe a single authoritative online source of information and guidance from government about the importance of paying debts, and the consequences of not doing so, should be targeted at the general public, with relevant guidance for people at different stages to a) encourage them to pay bills b) encourage them to engage with judgments/writs/enforcement process.

30) Are there any particularly vulnerable debtors who you consider need additional support. If so, how are those vulnerable debtors identified and what support do you consider is required?

The Enforcement Conduct Board (ECB) is currently undertaking a significant piece of work in developing its new standards. Two of the key areas it is looking at are 'vulnerability' and 'ability to pay'.

Due to the complexity of these areas, and its desire to consider the issues properly, it has decided to consider them separately to the rest of its work on standards. Our understanding is that this work will be comprehensively undertaken by the ECB in 2024/2025 and that it will consider how vulnerability is defined – which has an obvious link to how vulnerable debtors are identified. We know the ECB and MoJ have also been looking at the issue of how to best provide advice and support to debtors generally and envisage engaging with, and supporting, vulnerable debtors will form an important part of that work.

We would encourage the CJC to engage with the ECB – which itself has stated it intends to consult widely and fully on this issue – to share thinking, pool resources and ultimately ensure a consistency of approach with a single set of recommendations.

The HCEOA's view on this is that whilst we fully support the need to provide support to vulnerable debtors, there are three key factors that are often forgotten that need consideration.

The first is that creditors can be vulnerable too. Creditors can often be individuals or businesses who are relying on receiving money that is owed to them, otherwise they risk becoming debtors themselves, so creditor vulnerability must be considered.

The second is that debtors have already received significant levels of information. Simply repeating the provision of this same information again in the same or similar format is unlikely to generate different outcomes, may well lead to additional stress for a vulnerable debtor and will add time and cost to the enforcement process.

The final one is the need for a distinction between 'vulnerability' and 'ability to pay'. We are pleased to see the ECB is referring separately to these two terms. They can be linked, and the potential for vulnerability must always be considered, but what is critical is the link between someone's vulnerability and their ability to pay.

31) What do you consider the most efficient and effective ways of disseminating information to debtors?
    i) through court documentation at the commencement of the action
    ii) through court documentation at time of judgment
    iii) through bailiffs or enforcement officers
    iv) all the above?
    v) any further means of communication?

The reality is that information needs to be disseminated to debtors on a continuous basis throughout the enforcement process. In order to make it more useful for debtors, particularly vulnerable debtors or those who genuinely are struggling to pay, we believe it is about streamlining and improving what information is shared and how this information is shared that is likely to have the biggest impact.

We believe the biggest single change that can have a meaningful impact on this issue is to establish this single authoritative online source of information and guidance from government about the importance of paying debts and the consequences of not doing so.

32) If the defendant engages with the court process, should the court be proactive in providing a telephone advice service, or other access to free advice through third parties, in order to potentially facilitate early resolution?

We believe the Court should direct debtors to the same debt advice agencies that the Ministry of Justice asks the enforcement sector to provide details for on the Notice of Enforcement. This would give consistency and provide debtors with the right information. At the moment this includes a range of websites and telephone numbers though, as stated elsewhere, we believe it would benefit hugely from the development and inclusion of a single authoritative online source of information and guidance from

government about the importance of paying debts and the consequences of not doing so.

Any proposed improvements

33) Do you consider there should be any changes to the system of enforcing judgments, or should the status quo be maintained?

We believe there should be a number of changes that can be made to the system of enforcing judgments that would combine to improve the current approach, as set out in our answer to Q34.

34) If you consider there should be changes, what changes do you feel should be made to make enforcement more accessible, fair and efficient?

We believe the changes below would make enforcement more accessible, fair and efficient.

Digitisation of the court system – a digital transfer up process would make the process more cost effective for the courts and the court user. At present the court process can be slow for the transfer of a judgment to the High Court for enforcement, this delays the creditor getting a speedy enforcement of their judgment.

Freedom of choice for court users – as set out in detail in our response to question six, we believe that the Jurisdiction Order needs amending to allow claimants the freedom to choose which enforcement mechanism is most appropriate for them, rather than the current process where this is mandated.

This can be easily done by making two small changes to a single piece of legislation.

- amending the High Court and County Court Jurisdiction Order 1991 to allow High Court Enforcement Officers to enforce judgments below £600 in respect of unregulated judgments
- expanding the same Order to allow High Court Enforcement Officers to enforce judgments relating to regulated debt above and below £600.

Greater (but secure and carefully controlled) access to information held by government for the courts and for creditors – as set out above, improved access to this information will help inform decision-making by the courts and by creditors that will help improve outcomes.

Ensuring the enforcement profession is properly funded – despite a government commitment to review enforcement fees annually in line with inflation, enforcement fees in England and Wales have been frozen since 2014. This is in sharp contrast to the picture in Scotland, where there have been a number of inflation-linked increases in enforcement fees.

There are three steps government can take quickly to ensure we keep a fair and effective enforcement system in England and Wales:

- Implement its own recommended 5% increase in enforcement fees which was proposed in summer last year and will be a first fee increase in ten years.
- Set up and deliver a regular fee review mechanism linked to inflation. The Ministry of Justice recognised the need for this last year so we're hopeful it will be introduced soon.
- Ensure any further reforms to the enforcement system proposed after last year's wide-ranging consultation are carefully considered and properly funded. The 5% fee increase addresses a historical challenge, but it doesn't create an investment pot to tackle new challenges.

introduction of a single authoritative enforcement website – an independent online source of information and guidance from government about the importance of paying debts and the consequences of not doing so.

Regular reviews of standards and legislation – whether led by the Enforcement Conduct Board or MoJ moving forward these are important to ensure they remain appropriate and fit for purpose given society expectations and technological advances

Regular engagement discussion and education across the sector – via forums such as the CJC and Enforcement Conduct Board and consultations that engage the whole sector – debtors, creditors, enforcement companies, debt advice providers, regulators. Shared knowledge and understanding have been lacking too often in the past and are hugely important across such a complex and important, but also emotive, topic.

More broadly, we support the introduction and the work of the Enforcement Conduct Board, whose mission is to *ensure that everyone experiencing enforcement action is treated fairly and protected from poor practice.* The Enforcement Conduct Board's current work to introduce new standards, which we are broadly supportive of, is indicative of the progress being made here.

35) Whether you consider there should be changes or not, what, if any, additional safeguards and advice should be given to debtors?

There should be a single authoritative online source of information and guidance from government about the importance of paying debts and the consequences of not doing so.

There should be regular updates of the National Standards which have currently remained unchanged for ten years – though the ongoing work that the Enforcement Conduct Board has now begun will in time replace these.

36) Whether you consider there should be changes or not, what, if any, additional information should be given to creditors about methods of enforcement?

There is sufficient information on the different forms of enforcement available, but the problem is twofold.

Firstly – court users are not given the freedom of choice in many cases to choose which method they would like to use, and secondly, the information about forms of enforcement is not presented to court users in a simple way from an easy to access and trusted source.

As stated above, we believe that what is important for creditors, debtors, the enforcement marketplace, UK plc and the wider economy is that there is a single agreed source of information from a trusted and authoritative source (e.g. MoJ or Enforcement Conduct Board website) that sets out clearly and succinctly what the different enforcement mechanisms are, what they entail, why creditors might want to use them, and provides further information or contacts for creditors to use them.

37) As the majority of debt judgments are judgments in default, what further steps do you consider could and/or should be taken to encourage defaulters (potential judgment debtors) to engage in the court process at an early, or any, stage?

As stated above, there should be a single authoritative online source of information and guidance from government about the importance of paying debts and the consequences of not doing so.

38) Are there any other areas of enforcement that you feel could be improved and in what way and by which method(s)?

Please refer to our answer to Q34.

General

39) Please set out any additional comments you would like to make about the current system of enforcing money judgments in court. These comments can expand upon the questions raised above or raise new issues.

We believe that following up on the priorities of:

- Digitisation of the transfer up process
- Freedom of choice for court users
- Ensuring the profession is properly funded, and
- Improving engagement with debtors at an early stage, based around a single online information hub

can be combined to make the current system significantly more effective.

This needs to be combined with the ongoing work of the Enforcement Conduct Board to ensure a balanced, fair and effective approach to enforcement, which reflects the needs and vulnerabilities of both debtors and creditors at every stage.

40) Please set out any current difficulties that you identify with the system of enforcement and outline any potential improvements you consider appropriate for either the creditor or the debtor.

Our response to this is set out throughout this paper and is summarised in our responses to questions 34 and 39 above.

Annex A
Civil Justice Council Enforcement Working Group
Call for Evidence July – September 2024

ENFORCEMENTS OF DOMESTIC JUDGMENTS

General -Identifying assets	Charging order	Attachment of earnings order	A third-party debt order	Warrant of control	Writ of control	Insolvency proceedings	Contempt of court proceedings	Freezing order
Publicly available sources: • The Land Registry. • The Bankruptcy and Insolvency Register. • Companies House • The attachment of earnings index. • The insolvency and companies list of the business and property courts of England and Wales. • Instructing enquiry agents to undertake an assets check. • Applying to the court for an order that the judgment debtor/director of a company attends court setting out its financial position under oath. • Post judgment freezing order preventing dissipation of assets / the delivery up of information regarding assets.	• A court order that places a lien charge on the property preventing the judgment debtor selling the property without first satisfying the charge (judgment debt). The charge also provides that the judgment creditor can apply to the court for an order for sale of the property to satisfy the debt owed. • Application is made without notice to the judgment debtor and dealt with by the judge without a hearing. After that the judgment creditor will apply for a final charging order and at that stage the judgment debtor will be given notice of the final charging order application. • Charging Orders [£119 & £71 for a warrant if order for sale made].	• [Attachments of Benefits is not included as it is not an order of the court]. • An attachment of earnings order is a court order used to collect the judgment debt directly from the judgment debtor's wages. The order requires the debtor's employer to deduct a certain amount from the judgment debtor's earnings and send it directly to the judgment creditor until the debt it is paid. • An attachment of earnings order cannot be obtained against someone who is unemployed, self-employed, a company or in the armed forces. • The application is made in form N337. • Attachment of Earnings [£119]. .	• A third-party debt order is a court order that allows the judgment creditor to seize money owed to a judgment debtor by a third party. This is often used in respect of the judgment debtor's bank account. • The order freezes funds held by the third party that are due to the judgment debtor and the third party is then ordered to pay the judgment creditor directly from the judgment debtor's funds. • An interim third-party debt order is made without notice and dealt with by a judge without hearing. After which a hearing takes place where the court decides whether to make the final order at which point the third party can intervene and object to the order being made. • The application is made using form N349. • Third Party Debt Orders [£119].	• The warrant of control authorises enforcement agents commonly referred to bailiffs to take control of the judgment debtor's possessions. This involves the enforcement agent entering the judgment debtor's premises to collect and subsequently sell the possessions. • Used for judgment debts of less than £5,000. • The application is made in form N323. • For money [£91]; for goods [£143].	• This is similar to a warrant of control but for debts above £600 and recovery of the goods is executed by a high court enforcement officer. • Writ of control/Warrants of execution [£83].	• If a judgment creditor is owed more than £5000 by an individual debtor or £750 from a company, an application can be made to make them bankrupt. • After a bankruptcy or winding up order is made, the judgment debtor's assets will be collected by a trustee and distributed to the judgment creditor. • Insolvency action is commenced by sending a draft winding up petition to a company or a statutory demand to an individual – many cases settle at this stage with the threat of bankruptcy.	• Where there has been a number of breaches of court orders in ongoing proceedings a judgment creditor can instigate contempt of court proceedings and failure to comply with the judgment or court orders.	• This is an order preventing the disposal of assets by the judgment debtor. • An application is made in form N244. • Without notice application [£108] but application has to be on basis of underlying claim – where court fee depends on value of the claim [£35 for a claim less than £300 up to £10,000 for claim in excess of £200,000 see Civil Court Fees EX 50].