



Ministry of Justice: Regulation of the debt enforcement sector consultation

A response by
The Chartered Institute of Legal Executives
(CILEX)

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Introduction

- 0.1. CILEX would like to take the opportunity to respond to the MOJs consultation in relation to the regulation of the debt enforcement sector. CILEX represents a substantial number of civil practitioners specialising in debt recovery and civil enforcement law within the legal sector.
- 0.2. The Chartered Institute of Legal Executives (CILEX) is the professional association and governing body for Chartered Legal Executive lawyers (commonly known as 'CILEX Lawyers'), other legal practitioners and paralegals. Under the Legal Services Act 2007, CILEX acts as the Approved Regulator (AR) and delegates these regulatory powers to the independent regulator, CILEx Regulation Ltd (CRL).
- 0.3. CILEX represents over 17,500 members of which 77% of the membership are female, 16% of members are from an ethnic minority background, 4% are LGBT and 6% have a disability. Additionally, in terms of social mobility, 77% of CILEX members attended a state-run or state-funded school and 41% have an undergraduate university degree (of which 63% of those members were the first to attend university).
- 0.4. As part of this consultation response, CILEX surveyed members working in debt recovery and enforcement. CILEX is therefore only responding to questions where there is sufficient evidential data.

1. 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.

- 1.1. CILEX strongly supports greater regulation and further agrees that it is necessary to legislate to establish a statutory independent regulator for the debt enforcement sector.

2. 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?

- 2.1. CILEX agrees that responsibility for setting the legislative framework should remain with the Government through primary legislation and statutory instruments. CILEX notes that the role of Government can ensure that there are checks and balances in creating a framework in a democratic way to protect the balance between creditor rights and debtor protection.
- 2.2. Furthermore, CILEX believes that having responsibility remain with the Government ensures that there is consistent application of the legislative framework nationally. CILEX is concerned that devolving the legislative framework to an independent body entirely may result in fragmented or inconsistent practices.

3. 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.

- 3.1. CILEX members strongly agree that an independent statutory regulator should play a role in reviewing the fees that the enforcement sector can recover when using the Taking Control of Goods procedure. CILEX believes that this role can ensure that any fees are proportionate to costs incurred, transparent and fair to all parties involved.
- 3.2. Notably, CILEX raises the issue of fluctuating costs when accounting for inflation, technological innovations and operational changes. CILEX believes that an independent statutory regulator is essential to objectively assess and recommend updates to fees in a efficient manner to avoid delays between governmental reviews.

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

- 4.1. CILEX members believe that in reviewing fees, an independent statutory regulator should:
- Set mandatory maximum fees for all enforcement activity with collaboration from Government and stakeholders.
 - Approve or reject proposed fee structures submitted by enforcement firms.
 - Require transparency and regular reporting on fees.
- 4.2. CILEX also believes that a regulator should conduct independent evidence gathering and analysis. Data collected should reflect the costs incurred by enforcement agents (to be compared regionally), the impact of fees on debtors and the frequency and structure of fee applications. CILEX believes that in collaboration with varying stakeholders, including debt recovery firms and charities such as citizens advice, fees can be reviewed with evidential data in an objective and productive way to benefit the entire enforcement sector.

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

- 5.1. CILEX members believe that the following objectives should be enshrined in law for an independent statutory regulator to work towards:
- Maintain public confidence in the enforcement process through professional accreditations and minimum mandatory training for enforcement professionals.
 - Maintain a balanced support mechanism for both creditors and debtors.

- Enable effective cost recovery through practical guidance and ethical standards.
 - Provide clear complaints and redress mechanisms.
 - Monitor and control fees and charges to be proportionate, transparent and fair.
- 5.2. CILEX understands that many of these objectives, such as public confidence are not achievable in the short term. CILEX is aware that ‘a third of people who have been contacted by bailiffs have experienced threatening or unfair behaviour’¹, leaving some ‘afraid to answer the door or even leave their homes’². There is a long way to go before the enforcement sector can achieve public confidence. However, CILEX believes that introducing practical guidance, ethical standards and minimum mandatory training for enforcement professionals will provide long-term benefits.

6. 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?

- 6.1. CILEX 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. CILEX believes that setting out standards and guidance in legislation promotes consistency and clarity for professionals, overall reducing ambiguity about the duty of firms, agents and creditors to improve standards in the enforcement sector.
- 6.2. CILEX further agrees that legislation should have relevant safeguards in relation to consultation; however, CILEX believes that consultations should remain open and not limited to specific organisations. This way, the regulator can capture the views of not only enforcement firms and agents, but also charities and members of the public with lived experience of the enforcement process.
- 6.3. In reference to frequency of review, CILEX notes that current data highlights that 1 in 415 adults in England and Wales enter insolvency³ voluntarily or through enforcement proceedings. Notably, in the period of January to March 2025, enforcement applications were up 6% and enforcement orders were up 6% when compared with the same period last year⁴. Based on the continued rapid growth and

¹ Citizens Advice, ‘Bailiffs behaving badly: stories from the frontline’, [Bailiffs behaving badly: stories from the frontline - Citizens Advice](#).

² *Ibid.*

³ The Insolvency Service, ‘Commentary – Individual Insolvency Statistics June 2025’, [Commentary - Individual Insolvency Statistics June 2025 - GOV.UK](#)

⁴ Ministry of Justice, ‘Civil Justice Statistics Quarterly: January to March 2025’, [Civil Justice Statistics Quarterly: January to March 2025 - GOV.UK](#)

prevalence of enforcement across the UK, CILEX believes that review should take place every 2 years to ensure that best practices are being upheld.

7. 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?

- 7.1. CILEX strongly supports legislation that requires all firms that enforce debts using the Taking Control of Goods procedure to be accredited or licenced by an independent statutory regulator. CILEX believes that minimum standards and mandatory training is vital to improve sector efficiency.
- 7.2. CILEX agrees that an accreditation is a great way to demonstrate sector effectiveness. CILEX recognises that there is a cost associated with any accreditation; however, CILEX believes that there is an incentive for firms to market their services and enhance competition in the sector which provides a benefit to the initial cost. Furthermore, CILEX believes that an accreditation can also promote consumer choice in the sector.

8. 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?

- 8.1. CILEX proposes that a combination of both approaches may be preferable. CILEX agrees that the Government should set out the broad framework in legislation; however, the powers to decide detailed licensing requirements should be devolved to the independent statutory regulator.
- 8.2. CILEX believes that in doing this, core minimum requirements to enhance public protection can be made to create a baseline level of public protection and legal clarity for those undergoing enforcement litigation. In allowing the independent statutory regulator to decide more detailed licensing requirements, CILEX notes that there can be greater flexibility to accommodate changes such as keeping fees in line with inflation. Moreover, devolving this duty to the independent statutory regulator can ensure that any amendments can be made in a timely manner to keep up to date with developments in the sector.

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

- 9.1. CILEX strongly believes that mandated minimum training and standards should be imposed for individual EAs and HCEOs. Elaborating on the response submitted to question 5, CILEX is aware that current certification and authorisation criteria is not suitable, particularly surrounding ethical conduct or understanding of debtor vulnerabilities.
- 9.2. CILEX recommends the introduction of a standardised national criteria for both EAs and HCEOs, alongside a central licensing register on behalf of the regulator to

ensure that there are clear guidelines and redress mechanisms for all involved in enforcement litigation. CILEX believes that a single standardised national criterion will remove ambiguity and promote greater conflict resolution, as well as reducing overall costs in relation to professional indemnity insurance.

10. 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?

- 10.1. CILEX believes that the independent statutory regulator should be primarily responsible for the accreditation of individual EAs and HCEOs, with the District Judges and Lord Chancellor (via the Senior Master) retaining limited judicial oversight to maintain impartiality. CILEX notes that in doing so, judicial burdens will be relieved, allowing District Judges and the Senior Master to focus on adjudication as opposed to regulation.

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

- 11.1. CILEX strongly supports the proposal that an independent statutory regulator should be given powers to gather data from the enforcement sector and believes it is essential for the regulator to regulate effectively.
- 11.2. CILEX notes that there are several key benefits in allowing the regulator to collect data, namely: promoting transparency and accountability in the sector, protecting vulnerable debtors and overall sector improvement. In order to not overly burden the regulator and relieve administrative pressures, CILEX believes that the regulator should require firms and agents to submit quarterly data returns, with figures based on case volumes, outcomes and fees charged, as well as complaints, compliance failures and disciplinary actions. This way, the regulator can conduct audits and reviews where appropriate.

12. 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?

- 12.1. Understanding that the enforcement sector regularly interacts with vulnerable individuals and groups, CILEX agrees that it is essential that any data collected in respect of those individuals should be appropriately safeguarded. Firstly, CILEX believes that imposing a statutory duty to provide data that is complete, truthful and submitted within required timeframes is a vital first step in ensuring accurate data collection.
- 12.2. Furthermore, CILEX believes that auditing and reviewing enforcement firms via records and systems will accurately reflect the type of data being provided. Introducing quality assurance processes and retaining evidence from enforcement

firms is a key step in safeguarding data. CILEX believes that issues in relation to non-compliance should be considered separately with the relevant professional and sector bodies to ensure that it is effective for those on a practical level.

12.3. In order to ensure that data is being used proportionately, CILEX firstly raises the point that all data collection and handling must comply with the Data Protection Act 2018 and UK GDPR, with special consideration for any personal or sensitive data.

12.4. CILEX recommends that data only be gathered under the following:

- Regulatory oversight
- Monitoring compliance
- Improving standards

13. 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?

13.1. CILEX understands that effective monitoring is essential for ensuring that enforcement under the Taking Control of Goods procedure is lawful, ethical and fair to both creditors and debtors. However, CILEX is concerned that monitoring, if not effectively safeguarded, could induce satellite litigation.

13.2. CILEX believes that an independent statutory regulator should cautiously be given powers to monitor the work of enforcement firms; however, this should be limited to complaint handling oversight, to handle non-compliance, and should be risk-based, proportionate and transparent.

14. 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?

14.1. CILEX refers to submissions throughout this response in relation to accreditations, sanctions and sector-wide standards and guidance.

14.2. CILEX further believes that an independent statutory regulator should be able to effectively signpost and educate the public about ethical practices across the industry. CILEX members noted that lack of education and awareness of rights is a fundamental issue in the enforcement sector.

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

15.1. CILEX agrees that an independent statutory regulator should be given statutory powers to consider complaints on the basis that prior steps have been taken, such as complaining to their legal service provider in the first instance. Similarly with the

Legal Ombudsman, CILEX believes that the legal service provider should be able to respond to the complaint in the first instance over an 8-week period⁵. Once this period has surpassed without a response, or the individual is not happy with their response, then CILEX proposes that complaints be considered by the independent statutory regulator.

- 15.2. CILEX recognises that there are many benefits in allowing an independent statutory regulator to consider complaints. Namely, for public protection and promoting access to justice. The enforcement sector engages with particularly vulnerable individuals, and therefore it is essential that public protection remains a priority in the event of unsatisfactory legal service. Furthermore, in allowing an independent statutory regulator to consider complaints, there will be a cohesive approach to enforcement dispute resolution. CILEX is aware that currently, there is no one provider or representative to consider complaints. CILEX members noted that the system is 'fragmented' and 'the complaints process needs to be centralised'.

16. 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?

- 16.1. CILEX believes that the role of District Judges and the Lord Chancellor/Senior Master should be abolished. CILEX notes that regulation is not a judicial function and therefore should be left to the independent statutory regulator.

17. 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?

- 17.1. CILEX agrees in principle that legislation should allow a statutory independent regulator to be able to share data with other bodies, under the caveat that there are safeguards in place.
- 17.2. CILEX is aware that members working in debt recovery and enforcement, particularly creditors, find it difficult to gather valuable information such as whether a debtor has any other debts or contributing circumstances. If this information became available or shared cross-sector with bodies such as the Department for Work and Pensions, CILEX believes, it could positively impact the way that litigation is conducted and eradicate various practical difficulties in navigating debt enforcement. Additionally, for debtors themselves, CILEX understands that this is can be an emotionally turbulent time and therefore can see benefit in data being shared with relevant debt advice charities with their consent to relieve some of the emotional pressures of repeating information.

⁵ Legal Ombudsman, 'How to Complain', [How To Complain | Legal Ombudsman](#)

17.3. However, it is important to ensure that any data sharing is in line with the legitimate interests as per the Data Protection Act 2018 and UK GDPR.

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

18.1. CILEX notes that there are various sanctions available for an independent statutory regulator, such as written warnings, financial penalties, and licence removal. CILEX believes that continuous discussions, such as a round table discussion, with the relevant stakeholders will provide the Ministry of Justice with a clear view as to what sanctions would be most appropriate. CILEX stresses the importance of capturing the views of individuals, charities and enforcement firms to best understand the most productive method of sanction for the debt enforcement sector.

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

19.1. CILEX strongly believes that an independent statutory regulator should be subject to regular independent audits/reviews to ensure that it is operating effectively and fairly.

19.2. Moreover, CILEX members noted that a statutory enforcement regulator should be independent from government departments and should instead be an arms-length body accountable to a government department. As such, CILEX believes that it is vital that there is stakeholder representation on the regulator's board and/or advisory groups to ensure that the regulator is best equipped to deal with practical issues from the eyes of those at the coal face.

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

20.1. In order to maintain the independence of the statutory regulator, CILEX believes that the Lord Chancellor should not have any role in the appointment of key posts within a statutory independent regulator. CILEX believes that inclusion of the Lord Chancellor poses risk to political interference.

21. 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?

21.1. CILEX believes that leading regulatory models such as the Financial Conduct Authority can be used as an example of how to appoint key posts with relevant safeguards. Ensuring that the independent statutory regulator is accountable to

Parliament, but not Ministers directly ensures that there is no direct political interference and therefore a minimised risk of conflicts of interest⁶.

- 21.2. CILEX recommends that for key appointments, such as Chair and executive roles where there is no other representatives to interview and assess, there should be oversight by the Office of the Commissioner for Public Appointments to ensure that the process is fair and merit-based.

22. 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.

- 22.1. CILEX believes that those who are employed to use the Taking Control of Goods procedure should be regulated by the same independent statutory regulator to ensure that there are consistent standards across the debt enforcement sector.

23. Conclusion

- 23.1. CILEX believes that one of the most prevalent issues in relation to the debt enforcement sector is the current lack of regulation. This leading to excessive fees and charges, and enables aggressive and intimidating practices. CILEX welcomes the proposals for statutory regulation of then debt enforcement sector and the discussions surrounding debt enforcement regulation.

⁶ Financial Conduct Authority, 'About the FCA', [About the FCA | FCA](#)