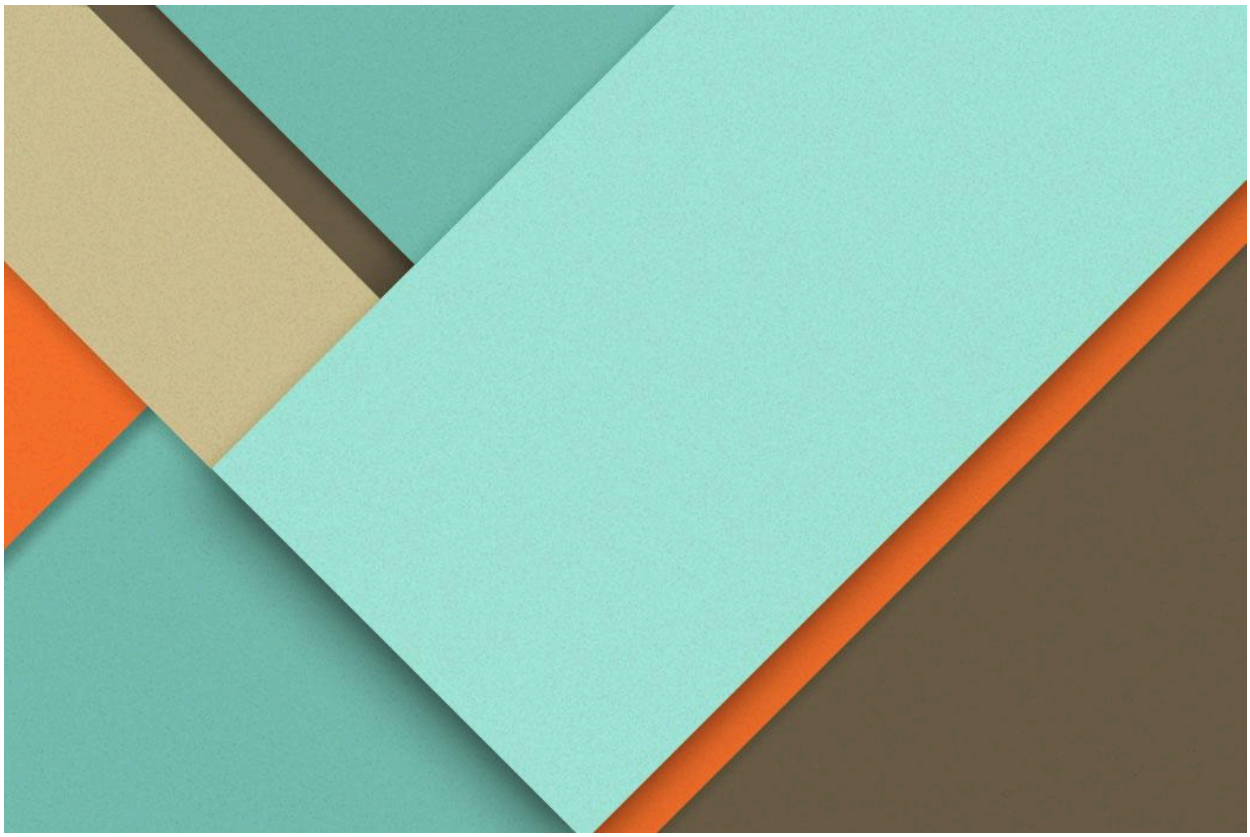

Driving Fairness: Proposals for Enhancing the Civil Enforcement Framework

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Overview

This paper invites policymakers, local authorities, bailiff oversight bodies, and legislators to adopt the proposed amendment as a necessary improvement to the civil enforcement framework. Doing so will help ensure that debt enforcement is carried out lawfully, transparently, and with due regard for the rights of all parties involved.

Executive Summary

This paper proposes 33 targeted reforms to the civil enforcement framework, with a focus on correcting procedural deficiencies in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (TCEA 2007) (Schedule 12), the Taking Control of Goods Regulations 2013 (TCGR 2013) and the Taking Control of Goods (Fees) Regulations 2014 (TCGFR 2014). Drawing on extensive case experience and recent appellate decisions, the proposals aim to restore legal accountability, strengthen protections for debtors and third parties, and ensure proportionate enforcement practices across England and Wales.

The principal recommendations include:

(a) Introducing a statutory duty for enforcement agents to record body-worn video and retain footage for a minimum of 12 months, with sanctions for deletion or concealment

(b) Requiring Notices of Enforcement to be evidenced using Form N215 or equivalent certification and supported by Royal Mail tracking

(c) Mandating that all enforcement documents state the full legal name of the agent and include creditor and debt details, including Penalty Charge Notice (PCN) numbers where applicable

(d) Removing the £1,350 cap on exempt goods and amending Regulation 4(1)(a) of the TCGR 2013 to reflect functional necessity rather than value

(e) Extending third-party claim deadlines under CPR 85.4 and 85.8 from 7 to 30 days, and repealing the requirement to lodge money into court to pursue such claims

(f) Expanding Paragraph 66 of Schedule 12 to allow claims by third parties and to recognise wrongful removal of goods from vulnerable debtors

(g) Requiring enforcement agents to produce their Section 63 (TCEA 2007) certificate upon request and prohibiting use of unofficial warrant cards or police-style identification

(h) Establishing a statutory obligation to give debtors a copy of the sealed writ and to disclose auction sale values in full, with remedies for underreporting

(i) Creating a public MoJ register of High Court Enforcement Officers and obliging CIVEA and HCEOA to disclose internal guidance to the Enforcement Conduct Board (ECB)

(j) Reforming Regulation 31 to prevent the use of non-removable adhesives on immobilisation notices and introducing statutory safeguards around vehicle condition reporting

(k) Establishing a statutory enforcement regulator with powers conferred by primary legislation, including the power to investigate complaints, publish findings, and impose civil or financial sanctions on enforcement companies or officers in breach of the rules

(l) Creating the role of Independent Examiner of Enforcement Complaints within the regulator, to receive, investigate and resolve individual and systemic complaints by debtors and third parties affected by unlawful enforcement, with powers to recommend redress and report to Parliament

(m) Mandating that all enforcement documents, whether statutory or non-statutory, include clear and prominent signposting to the statutory regulator and its complaint-handling process

(n) Removing reliance on generalised ombudsman models such as the Local Government and Social Care Ombudsman, which lack the legal expertise and procedural remit to properly investigate the highly specialised field of civil enforcement

These reforms are necessary to close regulatory loopholes, deter abuse, and bring civil enforcement practice into alignment with the principles of fairness, legality and proportionality. They do not seek to undermine the lawful recovery of debt, but to preserve the legitimate rights of creditors while strengthening procedural safeguards that protect third parties and vulnerable debtors from disproportionate or unlawful enforcement. The aim is not to frustrate enforcement, but to ensure it is exercised lawfully, proportionately, and with proper regard to the rights of all affected. The Ministry of Justice is invited to adopt these proposals to ensure that enforcement remains lawful, transparent and accountable across all jurisdictions, and to restore public trust in a sector that must operate under the rule of law.

Goals of These Proposals

1. Develop and propose amendments and extensions to Schedule 12 provisions, and underlying regulations.
2. Enhance the overall system of civil enforcement better to safeguard the rights of debtors and third parties.
3. Reshape the landscape of enforcement practices to ensure greater accountability and fairness.
4. Address critical gaps in the UK legal system regarding civil enforcement law.
5. Ensure fair treatment for disadvantaged groups in enforcement proceedings.

6. Advocate for the proper application of Schedule 12 enforcement provisions, particularly in complex cases.
7. Combat prejudice and misconceptions in the court system against debtors and third parties affected by enforcement breaches.
8. Clarify the responsibilities of High Court Enforcement Officers (HCEOs) and enforcement agents involved in enforcement actions.
9. Proactively identify and address systemic issues in the current regulatory scheme for enforcement actions.

Goals of National Bailiff Advice

1. Continue to provide expert guidance and representation in complex enforcement cases.
2. Raise awareness about the rights of debtors and third parties in enforcement proceedings.
3. Expand the reach and impact of National Bailiff Advice services across England and Wales.

Introduction to National Bailiff Advice

I am Jason Bennison, founder and lead case examiner for National Bailiff Advice, a pioneering and indispensable service. We are the only provider in the UK offering free, comprehensive online advice to debtors facing bailiffs who breach enforcement provisions. Since the TCEA 2007 came into effect in 2014, I've personally overseen more than 7,300 unique cases involving enforcement breaches, providing remedies, including engaging solicitors and counsel for litigation.

Addressing remedies for civil enforcement breaches is an underserved area of law with unique challenges. I've observed that clients - both debtors and third parties affected by enforcement breaches - often face prejudice in court simply because they owe money or due to a misguided belief that the court must support the bailiff as a representative of a public authority. This perception is fundamentally flawed. I founded National Bailiff Advice and Dealing with Bailiffs to give this disadvantaged group a voice and ensure they receive fair treatment, making a significant difference in their lives.

In 2024 alone, I've achieved several legal milestones. For example, in January, after taking on a client in 2022 named Trevor Bone, who was facing enforcement of a High Court writ, I discovered a discrepancy with the bailiff's fees. I referred Mr Bone to a solicitor and initiated an application against the High Court Enforcement Officer (HCEO), in this case, Simon Williamson, named on the Writ of Control, for a fee assessment. However, the application initially failed because the court found that as HCEO, Mr Williamson was the incorrect respondent. As the decision was inconsistent with the prescribed parties in Paragraph 66(6) of Schedule 12, my client appealed. The Court of Appeal ruled that Mr

Williamson, as HCEO, is responsible for bailiffs acting under his authority. The case, *Trevor Bone v Simon Williamson [2024] EWCA Civ 4*, set a significant precedent.

In another case, a client named Michael Burton contacted me via my helpline in 2021, reporting that bailiffs recovering an unpaid magistrates court fine had clamped his hire purchase car. Despite the clear relationship between Schedule 12 enforcement provisions namely paragraph 10, and goods on hire purchase, my client sued the Ministry of Justice (MOJ) as the department responsible for the creditor, HM Courts and Tribunals Service. The appeal court found that the MOJ is liable for bailiffs acting on its behalf, reiterating the prescribed parties in Paragraph 66(6) of Schedule 12. This case, *Burton v Ministry of Justice [2024] EWCA Civ 681*, was another significant victory.

At National Bailiff Advice, we're not just advocates for debtors facing enforcement breaches but also proactive in suggesting solutions. During my tenure as an independent case examiner, I've not only addressed breaches and provided remedies but also identified systemic issues in the current regulatory scheme. As a result, I've compiled a comprehensive list of proposed amendments and extensions to Schedule 12 enforcement provisions and underlying regulations, aiming to enhance the system and safeguard the rights of debtors and third parties.

My work represents a significant contribution to the field of civil enforcement law. By providing a voice to an often overlooked group and actively working to improve the regulatory framework, I'm addressing a critical gap in the UK legal system. The precedents set through cases I've been involved with have the potential to reshape the landscape of enforcement practices, ensuring greater accountability and fairness in the process.

Index of Proposals

1. Mandatory Retention of Bodyworn Camera Footage by Enforcement Agents

Mandating the use of body-worn cameras by enforcement agents, supported by clear legislation on data retention and access, is essential for ensuring accountability, protecting rights, and modernising enforcement practices.

2. Proof of Service: Evidencing Delivery of the Notice of Enforcement

Update Paragraph 7 of Schedule 12 and the underlying regulations for giving the Notice of Enforcement (NOE) to enhance transparency, accountability, and fairness, proposing a scheme akin to the Form N215 to provide verifiable and legally robust certification of NOE delivery.

3. Agent Identification: Strengthening Accountability and Debtor Protection

Amend regulations to require enforcement agents to use their full legal names on enforcement documents to ensure transparency, accountability, and trust in the enforcement process.

4. Ensuring Transparency in Auction Sale Proceeds

The Schedule 12 provisions and underlying regulations mandate a detailed statement of account following the sale of controlled goods to ensure transparency, deter misconduct, and protect debtors from potential exploitation by enforcement agencies.

5. Removing the £1,350 Cap: Restoring Fairness in Exempt Goods Valuation.

Amend Regulation 4(1)(a) of the TCGR 2013 to remove the £1,350 value cap on exempt items is crucial for ensuring fairness, preventing arbitrary valuations by enforcement agents, and protecting debtors' essential goods.

6. Extending Time for Third-Party Claims on Controlled Goods And Exempt Goods

Extend the deadline for third-party claims on controlled goods from seven days to thirty days by amending Civil Procedure Rule 85.4(1) and 85.8(1) to ensure fair access to justice and allow sufficient time for claimants to engage legal representation and prepare substantive claims.

7. Mandatory Presentation of Enforcement Certificates

Amend Paragraph 26, Schedule 12 to require enforcement agents to produce their valid enforcement certificate upon request, replacing unofficial identification materials to enhance transparency and prevent public confusion.

8. Enforcement Agents Required to Use Removable Adhesive for Vehicle Notices.

The practice of attaching immobilisation warning notices to vehicles, as required by Regulation 31 of the TCGR 2013, raises significant concerns about vehicle safety and property damage from using non-removable glue, necessitating a review to adopt methods that notify vehicle owners effectively without compromising safety or causing damage.

9. Preserving Third-Party Rights Beyond the CPR 85 Deadline: Clarifying TIGA 1977

The intersection of Civil Procedure Rule (CPR) 85 and the Torts (Interference with Goods) Act 1977 (TIGA 1977) has created legal ambiguity regarding the extinguishment of claimants' rights after the seven days, as highlighted by a recent court case, emphasising the urgent need for clear legislative guidance to protect third-party interests.

10. Strengthening Legal Remedies for Third Parties Under Schedule 12

Extend Paragraph 66 of Schedule 12 to include third-party claimants, thereby empowering them to legally challenge enforcement agents who breach paragraphs 10 or 60 of the Schedule, safeguarding their property rights and ensuring accountability to non-debtors.

11. Documenting Vehicle Condition: Strengthening Evidence Requirements Under Schedule 12

Extend Paragraph 34 of Schedule 12 to mandate enforcement agents to create and maintain comprehensive video and photographic documentation of a vehicle's condition before taking control of it, aiming to enhance accountability, preserve evidence, and protect property rights in vehicle damage claims.

12. Enhancing Remedies for Vulnerable Debtors: Return of Goods Following Breach of Regulation 12

Extend Paragraph 10 of Schedule 12 and its regulations to enhance protections for vulnerable debtors by clarifying vulnerability disclosure requirements and expanding remedies for breaches of Regulation 12 to include the return of controlled goods following a breach.

13. Signposting Independent Advice on Enforcement Documents

Adding DealingwithBailiffs.uk National Bailiff Advice to the Notice of Enforcement to improve advice quality, raise awareness of rights, and enhance the availability of remedies to people in debt.

14. Amending TCGFR 2014 to Encourage Use of Controlled Goods Agreements

Amend Regulations 6(1)(b)-(c) of the TCGFR 2014 to rectify inconsistencies in fee recovery for High Court Writs of Control enforcement, aiming to align fee structures with the goal of encouraging the use of Controlled Goods Agreements.

15. Ownership Checks Before Removing Vehicles

Amend Paragraph 14 of Schedule 12 to require enforcement agents using ANPR technology to find vehicles to make enquiries about vehicle ownership and confirm address details against the Warrant before removing vehicles linked to unpaid traffic contravention debts.

16. Capping Vehicle Storage Charges.

Amend Regulation 8 of the TCGFR 2014 to cap vehicle storage fees at £5 per day and limit the chargeable period to 30 days, addressing concerns over fairness, regulatory compliance, and potential abuse in enforcement practices by enforcement agencies monetising vehicle storage for profit.

17. Correcting VAT Practices in Enforcement Fee Recovery

Extend Regulation 12 of the TCGFR 2014 to rectify unintended consequences stemming from the 2021 amendment, specifically addressing improper VAT recovery practices by enforcement agencies.

Repeal the the 2021 amendments to fees regarding VAT due to flawed interpretation:

(i) Regulation 3 of the 2014 Fees Regulations does not authorise VAT to be recovered as input tax.

(ii) Individuals under Section 63 are generally not VAT-registered.

(iii) Limited companies wrongly presenting themselves as Section 63 Enforcement Agents mislead debtors by reclaiming VAT as input tax, despite the actual Enforcement Agent not being VAT registered.

18. Statutory Public Register of High Court Enforcement Officers

The Ministry of Justice should create and maintain an official Public Register of High Court Enforcement Officers, including verified contact information, to enhance accountability, accessibility, and reliability, as underscored by recent legal developments and expert analysis.

19. Enhancing Transparency: CIVEA and HCEOA to Share Guidance with the ECB

The ECB to acquire full transparency from CIVEA and the High Court Enforcement Officers Association (HCEOA) by disclosure of all past and future members-only communications for independent scrutiny of guidance provided to Enforcement Agents.

20. Empowering the ECB to Inspect Enforcement Training Materials and Practices

The ECB must have authority to inspect the training materials and training practices of enforcement companies to new enforcement agents, as evidence has surfaced being taught dubious methodologies, including coercive tactics and illegal activities.

21. Mandatory Service of Sealed Writ of Control with Enforcement Notices

Require High Court Enforcement Officers (HCEOs) and Enforcement Agents (EAs) to give a copy of the sealed Writ of Control to the Debtor together with the Notice of Enforcement, and with any document left at the debtor's premises to enable the debtor to identify the debt's origin, the claim number, and the name of the Creditor.

22. Extending Paragraph 66, Schedule 12: Injunctive Relief for Vulnerable Debtors

Add a further provisions under Paragraph 66 of Schedule 12 for injunctions to recover money and goods wrongfully taken from vulnerable debtors under pain of removing goods.

23. Recording Royal Mail Tracking for Notices of Enforcement

Royal Mail tracking numbers for Notices of Enforcement must be obtained and recorded to ensure traceability, address any disputes over non-delivery, and retained on file for a minimum of 12 months.

24. Amending Paragraph 26, Schedule 12: Debtor's Right to View Enforcement Authority and ID

Amendment to Paragraph 26 of Schedule 12 requiring Enforcmeent Agents to show evidence of his ID and authority tyo enter premises within 12 months of the Enforcement Agent's last attendance or enforcement step taken.

25. Amending Paragraph 68 to Define Offences by Reference to Lawful Excuse

Amendment to Paragraph 68 of Schedule 12 to explicitly include the phrase "without lawful excuse" in the definition of offences.

26. Requiring PCN Number and Authority Details in Traffic Debt Enforcement Notices

(a) Mandate that all documents associated with the enforcement of Penalty Charge Notices (PCNs) include the PCN number and the name of the authority the bailiff is acting for.

(b) A Warning of Immobilisation must clearly state the Penalty Charge Number (PCN) being enforced, along with all other PCNs subject to concurrent enforcement.

(c) The document and Warning of Immobilisation must clearly state the name of the authority or authorities on whose behalf the bailiff is acting.

27. Requiring Full Printed Name of Enforcement Agents on All Issued Documents

Enforcement Agents must print their full name clearly and legibly in block capitals alongside their signature on any document issued to a debtor or third party. The name must match that provided in their EAC1 certification application.

28. Charity And Debt Counselling Listings On Debtor Documents:

On Notices of Enforcement and other documents left with debtors and third parties, wherever debt charities are listed as sources of assistance: Debt charities are not equipped to investigate enforcement impropriety; their focus is on providing debt counselling. For free advice on enforcement impropriety, contact National Bailiff Advice or visit www.nationalbailiffadvice.uk www.dealingwithbailiffs.uk.

29. Defining Defective Instruments under Paragraph 66:

Amend Paragraph 66 of Schedule 12 to prescribe a defective instrument to include an enforcement power that:

(i) specifies an address that is not where the debtor usually lives or carries on a trade or business,

(ii) specifies a debtor that is not a legal entity, or

(iii) has ceased to be exercisable for any reason.

30. Reforming Paragraph 66 to Include Non-Debtor Claimants

Paragraph 66 of Schedule 12 currently provides legal remedies solely to debtors in cases of enforcement breaches, excluding third parties from its scope. This proposal seeks to remove that restriction and extend the availability of remedies under Paragraph 66 to any person adversely affected by breaches of the Schedule 12 provisions.

31. Mandatory Disclosure of Creditor and Debt Details on Enforcement Documents

Any document provided to a debtor or third party by an enforcement agent must clearly state the creditor's name, their reference number, or claim number in the case of a Writ, and the type of debt being enforced, such as council tax, a traffic contravention penalty, a county court judgment or Writ, or a court fine.

32. Remove Third-Party Claimant Requirement to Lodge Funds

The requirement under CPR 85.5(6) to (8)(e) and paragraph 60(4)(a) of Schedule 12 for third-party claimants to pay the value of goods into court creates a disproportionate and unjust barrier to justice. It denies rightful owners a hearing unless they can meet a financial threshold, regardless of the merits of their claim. This proposal calls for the complete removal of these provisions to ensure that

access to the court is not dependent on ability to pay, and to restore fairness and procedural integrity to third-party enforcement disputes.

33. Statutory Regulator and Independent Examiner for Enforcement Conduct

A statutory regulator should be created by Act of Parliament to oversee enforcement companies and agents, with powers to license, investigate, sanction and publish findings. An Independent Examiner must also be appointed to handle complaints from anyone affected by enforcement, with powers to investigate, determine breaches, and order redress. All enforcement documents must clearly signpost this regulator to ensure public access, transparency, and accountability across the sector.

The Recommendations in Full

1. Mandatory Retention of Bodyworn Camera Footage by Enforcement Agents

The use of body-worn cameras by enforcement agents engaged in the execution of warrants under the Schedule 12 provisions is increasingly recognised as a necessary safeguard both for the enforcement agent and for the individual against whom enforcement is undertaken. A statutory requirement for continuous audiovisual recording from the moment the agent exits their vehicle to the point at which the enforcement action concludes would provide not only evidential clarity but an essential check against unlawful or improper conduct. The presence of such a device serves as a deterrent to misbehaviour and offers contemporaneous evidence in the event of dispute. It is therefore recommended that legislation be introduced to mandate uninterrupted recording during all phases of any physical enforcement attendance, including entry, interaction, and control of goods.

The retention of recordings must be addressed with equal seriousness. While Section 3 of the Limitation Act 1980 provides that most civil actions may be brought within six years, a minimum statutory retention period of twelve months is nonetheless a proportionate requirement. This allows for early disclosure under CPR 31.16 and for applications under the Data Protection Act 2018 (DPA 2018). Longer retention should be mandatory where enforcement leads to complaint, litigation, or known vulnerability. The capacity to retain and disclose footage is essential to procedural fairness, particularly given the difficulties many debtors face in promptly asserting their rights or obtaining legal advice.

In this respect, the legislative model found in Sections 49 to 53 of the Regulation of Investigatory Powers Act 2000 provides a useful starting point. Those provisions, which deal with the disclosure of encrypted information, may be readily adapted to apply to the duty of enforcement firms to make body-worn camera recordings available in an intelligible format upon request. Section 49 of that Act requires disclosure in accessible form where a statutory power is exercised. Section 53 creates a criminal offence for wilful failure to comply. The same principle should be applied to enforcement proceedings, particularly

where a party withholds or destroys relevant material. The introduction of a corresponding offence for the deliberate deletion, obstruction, or concealment of footage would be a proportionate response to the risk of abuse and would align with established principles of evidential preservation.

It is further recommended that a statutory duty to record and retain enforcement footage be inserted by amendment into Schedule 12. This would place beyond doubt the requirement to capture and preserve such material, and empower courts to draw adverse inferences where the failure to produce footage is unexplained or appears tactical. A discretionary power for the court to stay enforcement proceedings or award costs where an agent or firm fails to comply would give effect to this safeguard. In the alternative, where a vulnerable debtor has been subject to enforcement and no footage exists to evidence their treatment, the court should be permitted to draw such adverse inferences as are justified in the circumstances, including that safeguarding steps may not have been taken, unless a credible explanation is provided.

These proposals do not merely address administrative gaps, they strike at the heart of justice. A growing body of complaints and case law has revealed the inadequacy of relying on agent memory or internal firm reports in disputes concerning physical enforcement. As an evidential safeguard, body-worn video has become a cornerstone of policing. Its introduction into civil enforcement must now be formalised. Not only would this reinforce lawful behaviour, it would help restore public confidence in a sector where power is too often exercised in private, with limited oversight and scant recourse.

The reform proposed is neither onerous nor novel. It mirrors existing public standards and adapts tested frameworks for use in civil enforcement. Properly implemented, it will improve transparency, uphold the rule of law and better protect the rights of debtors while offering a fair evidentiary shield to those enforcement agents who conduct their duties lawfully and respectfully. Parliament is therefore invited to amend the TCGR 2013 and Schedule 12 to incorporate these provisions, and to do so with the urgency required to meet the rising volume and seriousness of complaints being made in this area.

2. Proof of Service: Evidencing Delivery of the Notice of Enforcement

The statutory framework governing civil enforcement, as set out in Schedule 12 and the associated TCGR 2013, remains critically deficient in its treatment of evidential requirements for the delivery of a Notice of Enforcement. The present position, reflected in paragraph 7 of Schedule 12, is that an enforcement agent or the enforcement agent's office is required only to make a record of the time when the Notice of Enforcement was given. Regulation 7(3) of the 2013 Regulations repeats this vague prescription without requiring the notice to be served in accordance with the Civil Procedure Rules (CPRs) or any equivalent verifiable method. This regulatory lacuna has given rise to widespread disputes concerning whether a notice has in fact been given and, if so, whether it was given lawfully, to the correct address, and at the correct time.

The problem is not merely theoretical. In practice, debtors are routinely presented with unsigned and redacted screen printouts purporting to evidence delivery of the Notice of

Enforcement. These documents often lack any reference to the postal method used, are devoid of barcoding or tracking information, and do not contain any certification under the CPRs. In many cases, they appear to have been produced ex post facto. As a matter of both fairness and legal certainty, this is wholly unsatisfactory. It places an unfair evidential burden on the debtor and undermines the procedural safeguards that the statutory regime was intended to uphold.

The provision of notice is a fundamental precondition for the lawfulness of any subsequent enforcement step. If no valid notice is given, the enforcement agent cannot lawfully take control of goods under Schedule 12. The Court of Appeal in Forcelux Ltd v Binnie [2009] EWCA Civ 854 underscored the importance of procedural regularity in enforcement matters. A failure to comply with prescribed procedures can render enforcement action void. Similarly, in the context of substituted service and formal notice, the courts have long demanded strict compliance with procedural rules to avoid unfairness and arbitrariness. It is anomalous that the delivery of a Notice of Enforcement, which initiates a legal process culminating in the taking control of property, is treated with such procedural laxity.

It is proposed, therefore, that paragraph 7 of Schedule 12 and the associated Regulation 7 of the 2013 Regulations be amended to require enforcement agents, upon request by the debtor, to complete and serve a certificate of service in the form of N215 as prescribed under the CPRs. The N215 form is an established instrument of legal procedure and provides a clear and consistent framework for evidencing the time, method and address of service. Its use in this context would not introduce unnecessary procedural complexity but would instead mirror existing practices in other areas of civil enforcement and litigation.

Incorporating the N215 certificate would ensure that the giving of notice is properly evidenced, that the debtor has access to a formal challenge mechanism in cases of disputed service, and that the court has a standardised and legally recognised document before it. This would promote transparency, improve the quality of evidence relied upon in enforcement cases, and deter falsification or manipulation of service records. Enforcement agents would benefit from the legal certainty that properly documented service affords. At the same time, the debtor's rights under the Human Rights Act 1998 (HRA 1998) and the Equality Act 2010 (EA 2010) would be more meaningfully protected through procedural fairness, including the right to reasonable adjustments under section 20, protection from discrimination in service provision under section 29, and the duty under section 149 for public authorities to have due regard to the need to advance equality of opportunity and eliminate discrimination in the enforcement process.

To ensure the practical enforceability of this proposal, the amended provisions should state that an enforcement agent who fails to produce a properly completed Form N215 in response to a debtor's request within a reasonable time shall be deemed not to have satisfied the evidential burden of proving service unless the court orders otherwise. The proposal would not restrict the operational capacity of enforcement officers but would introduce a proportionate and verifiable evidential safeguard at a critical stage of the enforcement process. It would reinforce public confidence in the rule of law and support the objectives of procedural fairness and accountability inherent in the civil justice system.

In conclusion, the proposed amendment would address a systemic deficiency in the enforcement process by replacing vague administrative records with a legally binding certification of service. This reform would bring the delivery of the Notice of Enforcement in line with the standards of evidence required in other domains of civil litigation. It is submitted that Parliament and the Ministry of Justice should now act to ensure that enforcement action in England and Wales proceeds only where there is reliable and lawful evidence of proper notice, thereby protecting both the integrity of the process and the rights of those subject to enforcement.

3. Agent Identification: Strengthening Accountability and Debtor Protection

It is respectfully submitted that the regulatory framework governing the identification of enforcement agents in the course of civil enforcement requires urgent reform. Under the current provisions of Schedule 12 and the TCGR 2013 and 2014, there is no explicit statutory obligation for enforcement agents to disclose their full legal names when delivering prescribed enforcement documents or affixing notices to vehicles. In practice, this has given rise to a widespread and troubling practice whereby enforcement agents identify themselves only by partial names, generic titles or untraceable aliases such as "Tony" or "Mr Smith". This practice is inconsistent with the principle of legal certainty, undermines the accountability of the enforcement process, and creates significant practical obstacles to redress where misconduct is alleged.

The public register of certificated enforcement agents maintained by the Ministry of Justice under section 64 of the TCEA 2007 is intended to provide a clear and verifiable means of confirming an agent's identity and certification status. That objective is defeated when the debtor or vehicle keeper is presented with documentation that fails to provide a name which can be cross-checked against the register. Where multiple agents share a common surname or where a first name alone is given, the debtor is placed in a position of evidential and procedural disadvantage. This is not a merely theoretical concern. In practice, it has led to erroneous complaints, regulatory delays, and the inability of injured parties to pursue remedies under the Schedule 12 regime or to engage meaningfully with the complaints process operated by the Civil Enforcement Association or the ECB.

Clear identification of an enforcement agent is not a cosmetic or bureaucratic matter. It is an essential procedural safeguard that serves to protect the rights of the debtor and the integrity of the enforcement system. Where an agent takes control of goods, enters premises, or clamps or removes a vehicle, the legal justification for such actions depends upon the proper exercise of powers conferred by Schedule 12. If the identity of the agent is obscured or concealed, the debtor has no practical means of verifying whether the agent was certificated, authorised to act, or operating under a valid warrant. This places the debtor at risk of suffering unlawful interference with goods and amounts, in effect, to a denial of access to justice. The principle of legal certainty requires that persons affected by the exercise of coercive public powers must be able to identify the official responsible.

The use of full, legible legal names on enforcement notices should therefore be prescribed as a mandatory requirement in all cases. This includes, without limitation, the Warning of

Immobilisation notice and all other notices issued in compliance with paragraphs 6, 7 and 8 of Schedule 12. To ensure enforceability, the regulations should further require that such names be cross-referenced with a certification number or official identifier, enabling the debtor to verify the agent's status using the Ministry of Justice register. This reform would bring the enforcement regime into alignment with broader principles of transparency and accountability underpinning administrative justice. It would also reflect established best practice in analogous fields of regulation, such as police powers, traffic enforcement and licensing.

In support of this reform, the court's existing discretion under CPR 84.13 to set aside or suspend enforcement steps may be invoked where there is procedural non-compliance with Schedule 12. It is proposed that the regulations be amended to state that failure to include the full legal name of the enforcement agent on a prescribed notice shall amount to a breach of the Schedule 12 procedure, and that such a breach shall be treated as a defect capable of rendering the enforcement action unlawful unless the court is satisfied that the defect was purely technical and has caused no prejudice. This approach would preserve the court's flexibility while ensuring that the default position promotes legal compliance and public confidence.

In conclusion, it is submitted that the statutory framework must now be updated to reflect the legitimate expectations of transparency, traceability and procedural fairness in civil enforcement. Requiring enforcement agents to provide their full legal names on all formal notices is a modest yet necessary reform that would materially improve the enforceability, accountability and fairness of the system. It would protect vulnerable debtors from untraceable conduct, support the integrity of the public register, and bring the enforcement regime into conformity with fundamental principles of administrative justice. Parliament and the Ministry of Justice are urged to act without delay.

4. Dealing With The Underreporting Of The Auction Price Of Goods Sold.

It is submitted that the current statutory framework governing the disposal of controlled goods under Schedule 12 and Regulation 39 of the TCGR 2013 is inadequate in safeguarding the debtor's interests following sale. There is, at present, no sufficient legal requirement for enforcement agents or their offices to provide a fully itemised and verifiable account of the goods sold, the price realised, the method of sale, the deductions applied and the final allocation of funds. This regulatory gap permits practices which undermine the principle of transparency and open the door to potential abuse of power in the administration of justice.

In practice, there is a concerning pattern whereby debtors receive vague or partial statements of account following the sale of their property. Vehicles and other valuable items are often sold without any independent verification of the sale price. Debtors subsequently discover, in some cases through the use of third-party enquiries such as DVLA Form V888 requests, that the price reported by the enforcement agent is materially lower than the amount actually paid by the purchaser. This discrepancy has significant financial consequences. If the proceeds of sale are understated, the debtor may be falsely

presented with an outstanding balance which is higher than it ought to be. This is not a theoretical concern but a recurring reality that erodes public confidence in the enforcement system and places debtors at a disadvantage with no reliable mechanism for redress.

Such conduct, whether arising from negligence or deliberate concealment, gives rise to the risk of fraud. It places the integrity of the enforcement process in jeopardy and exposes enforcement businesses to reputational and regulatory consequences. It also risks breaching the debtor's rights under Article 1 of Protocol No. 1 to the European Convention on Human Rights (ECHR), which requires that any deprivation of possessions be lawful, proportionate and accompanied by procedural safeguards. It is further inconsistent with the obligations arising under the EA 2010 including the duty under section 20 to make reasonable adjustments for disabled individuals, the prohibition under section 29 against discriminatory treatment in the provision of services, and the duty under section 149 requiring public authorities to have due regard to the need to eliminate discrimination and advance equality of opportunity, particularly where vulnerable debtors are affected and transparency is critical to ensuring fair treatment.

It is proposed that Schedule 12 and Regulation 39 of the TCGR 2013 (notice of sale) be amended to impose a mandatory requirement that a statement of account be given to the debtor within a prescribed period following the sale of goods, setting out with specificity the identity of the goods sold, including registration numbers or serial numbers where applicable, the sale price of each item, the method and date of sale, a full breakdown of all fees and costs deducted, the total proceeds received, and the allocation of those proceeds to the original debt, interest, enforcement fees and any remaining balance. This statement should also include a clear declaration of the debtor's right to request an audit or further information concerning the sale, including documentary evidence of the transaction. Provision should be made for a right of application under CPR 84.13 where the debtor seeks a remedy for breach of this requirement, including a right to apply for damages or declaratory relief.

The deterrent effect of transparency cannot be overstated. Where enforcement agents and their offices are under a statutory obligation to provide complete, timely and accurate statements of sale, the scope for abuse diminishes. The prospect of judicial scrutiny through the CPR 84.13 mechanism will serve to encourage compliance and deter misconduct. Enforcement officers who are aware that omissions or inaccuracies may give rise to sanctions, including fines, suspension of certification or referral for investigation under the Fraud Act 2006, will be more likely to adhere to their obligations and maintain professional standards.

Furthermore, in the event that co-owners of goods assert third-party claims under CPR Part 85, provision should be made to ensure that the statement of account is also disclosed to them where their property interest has been affected by sale. This aligns with the principle of access to justice and the court's duty to ensure that all parties affected by enforcement have access to relevant information to contest the lawfulness of the action.

In conclusion, a statutory amendment mandating detailed and verifiable statements of account following the sale of goods would serve the dual purpose of protecting debtors

from unjust enrichment of enforcement agents and restoring public trust in a system which must operate with scrupulous fairness. This reform would ensure that the taking control of goods remains a proportionate, regulated and justifiable mechanism of enforcement and not, as is increasingly alleged, a source of procedural abuse or financial exploitation. Parliament and the Ministry of Justice are urged to act to remedy this deficiency and to reinforce the fundamental principles of accountability, transparency and due process in civil enforcement.

5. Removing the £1,350 Cap: Restoring Fairness in Exempt Goods Valuation

It is proposed that Regulation 4(1)(a) of the TCGR 2013 be amended by removing the final qualifying clause which presently states that the aggregate value of exempt items or equipment to which the exemption is applied shall not exceed £1,350. This clause introduces an inherent inconsistency within the regulatory framework and undermines the core purpose of the exemption, which is to safeguard goods essential to the debtor's work, livelihood or basic domestic needs. When considered alongside Regulation 35 of the same instrument, which enables enforcement agents to assign their own valuation to controlled goods, the current structure permits valuations to be conducted without judicial oversight or standardisation, thereby enabling the circumvention of the exemption through what is often a subjective and unchallengeable appraisal.

This inconsistency is of material significance to debtors, particularly those whose exempt goods include items such as tools, professional equipment or technology necessary for employment or education. The insertion of a fixed financial cap on the value of such items, when interpreted and applied at the discretion of the enforcement agent, permits a situation in which goods clearly intended by Parliament to be exempt are instead treated as available for control on the basis of valuation alone. This is not consistent with the underlying legislative purpose of the exemption provisions and results in practical injustice. The valuation mechanism under Regulation 35(2) was not intended to be used to override statutory protections. Its primary function is to facilitate the process of selling controlled goods. Yet under the current arrangement, it enables enforcement agents to effectively determine whether an item is exempt by reference to its financial worth rather than its function or necessity.

The deletion of the clause imposing the £1,350 value limit would correct this inconsistency and restore the primacy of functional necessity in determining whether an item should be exempt. Such an amendment would be consistent with the policy aims of Schedule 12, which places structured limits on the enforcement of debts and seeks to protect individuals from disproportionate hardship. It would also give proper effect to the broader statutory purpose set out in the EA 2010, including the duty to make reasonable adjustments under section 20, the prohibition of discrimination in service provision under section 29, and the public sector equality duty under section 149. These provisions ensure that enforcement action does not discriminate, whether directly or indirectly, against debtors who are vulnerable or rely on specialist equipment to work, access education or manage a disability. In *Bracking v Secretary of State for Work and Pensions* [2013] EWCA Civ 1345, the Court of Appeal confirmed that section 149 imposes a continuing duty on public authorities to have

due regard to the need to eliminate discrimination and advance equality of opportunity. That duty must be exercised with substance, rigour and an open mind, and must be fulfilled before and at the time a decision is taken, not by way of post hoc rationalisation. These principles apply with equal force to the exercise of statutory enforcement powers, whether by courts or authorised agents. Removing the fixed monetary limit and restoring discretion based on functional need would better ensure compliance with this legal obligation, particularly where the goods at issue are essential to a disabled person's livelihood or daily care.

The £1,350 threshold, introduced in 2013, no longer reflects the value of many essential items in modern life. Laptops, specialist tools and other indispensable assets required for low-income self-employment or digital access commonly exceed this amount, and yet their exemption is defeated by an arbitrary and outdated valuation ceiling. Removing the cap would provide enforcement agents and the court with clearer guidance rooted in necessity rather than fluctuating market value and reduce the volume of disputes that currently arise over enforcement agents' assessments.

This proposal would not remove the discretion of the court under CPR 84.16 to make appropriate orders concerning the validity of the enforcement process. Nor would it impede the creditor's right to enforce a judgment lawfully obtained. It would, however, ensure that the statutory intention of preserving the debtor's basic means of subsistence is respected and applied consistently across all cases, irrespective of the enforcement agent's own interpretation of value. It would also prevent manipulation of the valuation process as a means of evading regulatory protections. Where such obstruction, delay or conduct in bad faith arises, and the affected party is unable to obtain timely redress through the court process, the matter should also be referable to the Independent Examiner for Enforcement Conduct, who may investigate the complaint and recommend appropriate remedy or disciplinary action.

Accordingly, it is submitted that Regulation 4(1)(a) of the 2013 Regulations should be amended by removing the phrase which imposes the aggregate value limit. This would ensure that the protection of exempt goods rests solely on the necessity of the items for work, study or basic domestic use and is not overridden by arbitrary or inflation-sensitive valuations. It would strengthen the clarity, fairness and effectiveness of the enforcement framework, reduce litigation concerning disputed valuations, and uphold the legislative objective of balancing creditors' rights with protections for debtors facing hardship. Parliament is urged to adopt this amendment as a necessary and proportionate improvement to the regulation of civil enforcement.

6. Extending Time for Third-Party Claims on Controlled Goods And Exempt Goods

It is respectfully submitted that CPR 85.4(1) and 85.8(1), which impose a strict seven-day time limit for third-party claims concerning controlled goods and exempt goods respectively, require urgent reform. The current framework imposes an unreasonably short and rigid procedural window that fails to accommodate the realities of legal practice or the practical constraints faced by third-party claimants, particularly those unfamiliar with the legal system or lacking immediate access to representation. It is proposed that both time

limits be extended to thirty days, in order to safeguard the fundamental right of access to justice and to ensure that third-party property interests are not extinguished through procedural default rather than substantive adjudication. Where enforcement agents reject a third party's claimed interest without due inquiry or the opportunity for proper adjudication, referral may also be made to the proposed Independent Examiner of Enforcement Conduct for investigation and potential redress.

The process of making a third-party claim under CPR 85 is legally and procedurally complex. It requires the claimant to identify and instruct a solicitor, undergo client due diligence and engagement procedures, and then work with that solicitor to review evidence, draft a formal claim, and ensure its proper service. These are not steps that can be undertaken lightly, particularly where the property in question may have significant personal or commercial value, and where the individual affected may have limited legal knowledge or financial resources. Solicitors with experience in enforcement proceedings are few, and many high street practices are reluctant to accept instructions in this niche area, particularly where the goods have already been taken into control and the claimant may have limited means of funding the litigation.

The practical consequence of the seven-day period is that legitimate third-party claims are routinely lost not on their merits, but because the claimant was unable to meet a procedurally artificial deadline. In numerous cases, solicitors acting for enforcement agents rely on the expiration of this window to justify the sale or conversion of high-value goods, including vehicles, and to secure cost orders against the third party. It is not uncommon for enforcement solicitors to adopt contradictory positions, at times seeking orders compelling a third party to issue proceedings despite the fact that the deadline has expired, and later relying on that very expiry to strike out the claim or to argue that title has passed to the purchaser.

Such practices bring the justice system into disrepute. They create an enforcement process that favours technicality over substance and which punishes procedural delay even where it is caused by factors outside the claimant's control. There is a particular risk of injustice in cases involving vulnerable individuals, who may have literacy barriers, mental health conditions or disabilities that make prompt legal action difficult, and who should benefit from the protections afforded under the EA 2010, including the duty under section 20 to make reasonable adjustments, the prohibition under section 29 against discriminatory barriers in access to services, and the public sector equality duty under section 149 to eliminate discrimination and advance equality of opportunity. The case law makes clear that access to the court must be meaningful, and not merely theoretical. A rigidly short time frame without discretion fails to meet that standard.

An extension of the deadline to thirty days would better reflect the practical realities of preparing legal claims. It would allow time for claimants to seek appropriate legal advice, gather evidence, and present claims that are properly articulated and supported. It would reduce the likelihood of procedural default, improve the quality of litigation before the court, and reduce unnecessary applications for relief from sanctions or time extensions, which currently add complexity and cost to enforcement proceedings. The proposed reform would not prejudice enforcement agents or creditors, whose entitlement to enforce

valid debts would remain fully intact, but would instead ensure that third-party ownership claims are determined on the basis of evidence and law, rather than procedural missteps.

It is further recommended that enforcement agents be required to provide express written notice of the thirty-day deadline to any third party who notifies them of an interest in the goods. This would prevent confusion and ensure that all parties understand the applicable timeline. In addition, the court should retain discretion to extend the deadline in appropriate cases, particularly where the delay arises from factors beyond the claimant's control, or where the enforcement agent has failed to give proper notification. This judicial safeguard would ensure proportionality and would enable the court to prevent procedural injustice where strict compliance would lead to an unfair result.

Finally, consideration should be given to the imposition of sanctions, including adverse costs orders or regulatory referral, in cases where enforcement agents or their legal representatives deliberately misrepresent the procedural timetable or obstruct third-party claims through delay or misinformation. This would deter abuse and support the broader public interest in maintaining the integrity of civil enforcement.

In conclusion, the proposed amendment to CPR 85.4(1) and 85.8(1), extending the deadline for third-party claims from seven to thirty days, is a proportionate and necessary reform. It would promote access to justice, reduce litigation arising from avoidable procedural failure, and restore confidence in a system which must balance the rights of creditors with the rights of lawful owners and third parties. Parliament and the Ministry of Justice are invited to give this matter serious consideration and to legislate in favour of fairness, procedural clarity and the proper administration of justice in civil enforcement.

7. Mandatory Presentation of Enforcement Certificates

It is submitted that paragraph 26 of Schedule 12 should be amended to introduce a clear statutory requirement that an enforcement agent must, upon request, produce their valid enforcement certificate issued under section 63 of the same Act. This certificate should serve as the sole official form of identification during enforcement activity, thereby eliminating the current widespread use of unofficial warrant cards and police-style badges, which are neither sanctioned by law nor conducive to public trust. Such a reform is necessary to enhance transparency, ensure legal compliance, and protect both debtors and members of the public from misleading representations of authority.

At present, there is no express statutory requirement obliging enforcement agents to produce their court-issued certificate at the point of contact with a debtor or other affected person. In practice, many enforcement agencies have resorted to issuing their agents with unofficial identification materials, including warrant cards and laminated badges that closely resemble police identification. These materials often display crests, titles and formatting calculated to evoke authority, creating a real and unacceptable risk that individuals may be misled into believing they are dealing with a police officer or other state official. This misapprehension is particularly likely in cases involving vulnerable persons, individuals with limited English proficiency or those unfamiliar with the civil enforcement regime.

The legal and ethical concerns raised by this practice are significant. It is a criminal offence under section 90 of the Police Act 1996 for any person to impersonate a constable or to make any statement or do any act calculated falsely to suggest that they are a constable. The presentation of quasi-official warrant cards during enforcement activity, especially in high-pressure situations such as entry into premises or taking control of goods, risks falling within the ambit of this offence or, at the very least, invites unnecessary confrontation and confusion. Furthermore, it undermines public confidence in the legitimacy of the enforcement process and exposes enforcement agencies to the risk of regulatory sanction and litigation for misrepresentation or abuse of process.

The statutory enforcement certificate issued under section 63 of the TCEA 2007 already exists as the definitive legal proof of an agent's authority. It is a court-issued document, bearing the name of the issuing court, the agent's full name, the name of the agency or employer, the agent's photograph and the signature of a judge. There is no principled reason why any other form of identification should be used or relied upon in the field. The lack of mandatory production of this certificate creates an evidential gap that permits ambiguity and facilitates practices which are not compatible with the rule of law.

It is proposed that paragraph 26 of Schedule 12 be amended to impose a mandatory duty on all certificated enforcement agents to carry and, upon request, produce their enforcement certificate at any time when exercising powers under Schedule 12. This duty would apply equally at the stage of giving notice, entering premises, taking control of goods or engaging with third parties. Failure to produce the certificate upon reasonable request should render the enforcement action procedurally defective and subject to challenge under CPR 84.13. This would establish a clear legal consequence for non-compliance and empower courts to ensure adherence to the prescribed standards.

To support this reform, it is further recommended that the Ministry of Justice update its public register of certificated enforcement agents to include a sample image of the official enforcement certificate. This would enable debtors, legal advisers and members of the public to familiarise themselves with the appearance of the authentic document and to distinguish it from unofficial or misleading materials. This approach mirrors the practice adopted by the Driver and Vehicle Licensing Agency, which publishes sample driving licences on its website as a tool for public education and fraud prevention.

The proposed amendment would not impose any undue burden on enforcement agents, who are already required to hold and renew their certificates as a condition of lawfully acting in that capacity. On the contrary, it would provide clarity, deter impersonation, support lawful and ethical practice, and enhance public confidence in the enforcement system. It would also ensure consistency with the statutory intention of section 63, which confers certification as a safeguard and regulatory control, not merely a formality.

In conclusion, the amendment of paragraph 26 of Schedule 12 to require the production of a valid enforcement certificate on request represents a modest but essential step in modernising and safeguarding the civil enforcement regime. It would protect the public from misrepresentation, prevent potential criminal conduct, reinforce the authority of properly certificated agents, and uphold the integrity of the enforcement process in accordance with established principles of legality, transparency and accountability.

Parliament and the Ministry of Justice are urged to act promptly to implement this recommendation.

Enforcement agents flashing police-like identification at a debtor.

Genuine police warrant card and badge (below).

8. Enforcement Agents Required to Use Removable Adhesive for Vehicle Notices.

It is submitted that Regulation 31 of the TCGR 2013 requires amendment to address a recurring and material problem arising from the widespread practice of affixing immobilisation warning notices to motor vehicles using non-removable adhesives. This regulatory provision governs the giving of a written warning when a vehicle is immobilised under paragraph 13(1) of Schedule 12. While the requirement to give written notice is not in dispute and serves a legitimate regulatory purpose, the method by which such notice is currently effected by many enforcement agencies gives rise to safety concerns, risk of property damage, and potential breaches of the statutory framework governing the control of goods.

In practice, it has become common for enforcement agents, when immobilising vehicles, to affix warning notices directly to the driver's door window or windscreen using highly adhesive, non-removable materials. This method, intended to ensure visibility of the notice, has proven problematic for two principal reasons. First, the placement of such notices on glass surfaces obstructs the driver's field of vision, rendering the vehicle unsafe to operate until the adhesive has been professionally removed. This creates a direct and immediate road safety risk. Secondly, efforts by the debtor or vehicle owner to remove the notice without professional assistance frequently result in smearing, residue or scratching of the glass surface. The cost of rectifying this damage, typically by engaging a mobile vehicle valeting service equipped with solvents such as Preptone, averages £75 and imposes a financial burden on individuals who may already be experiencing hardship.

The use of such adhesive materials is not authorised or required by Regulation 31, nor is it consistent with the principles underlying Schedule 12. Paragraph 35 of Schedule 12 provides that enforcement agents must take reasonable care of controlled goods, which plainly includes any vehicle taken control of by way of immobilisation. Causing damage to a vehicle by affixing a notice in a manner that requires professional removal or impairs visibility may amount to a breach of that duty. In such cases, the debtor is entitled to apply to the court under CPR 84.13 for appropriate relief, which may include compensation for damage caused or for the cost of professional cleaning. In addition to judicial redress, individuals affected by such conduct should have the right to refer complaints to the proposed Independent Examiner of Enforcement Conduct, who would be empowered to investigate the misuse of immobilisation procedures and recommend non-financial remedies, including restorative or corrective action. This dual pathway reinforces accountability and ensures that procedural breaches are addressed promptly and independently.

This is not a hypothetical claim. It reflects a pattern of practice which has given rise to an increasing number of complaints and procedural applications, and which must now be addressed by way of regulatory amendment.

There is no practical justification for the use of non-removable adhesive materials in this context. The objective of the written warning requirement is to notify the vehicle owner

that the vehicle has been immobilised and is under the control of the enforcement agent. This objective can be achieved through means which do not interfere with the safe operation of the vehicle or risk damage to its structure. Some enforcement agencies, such as Bristow and Sutor, have adopted alternative methods that comply with the Regulations without causing harm. This demonstrates that safer and less intrusive options are not only available but are already in use within the enforcement industry.

It is therefore proposed that Regulation 31 be amended to include a requirement that any immobilisation warning notice be affixed in a manner which does not obstruct the safe operation of the vehicle, does not risk damage to the vehicle's surface, and is capable of removal without the use of specialist tools or chemicals. The regulation should further clarify that any breach of this provision may give rise to a procedural defect under CPR 84.13 and entitle the debtor to seek appropriate relief. The existence of the Independent Examiner would provide an additional mechanism for redress where statutory duties are breached but formal litigation is impractical or disproportionate.

Such an amendment would not impede the lawful exercise of enforcement powers but would ensure that those powers are exercised proportionately, lawfully and with due regard to the rights of the debtor.

This proposal accords with the broader objectives of Schedule 12 and the TCGR 2013, which aim to balance the creditor's right to enforce judgment debts with the debtor's right to fair treatment and the preservation of property. It would also align the regulatory regime with the principles of the EA 2010, including the duty under section 20 to make reasonable adjustments for individuals with disabilities, the prohibition under section 29 against discriminatory treatment in the provision of services, and the public sector equality duty under section 149 to eliminate discrimination and advance equality of opportunity. These provisions are particularly engaged where enforcement practices disproportionately affect vulnerable individuals, including those with disabilities who may face hardship from the obstruction of a vehicle or incur unexpected costs arising from enforcement conduct.

In conclusion, an amendment to Regulation 31 to prohibit the use of damaging or obstructive materials in the affixing of immobilisation notices is necessary to protect the public, prevent unlawful damage to controlled goods, and reinforce the integrity of the civil enforcement process. The Ministry of Justice and Parliament are urged to consider this proposal as a proportionate and practical reform that strengthens the accountability of enforcement agents while upholding the rule of law and the rights of those affected by enforcement action.

9. Preserving Third-Party Rights Beyond the CPR 85 Deadline: Clarifying TIGA 1977

It is submitted that the current interaction between CPR 85 and sections 3 and 4 of the TIGA 1977 gives rise to an area of significant legal uncertainty that Parliament must now resolve by way of statutory clarification. Rule 85 establishes a strict procedural scheme governing claims to controlled or exempt goods, including a requirement that third-party claimants assert their interest within seven days of the taking control of goods. However, this procedural rule sits uncomfortably alongside the statutory right of action conferred by the 1977 Act, which enables a person with a proprietary or possessory interest in goods to

bring a claim in tort for interference. Nowhere in the 1977 Act is there a limitation of seven days, nor is there any language suggesting that the tortious cause of action is extinguished by procedural non-compliance with a civil enforcement rule.

The ambiguity has become acute in light of recent enforcement practice and judicial commentary. In a recent matter concerning controlled goods valued at £117,000, legal argument was advanced by a solicitor acting for the enforcement agency, to the effect that failure to comply with the seven-day time limit under Rule 85 operated not only to bar the procedural claim within enforcement proceedings but also to extinguish any parallel right of action under the TIGA 1977. The practical consequence of this submission, which was accepted by the court on the facts before it, was that goods belonging to a third-party claimant were treated as legally belonging to the judgment debtor and subsequently sold, with the enforcement proceeds being applied not only to the underlying debt but also to legal fees, including those incurred by the enforcement solicitor himself.

Such an outcome is not only troubling in terms of public confidence in civil enforcement but raises a fundamental question of law. It is inconsistent with longstanding principles that statutory causes of action cannot be impliedly repealed or nullified by procedural rules, absent express provision or necessary implication. There is at present no statutory language in the TCEA 2007 or the CPRs that limits or extinguishes a claimant's rights under the 1977 Act. To treat the expiry of a seven-day window under Rule 85 as effecting a forfeiture of proprietary rights protected by substantive law introduces an element of forfeiture which finds no support in primary legislation. It risks turning procedural default into a means of effecting title transfer without judicial scrutiny, which is constitutionally unacceptable.

This legal uncertainty is further exacerbated by the strategic conduct of some enforcement solicitors who use the short deadline to foreclose legitimate third-party claims before the court has an opportunity to determine title. In some cases, third-party claims are discouraged, obstructed or mischaracterised on the basis that the procedural window has closed, even where there are compelling grounds for relief. In other instances, enforcement agents are instructed to convert or dispose of goods in reliance on a claimant's failure to comply with Rule 85, without reference to whether the goods lawfully belong to the debtor or another party. This creates an environment where the process can be exploited to serve partisan interests and to frustrate the substantive rights of lawful owners.

It is therefore proposed that primary legislation be amended to address directly the relationship between Rule 85 and the 1977 Act. Parliament should clarify that failure to bring a claim under Rule 85 within seven days does not preclude a claimant from bringing an action under sections 3 and 4 of the TIGA 1977 where a proprietary interest in the goods exists and has not been judicially extinguished. The legislation should make clear that ownership of controlled goods does not transfer by implication solely as a result of a third party's non-compliance with procedural time limits, and that enforcement agents cannot rely upon such failure as conclusive evidence of title. This clarification would reaffirm the primacy of substantive property rights and ensure that procedural rules do not operate to defeat the very interests they were designed to protect.

In addition, it is recommended that a statutory mechanism be introduced to allow third-party claimants to apply for an extension of time to file their claim, where there is a good reason for delay. Such a mechanism would mirror provisions elsewhere in the CPRs that permit courts to extend time for compliance in the interests of justice, taking into account the reasons for delay and the strength of the underlying claim. This safeguard would allow courts to consider whether illness, bereavement, vulnerability or other extenuating circumstances warrant an extension, and would prevent procedural rigidity from causing substantive injustice.

Finally, Parliament should consider enshrining a requirement that enforcement agents notify any person claiming an interest in goods of their right to bring a claim under Rule 85 and under the 1977 Act, and of the consequences of delay, in clear and accessible language. This would support informed decision-making by third parties and promote procedural fairness. It would also assist the court in ensuring that claims are resolved on their merits, and not determined by default in favour of the party in possession.

In conclusion, the current uncertainty surrounding the effect of Rule 85 on rights arising under the TIGA 1977 poses a serious risk of injustice and requires prompt legislative intervention. Only by clarifying the legal position and introducing a mechanism for judicial discretion can Parliament ensure that enforcement remains fair, proportionate and consistent with the rule of law. The Ministry of Justice is therefore invited to consider this reform as a matter of priority in the interests of legal clarity, public confidence and the protection of property rights.

10. Strengthening Legal Remedies for Third Parties Under Schedule 12

It is submitted that Paragraph 66 of Schedule 12 should be amended to extend its application to include third-party claimants. The current wording confines its remedies to the debtor and fails to recognise that enforcement actions frequently affect the proprietary rights of third parties whose goods may be taken or sold unlawfully in the course of enforcement. This omission leaves a critical lacuna in the statutory scheme and deprives legitimate third-party owners of a direct cause of action in circumstances where their goods are removed or sold in breach of the enforcement provisions set out in Schedule 12.

Paragraph 66, in its present form, allows the debtor to bring proceedings in respect of a breach by an enforcement agent of a duty imposed by the Schedule. Notably, this includes breaches of paragraphs 10 and 60, which prohibit the taking or sale of exempt goods and provide procedural safeguards around third-party claims. However, the Schedule does not expressly confer a corresponding right on third-party owners, despite the fact that they may be the persons most directly affected by unlawful conduct. In many cases, goods belonging to employers, spouses, business partners or other third parties are taken into control and subsequently sold without proper adjudication of ownership. The exclusion of third parties from the protection of Paragraph 66 is therefore neither principled nor consistent with the wider objectives of the enforcement regime.

This issue is particularly acute in cases where a third party has already engaged with the process by issuing a claim under CPR 85. In such circumstances, the third party may have asserted their interest in good faith and in accordance with the procedural rules, yet still

find their goods removed or sold by the enforcement agent before the claim has been resolved. The absence of a statutory remedy under Paragraph 66 leaves such individuals with limited recourse. Although a common law action in conversion may be available, it is not expressly grounded in the regulatory framework and may not afford timely or adequate relief. Moreover, the common law claim is not tailored to the statutory duties imposed under Schedule 12 and does not reflect the legislative intent to regulate and control the conduct of enforcement agents through a coherent and enforceable regime.

The proposed extension of Paragraph 66 to include third-party claimants would serve several vital functions. First, it would enhance legal accountability by providing a direct cause of action for those whose property rights have been infringed by an enforcement agent acting outside the bounds of their statutory authority. Secondly, it would deter abuse and overreach by reinforcing the requirement that enforcement agents respect ownership boundaries and engage properly with CPR 85 claims. Thirdly, it would restore procedural coherence by aligning the remedies available under paragraph 66 of Schedule 12 with the full range of persons affected by enforcement action. Fourthly, it would ensure that remedies under the civil enforcement regime are compliant with the principle of equal treatment and respect for property rights, as recognised by Article 1 of Protocol 1 to the ECHR.

It is further submitted that such an amendment would be consistent with the EA 2010, particularly section 149, which imposes a public sector equality duty to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations. It would also align with section 29, which prohibits discriminatory treatment in the provision of services, and section 20, which requires reasonable adjustments for disabled individuals. The current scheme, by excluding third-party claimants from the benefit of Paragraph 66, disproportionately disadvantages those whose goods may be subject to enforcement due to association with the debtor, including spouses, carers or disabled family members. Granting them standing to bring proceedings where their goods are wrongly taken or sold would be a measured and necessary step in ensuring a fair and equitable system of enforcement.

In conclusion, the extension of paragraph 66 of Schedule 12 to third-party claimants is a proportionate and necessary reform that addresses a longstanding deficiency in the current legal framework. It would enhance fairness, promote respect for property rights, and strengthen the regulatory safeguards that Parliament has placed around the exercise of enforcement powers. The Ministry of Justice is therefore invited to consider this amendment as a matter of priority in the interests of justice, transparency and the effective operation of the civil enforcement system.

11. Documenting Vehicle Condition: Strengthening Evidence Requirements Under Schedule 12

Extend Paragraph 34 of Schedule 12 to mandate enforcement agents to create and maintain comprehensive video and photographic documentation of a vehicle's condition before taking control of it, aiming to enhance accountability, preserve evidence, and protect property rights in vehicle damage claims.

It is respectfully submitted that paragraph 34 of Schedule 12 should be amended to impose a mandatory requirement upon enforcement agents to create and preserve comprehensive video and photographic documentation of the condition of any motor vehicle prior to assuming control. This proposal addresses a persistent and consequential gap in the regulatory framework governing the seizure and removal of vehicles, and seeks to ensure that evidence relevant to subsequent disputes is properly preserved, transparently recorded and accessible through statutory mechanisms consistent with the overarching aims of Schedule 12.

At present, there exists no statutory obligation for enforcement agents to create contemporaneous condition reports, whether photographic or otherwise, when taking control of a vehicle. This omission has given rise to frequent and unnecessary disputes concerning the condition of vehicles post-removal. In a growing number of cases, vehicles returned to debtors or third-party claimants show signs of damage, including forced entry, broken locks, missing contents and mechanical faults. In the absence of documentary evidence created at the point of control, enforcement agents routinely deny responsibility and claim that the damage pre-existed the taking control of goods. Conversely, debtors and owners are placed in the invidious position of having to prove a negative in the absence of any formal record.

This uncertainty is not merely procedural but has real and adverse financial consequences. Vehicles are frequently of high value, both commercially and personally. In many cases, they represent a debtor's means of transport to work, care obligations or family responsibilities. The damage or loss of a vehicle, compounded by the absence of proof or remedy, leads to injustice and contributes to the erosion of public confidence in the enforcement process. Paragraph 35 of Schedule 12 imposes a statutory duty on enforcement agents to take reasonable care of controlled goods. That duty, by implication, must include a requirement to document the condition of the goods at the time of seizure, failing which agents will inevitably fall back on self-serving denials in response to claims of damage or loss. To ensure that this duty is meaningful and enforceable, there must be a corresponding evidential obligation.

The legal framework presently fails to provide clear guidance on the handling of requests for such records. Where debtors seek access to vehicle photographs under CPR 31.16, enforcement agencies often treat the request as a subject access request under section 45 of the DPA 2018 and refuse to comply on the basis that the material does not constitute personal data. This interpretation not only misconstrues the legal basis of the request but has the effect of frustrating legitimate efforts to obtain evidence relevant to prospective litigation. The proposed amendment would resolve this ambiguity by creating a direct statutory right to access condition documentation, whether photographic or video, without recourse to the data protection regime.

Furthermore, the practice of failing to preserve or intentionally destroying evidence following the removal of a vehicle is deeply problematic. In several documented instances, enforcement agencies have asserted that images or video footage were not retained or have been lost. This has the consequence of depriving the court of critical material in proceedings under CPR 84.13, including applications for damages or costs arising from

unlawful interference with goods. It is submitted that a mandatory recordkeeping requirement would reduce the incidence of such disputes, improve procedural integrity and reinforce the obligation on enforcement agents to handle goods with appropriate care.

The proposed amendment would require that, before taking control of a vehicle, the enforcement agent must create a time-stamped photographic and video record of the vehicle's exterior, interior and any apparent markings, registration numbers or condition features. This record should be retained for a period of not less than twelve months or until six months after the conclusion of enforcement proceedings, whichever is later. The enforcement agency should be under a duty to produce the record upon reasonable request by the debtor, third-party claimant or the court. This would not only facilitate the resolution of disputes but would also act as a safeguard against misconduct or careless handling.

The reform is consistent with the public sector equality duty under section 149 of the EA 2010, which requires enforcement bodies to eliminate discrimination, advance equality of opportunity and foster good relations. Many affected debtors are disabled or otherwise vulnerable, and their ability to dispute the damage to essential goods is often limited by the absence of evidential resources. Providing a statutory right to access such records would assist in addressing this imbalance and ensure that enforcement action is not conducted in a manner that undermines the rights of the most vulnerable.

In conclusion, the proposed amendment to paragraph 34 of Schedule 12 is necessary, proportionate and in the public interest. It would clarify the evidential obligations of enforcement agents, support the proper application of paragraph 35, reduce the incidence of unnecessary litigation and strengthen the fairness and transparency of vehicle seizures. It is therefore recommended that Parliament amend the TCGR 2013 to require enforcement agents to create and retain detailed photographic and video documentation of vehicles before taking control and to make such records accessible through a statutory process. This measure would enhance accountability, protect property rights and ensure that the enforcement regime operates in a manner consistent with the rule of law.

12. Enhancing Remedies for Vulnerable Debtors: Return of Goods Following Breach of Regulation 12

It is submitted that paragraph 10 of Schedule 12 should be amended to provide express statutory protection for vulnerable debtors, extending beyond the current limitations imposed by Regulation 12 of the TCGFR 2014. While Regulation 12 prohibits enforcement agents from recovering Enforcement Stage fees and charges from vulnerable persons where insufficient opportunity has been provided to seek advice, it fails to provide an adequate framework for the return of goods taken in contravention of that safeguard. This omission creates a serious gap in the protection of vulnerable individuals and permits the continued control of goods even where the enforcement process has operated in breach of clearly established procedural duties.

The present framework is deficient in two significant respects. First, there is no requirement that enforcement agents provide clear instructions to debtors within the

Notice of Enforcement on how and when vulnerability may be disclosed. In the absence of such guidance, many vulnerable debtors, particularly those with mental health conditions, cognitive impairments or limited literacy, are unable to articulate their circumstances in a timely and legally recognised form. This problem is compounded by the fact that many enforcement agents treat vulnerability disclosures received after their attendance as too late to affect the charging of fees or the control of goods. Secondly, the only statutory remedy for a breach of Regulation 12 lies in the debtor's ability to recover Enforcement Stage fees under CPR84.16. The legislation does not contemplate the return of goods which have been taken in breach of the procedural protections afforded to vulnerable persons.

It is proposed that paragraph 10 of Schedule 12 be extended to provide that no enforcement agent may take control of goods belonging to a debtor who is, or appears to be, vulnerable unless the debtor has first been afforded a meaningful opportunity to obtain debt advice and disclose their vulnerability, and that any goods taken in breach of this provision must be returned upon application to the court under CPR 84.13. This amendment would align the remedies available in respect of vulnerable debtors with those currently available in relation to fees and charges and would ensure that breaches of Regulation 12 do not lead to irreversible or disproportionate consequences. The extension would also provide a statutory foundation for claims seeking the return of goods, where currently the absence of such provision leaves the debtor to rely on general public law principles or judicial discretion.

The proposed reform would not operate retrospectively and would preserve the enforcement agent's right to challenge a debtor's claim of vulnerability where evidence suggests it is not genuine. However, it would require the court to determine, on application, whether the enforcement agent acted lawfully and whether the debtor was in fact denied an opportunity to disclose a material vulnerability. It would also place a duty on the enforcement agent to take reasonable steps to identify indicators of vulnerability at an early stage and to respond appropriately to information received. These duties would be consistent with guidance issued by the Ministry of Justice and the Taking Control of Goods: National Standards, which already recommend that enforcement agents exercise sensitivity and avoid enforcement action where the debtor is identified as vulnerable.

In practical terms, this amendment would require the Notice of Enforcement to be revised to include a standardised section explaining how debtors may disclose vulnerability and what information will be considered. It would also require that enforcement agents receive updated training on the assessment of vulnerability, including the duty to defer enforcement where appropriate. The CPRs would need to be updated to permit applications under Rule 84.13 for the return of goods on the ground of improper control due to a breach of Regulation 12, and courts would require procedural guidance on how such applications are to be determined.

This proposal is also consistent with the public sector equality duty under section 149 of the EA 2010, which requires public authorities and those exercising public functions to have due regard to the need to eliminate discrimination and to advance equality of opportunity. Vulnerable debtors, including the elderly, disabled persons and those suffering from serious illness, are disproportionately affected by enforcement action and face greater barriers in asserting their rights. By providing an enforceable mechanism to challenge

unlawful control of goods, this amendment would ensure that the enforcement regime operates with fairness and respect for the rights of all individuals, regardless of their personal circumstances.

In conclusion, the extension of paragraph 10 of Schedule 12 to provide a right of application for the return of goods taken from vulnerable debtors in breach of Regulation 12 is a necessary and proportionate reform. It would strengthen the accountability of enforcement agents, reduce the incidence of procedural injustice and reinforce the protections Parliament has already sought to provide through the regulation of enforcement fees. The Ministry of Justice is invited to consider this amendment as part of its ongoing review of civil enforcement and in furtherance of the principles of fairness, accessibility and legal clarity.

13. Signposting Independent Advice on Enforcement Documents

It is submitted that the statutory and regulatory framework governing civil enforcement in England and Wales should be amended to mandate the inclusion of National Bailiff Advice on the list of advice providers contained within the Notice of Enforcement and other prescribed enforcement documentation. This proposal arises from a close evaluation of current enforcement practices and from substantial professional experience in the representation of vulnerable debtors and third-party claimants affected by enforcement activity under Schedule 12.

The existing regime, in which enforcement agents are required to provide a Notice of Enforcement in compliance with paragraph 7 of Schedule 12 and Regulation 6 of the TCGR 2013, includes reference to advice agencies which may be contacted for assistance. However, the selection of these agencies is not subject to transparent regulatory oversight, nor does the present scheme impose a duty to ensure that such organisations possess specialist knowledge of enforcement law or experience in challenging procedural breaches. In practice, the organisations currently identified in Notices of Enforcement tend to consist of generalist debt charities, referral services or entities which offer financial products. While such services may offer useful guidance in relation to general debt management, they are often ill-equipped to provide accurate legal advice or representation in circumstances involving disputed enforcement activity, vulnerable debtors or third-party claims to goods.

National Bailiff Advice is an independent, non-governmental organisation that operates without regulatory or financial connection to the enforcement industry. Its core purpose is the provision of information, casework guidance and public accountability in respect of conduct by certificated enforcement agents and their instructing authorities. Unlike many of the existing organisations listed on current Notices of Enforcement, National Bailiff Advice does not promote debt management plans, nor does it refer users to commercial services which require payment as a condition of access. It offers a free public service, accessible online and by telephone, that provides guidance on procedural irregularities, protections for vulnerable debtors, and the enforcement of statutory rights under the TCEA 2007, the TCGR 2013 and TCGFR 2014, and the CPRs. Particular emphasis is placed on safeguarding rights under the EA 2010, including the duty under section 20 to make reasonable adjustments for disabled individuals, the prohibition under section 29 against discriminatory treatment in the provision of services, and the duty under section 149

requiring public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between persons who share a protected characteristic and those who do not.

It is submitted that the inclusion of National Bailiff Advice on all Notices of Enforcement would constitute a proportionate and necessary reform to improve public access to enforcement-specific legal support. The rationale for this proposal is founded on three primary considerations. First, the quality and relevance of the advice provided would be enhanced by the inclusion of an organisation that specialises in enforcement-related queries, rather than general debt advice. Secondly, debtors and third parties would be given a genuine opportunity to make informed decisions regarding their legal position before an enforcement agent takes control of goods or attends premises. Thirdly, the presence of an independent and non-commercial advice provider would serve as a necessary counterbalance to the influence of industry-affiliated or government-sponsored bodies whose advice may not always reflect the best interests of the individual subject to enforcement.

This recommendation is also consistent with the principles underpinning Regulation 12 of the TCGFR 2014, which prohibits the recovery of enforcement fees where a vulnerable debtor has not been afforded a reasonable opportunity to obtain advice. For that protection to be meaningful in practice, it is essential that the Notice of Enforcement signposts sources of advice which are not only independent but also substantively equipped to identify vulnerability and advise on remedies under paragraph 66 of Schedule 12 or CPR 84.13.

From a regulatory perspective, the inclusion of National Bailiff Advice would require the Ministry of Justice to revise the standard format of the Notice of Enforcement prescribed under the 2013 Regulations, and to establish a transparent and objective mechanism for the addition of specialist advisory bodies to enforcement literature. The Ministry would retain discretion to determine the criteria for inclusion, including demonstrable independence, subject matter competence, and absence of conflicts of interest. These safeguards would preserve the integrity of enforcement documentation while ensuring that debtors are not directed towards advisory channels incapable of addressing enforcement-specific concerns.

There may be resistance to this reform from some incumbent organisations or industry representatives who benefit from the current arrangement. However, the inclusion of National Bailiff Advice would not displace existing services but rather enhance the diversity and expertise available to the public. It would provide parity of access to an organisation which has built its reputation on public interest work, legal accuracy and procedural transparency. In doing so, it would reduce the incidence of ill-informed responses, avoidable escalation of enforcement disputes and the associated costs to the court system.

In conclusion, the proposed amendment to the enforcement regulations requiring the inclusion of National Bailiff Advice within the list of advisory services set out in the Notice of Enforcement would strengthen the protections afforded to debtors, promote lawful enforcement practices, and improve the quality of advice available to those facing the control of their goods. It is a proportionate, principled and urgently needed reform.

Parliament and the Ministry of Justice are respectfully invited to adopt this proposal in the interest of legal clarity, procedural fairness and the effective administration of justice in civil enforcement.

14. Amending TCGFR 2014 to Encourage Use of Controlled Goods Agreements

It is proposed that Regulations 6(1)(b) and 6(1)(c) of the TCGFR 2014 be amended to address a structural inconsistency in the current framework governing the recovery of enforcement fees in respect of High Court writs of control. This recommendation arises from professional experience with the practical administration of enforcement proceedings and reflects a pressing need to ensure that the financial architecture of enforcement promotes fairness, accountability and constructive engagement with debtors. The present regulation permits enforcement agents, when enforcing a writ of control issued under the authority of the High Court, to recover both the first and second enforcement stage fees in circumstances where a visit is made to the debtor's premises and goods are taken into control without agreement. However, where a Controlled Goods Agreement is lawfully entered into during the initial attendance and the debtor does not subsequently breach that agreement, the regulations prohibit the recovery of the second enforcement stage fee. This limitation creates an unintended disparity that distorts the intended purpose of the fee structure and misaligns the incentives of enforcement agents with the objectives of the enforcement framework under Schedule 12.

In practical terms, the effect of this structure is to disincentivise the use of Controlled Goods Agreements, notwithstanding their intended role in encouraging peaceful and consensual resolution of enforcement activity. Paragraphs 13 to 15 of Schedule 12 expressly provide for the debtor to enter into a Controlled Goods Agreement, thereby preventing the immediate removal of goods, reducing the likelihood of confrontation and offering a reasonable opportunity to pay the debt by instalments or within a short extension. That option should be central to a proportionate and humane enforcement system. However, under the current regulation, enforcement agents are commercially penalised for taking this conciliatory route. They may recover the second enforcement stage fee only where the debtor breaches the agreement, thereby creating a perverse incentive to either avoid the use of Controlled Goods Agreements altogether or to interpret any conduct on the part of the debtor as a material breach in order to trigger the higher fee.

This arrangement is unsustainable. It undermines the purpose of the statutory framework established by Schedule 12, which envisages that goods should be taken into control peacefully and with procedural safeguards, and it encourages unnecessary escalation of enforcement stages which may ultimately harm the interests of both debtor and creditor. Furthermore, it increases the potential for disputes over fees and over the nature of any alleged breach, thereby increasing the administrative burden on the courts and inviting inconsistency in judicial decision-making. A better alignment of the fee regime with the structure of enforcement under the TCEA 2007 is plainly required.

It is accordingly proposed that Regulations 6(1)(b) and 6(1)(c) be amended to permit the recovery of a proportionate fee for enforcement work undertaken at the first stage,

irrespective of whether a Controlled Goods Agreement is entered into. The second enforcement stage fee should be disaggregated from its current structure and made available only where further attendance is required to remove goods or where specific enforcement activity occurs following a failure to comply with an agreement. However, the first attendance, even where resolved by a Controlled Goods Agreement, ought to give rise to a fair and reasonable fee that reflects the time, expertise and procedural compliance required of the agent. This would bring the regulatory scheme into alignment with paragraph 62 of Schedule 12, which entitles an enforcement agent to recover reasonable costs incurred as a result of taking control of goods, and would reinforce the position set out in paragraph 33 that any action taken in enforcement must be proportionate.

From a practical perspective, these changes would not only restore the balance between enforcement effectiveness and debtor protection, but also encourage the adoption of Controlled Goods Agreements as a first step, reduce resistance during enforcement visits, and assist in safeguarding the debtor's dignity and essential property. The amendment would also likely reduce the number of contested fee claims brought before the County Court under CPR 84.16, thereby assisting judicial economy. It is recommended that the Ministry of Justice consult with the enforcement industry, debt advice sector and judicial representatives to formulate transitional provisions, guidance and training to support implementation. Regulatory amendments of this kind are not only practicable but necessary in order to restore confidence in the fee structure underpinning civil enforcement and to ensure that lawful resolution by agreement is not undermined by a structural incentive to litigate.

In conclusion, the proposed amendment to Regulations 6(1)(b) and 6(1)(c) of theTCGFR 2014 would constitute a proportionate, targeted and principled adjustment to the enforcement regime, bringing it into line with statutory expectations and public interest considerations. It would improve consistency, reduce the risk of abuse, and enhance the fairness and transparency of civil enforcement in England and Wales. Parliament and the Ministry of Justice are respectfully invited to consider this reform as part of a wider programme of regulatory strengthening in support of procedural justice.

15. Ownership Checks Before Removing Vehicles

The increased use of Automatic Number Plate Recognition (ANPR) technology by enforcement companies to identify vehicles linked to unpaid traffic contraventions has led to widespread procedural irregularity and breach of statutory duties. The practice known as 'drive-by' ANPR enforcement typically involves scanning vehicle registrations in public areas and taking control of any matches without verifying ownership or ensuring compliance with the procedural requirements of Schedule 12, paragraphs 7, 10, 14, 15 and 60 of the TCEA 2007, the TCGR 2013, or the Civil Procedure Rules, particularly CPR 75.7(7).

The primary statutory safeguard is set out in paragraph 7 of Schedule 12, which mandates that a valid Notice of Enforcement must be given before any enforcement action is taken. Where a Notice of Enforcement has not been lawfully served, or where the debtor's address has changed and no fresh warrant has been obtained pursuant to CPR 75.7(7), any enforcement action, including the taking control of a vehicle on the highway, is unlawful.

The warrant cannot be repurposed to target goods in public places simply for convenience or operational efficiency. The law does not permit evasion of the notice requirement for reasons of expediency.

Paragraph 10 of Schedule 12 further requires that goods taken into control must in fact belong to the debtor. ANPR hits alone do not satisfy this requirement. They indicate only a possible match and do not establish reasonable belief. Verification requires further steps, including checking DVLA keeper records, invoices or other proof of ownership. Taking control of a vehicle without such steps breaches both the statutory scheme and the principles of fairness at common law. ANPR hits are not conclusive evidence of ownership, and enforcement agents must not presume ownership without reasonable verification. The presumption in paragraph 10 of Schedule 12 is rebuttable and cannot be relied upon in isolation. Where a vehicle is used, maintained or acquired by someone other than the debtor, enforcement based on ANPR alone risks unlawful interference with goods. This is especially prejudicial where third-party hardship arises, as in cases of shared family or business use. Where enforcement agents fail to conduct reasonable ownership checks before taking control of a vehicle identified by ANPR, the matter should be referable to the Independent Examiner for Enforcement Conduct for investigation and, where appropriate, the recommendation of corrective or disciplinary action.

The consequences of non-compliance are significant.Where enforcement agents have taken control of goods that do not belong to the debtor, including as a result of failing to verify ownership following an ANPR hit, the affected party may seek relief under paragraph 60 of Schedule 12 and CPR 84.13. The available remedies include not only compensation but also orders requiring the return of goods or reversal of enforcement steps. Reference to the Independent Examiner may also be made where misconduct or systemic failure is alleged.Vehicles belonging to third parties are routinely taken, causing loss and hardship to persons with no connection to the debt. Where enforcement agents take control of goods or money belonging to third parties without reasonable ownership verification, the affected individual may seek relief under CPR 84.13, including return of the goods or money and compensation for any resulting loss or damage. This reinforces the principle that enforcement powers must be exercised with accuracy and lawful authority, particularly where third-party property is at stake. Where this occurs, the enforcement authority may be liable for wrongful interference with goods under paragraphs 60 and 66 of Schedule 12, and third-party claimants may apply under CPR 85.4. Where enforcement is carried out without proper notice or on a defective warrant, the debtor may also seek relief under CPR 84.13. In Burton v Ministry of Justice [2024] EWCA Civ 681, the Court of Appeal reaffirmed that the authority, in this case a magistrates' court, which applied for the warrant is legally responsible for its execution. That responsibility cannot be shifted to the enforcement agent or excused by asserting that the debtor failed to update DVLA records.

Such arguments are legally irrelevant. A warrant must be lawfully executed on its face. If the address is outdated or the notice provisions have not been complied with, the enforcement is invalid. The instructing authority and the enforcement contractor are jointly and severally liable for any resulting breach.

This issue has been recognised for more than a decade. The Local Government Information Unit in its 2012 report recommended that agents should make reasonable enquiries into vehicle ownership before taking control. Parliament echoed this guidance in its 2018 briefing paper, stating that ownership checks should be made with the DVLA before any enforcement takes place. The continuing failure to observe these basic requirements reflects a serious departure from legal standards and undermines the legitimacy of the enforcement regime.

It is proposed that paragraph 14 of Schedule 12 be amended to require that no vehicle identified through ANPR may be taken into control unless the enforcement agent has first ensured that (a) a valid Notice of Enforcement has been served under paragraph 7, (b) the debtor's correct address appears on the warrant in accordance with CPR 75.7(7), and (c) reasonable enquiries have confirmed that the vehicle is in fact owned by the debtor.

In addition, the proposed statutory regulator should incorporate into its binding Code of Practice an express procedural safeguard modelled on paragraphs 60 and 66 of Schedule 12. This would require enforcement companies to adopt mandatory pre-enforcement checks and provide a clear right of challenge for third parties before any vehicle may be taken. Codifying this protection within the regulatory framework ensures that third-party rights are safeguarded not only retrospectively through CPR 85 and post-enforcement remedies, but also proactively through enforceable regulatory standards that prevent wrongful interference at source.

Complaints concerning misuse of ANPR or unlawful vehicle control should also be capable of referral to the Independent Examiner of Enforcement Conduct. The Examiner should be empowered to investigate such complaints and recommend corrective action, including the return of controlled goods, money, or the revocation of enforcement steps, in line with CPR 84.13 or other corrective relief not limited to financial redress alone. This dual structure of statutory remedy and independent oversight strengthens access to justice, minimises harm to non-debtors, and brings the enforcement regime into compliance with principles of proportionality, legal certainty and the rule of law.

16. Capping Vehicle Storage Charges.

The existing practice whereby enforcement companies routinely impose vehicle storage charges of up to £48 per day for commercial profit gives rise to significant legal, regulatory and ethical concerns. This practice, which is widespread in the context of vehicle seizure under paragraphs 10 and 13 of Schedule 12, warrants urgent statutory revision to bring it into alignment with the principles of proportionality, transparency and lawful fee recovery as intended by Parliament. The imposition of such excessive daily storage charges appears inconsistent with the structure and purpose of the TCGFR 2014 and may result in widespread non-compliance with Regulation 8(2) of those Regulations.

Regulation 8(2) permits the recovery of fees and expenses incurred by enforcement agents in relation to the enforcement power only to the extent that they are both reasonably and actually incurred. These dual requirements are not optional. They impose a clear evidential and procedural burden on the agent seeking recovery and must be interpreted restrictively so as to prevent abuse. Yet in practice, storage fees at the level of £48 per day often exceed

market norms, lack evidential underpinning and do not reflect a genuine or necessary cost reasonably incurred by the enforcement agent in the execution of his duties. In many instances, there is a complete absence of evidence that the sums charged correspond to any payment actually made to a third-party storage provider, nor is there evidence of a formal contractual arrangement setting out agreed terms or costs. Moreover, it is frequently unclear whether the entity charging the fee is the certificated enforcement agent within the meaning of section 63 of the TCEA 2007, or a separate enforcement agency operating as a limited company and thereby beyond the scope of the regulations as drafted.

This distinction is of critical importance. The 2014 Regulations regulate the fees recoverable by enforcement agents, who must be individually certificated and are personally subject to the relevant duties under both primary and secondary legislation. Where a company seeks to profit from vehicle storage while providing no evidence of actual expense, and where the certificated agent has not incurred the cost personally, the requirements of Regulation 8(2) are plainly not met. It follows that any such fees are unlawful and unrecoverable. Furthermore, where the primary intention is to prolong storage in order to generate income, such conduct may amount to a deliberate circumvention of the regulatory framework and an abuse of process, exposing the enforcement agent to challenge under both common law principles and the specific remedies available under CPR 84.13.

It is submitted that the present state of the law is unsatisfactory, opaque and open to exploitation. The position of debtors is particularly vulnerable. Where a vehicle is removed, it may represent not merely a valuable asset but a means of transport essential for employment, care responsibilities or access to medical treatment. The imposition of punitive daily fees, without a clear statutory ceiling or requirement for justification, risks deterring challenges to unlawful removal and enabling the unjust enrichment of enforcement companies. This undermines the proportionality inherent in the enforcement regime and is at odds with the spirit of Schedule 12, which expressly limits enforcement action to goods necessary to satisfy the sum outstanding and expenses reasonably incurred.

Accordingly, it is proposed that Regulation 8 of the TCGFR 2014 be amended to include an express statutory cap on vehicle storage fees. That cap should be set at a maximum of £5 per day, being a sum broadly aligned with reasonable commercial rates for non-specialist vehicle storage, and the period for which such fees may be recovered should be limited to 30 days from the date on which the vehicle was first removed. This would provide a clear and enforceable standard against which disputed claims may be assessed, reduce the risk of excessive fee accumulation and ensure that storage remains a proportionate and ancillary measure rather than a profit-making tool. In addition, the amended regulation should require enforcement agents to maintain documentary evidence of all vehicle storage arrangements, including invoices, contracts and payment records, to be produced upon request at any detailed assessment or within any statutory or judicial complaint process.

Implementation of the proposed amendment would necessitate a modest transitional period to allow existing enforcement agents and their instructing authorities to revise contractual arrangements with third-party storage providers. The Ministry of Justice should

also develop clear audit procedures to ensure compliance and publish supplementary guidance for certificated agents, local authorities and the judiciary on the practical application of the amended regulation. To ensure continued fairness and market alignment, the statutory cap should be subject to periodic review, no less than once every five years, by the Lord Chancellor in consultation with sector stakeholders and consumer protection bodies.

In conclusion, this proposed amendment to Regulation 8 of the TCGFR 2014 is both necessary and proportionate. It addresses a clear and persistent abuse within the enforcement system, corrects the misapplication of regulatory powers, and restores the balance of fairness between enforcement agents and vulnerable debtors. It ensures that fees for vehicle storage are lawful, reasonable and evidence-based, in accordance with the intention of Parliament and the principle of minimal intervention in property rights. Parliament and the Ministry of Justice are respectfully invited to adopt and implement this proposal as a matter of urgency.

17. Correcting VAT Practices in Enforcement Fee Recovery

The 2021 amendment to the TCGFR 2014, enacted via the Taking Control of Goods (Fees) (Amendment) Regulations 2021, introduced language intended to simplify the treatment of VAT on enforcement fees. However, this amendment has given rise to significant regulatory uncertainty and potential abuse in the recovery of VAT from debtors. In its current form, the amendment is being interpreted in a manner inconsistent with both the statutory framework governing enforcement conduct and the general principles of VAT law. The need for legislative correction is now evident, both to restore fairness to the enforcement process and to clarify the boundaries of lawful fee recovery.

Pursuant to paragraph 63 of Schedule 12, it is a statutory requirement that enforcement powers be exercised by individuals who hold a certificate under the relevant regulations. The 2014 Fees Regulations were drafted on the assumption that such enforcement agents are the parties entitled to charge and recover fees for taking control of goods. Enforcement agencies, frequently incorporated entities operating under various trading names, are not certificated persons and are therefore not recognised by the statutory scheme as the lawful charging party in enforcement proceedings. The 2021 amendment did not alter this fundamental position. However, enforcement agencies have sought to exploit the language of the amendment to levy VAT in their own name, regardless of whether the enforcement agent is VAT registered or whether the agency itself is authorised under the statutory scheme.

This practice raises several interlocking concerns. First, it contradicts the wording and purpose of paragraph 63, which is predicated on personal certification and accountability. Second, it enables enforcement companies to recover VAT as if it were input tax, even where no input VAT has been incurred or paid by a certificated individual. Third, it gives rise to the recovery of sums which are neither lawfully due under the Regulations nor properly accounted for under VAT legislation. Fourth, it exposes debtors to unlawful or inflated charges and provides them with no statutory mechanism by which to dispute the application of VAT to enforcement fees.

There is now compelling justification for Parliament to intervene. The proposal advanced is to amend Regulation 12 of the TCGFR 2014 in order to introduce a clear statutory dispute resolution mechanism concerning the recovery of VAT on enforcement fees. The amended Regulation should incorporate by reference the procedural safeguards set out in Regulation 16 and CPR 84.16, thereby enabling debtors to challenge the lawfulness of VAT charges imposed during enforcement. It should further permit the court to make binding determinations as to whether a certificated enforcement agent was registered for VAT at the relevant time, whether VAT was lawfully recoverable on the fees charged, and whether any enforcement agency seeking to recover VAT has standing to do so under the statutory framework.

This amendment would address several systemic failures in the current regime. It would restore coherence between the TCEA 2007, the TCGFR 2014 and the CPRs by ensuring that only those fees properly incurred by a certificated person are recoverable. It would reinforce the central principle that enforcement is a personal power conferred by certification and not a commercial right exercisable by third-party agencies. It would protect debtors from opaque and possibly unlawful demands for VAT, particularly where the agent in question is not VAT registered or where the agency seeks to recover VAT despite playing no statutory role in enforcement. It would also provide a means of judicial oversight over the escalating and largely unchecked practice of VAT recovery in the enforcement sector, thereby reducing the volume of contested fee claims and promoting public confidence in the integrity of the enforcement process.

From a practical perspective, implementation of the proposed amendment would necessitate the production of revised procedural guidance for enforcement agents and district judges. The Ministry of Justice, in collaboration with HM Revenue and Customs, should develop a system of verification for enforcement agents' VAT registration status, accessible by debtors and courts. In order to ensure consistent practice, the Lord Chancellor may also wish to issue statutory guidance under section 64 of the TCEA 2007 to clarify the circumstances in which VAT may be added to enforcement fees. Any revised regulation should also provide for a periodic review of the impact of these changes, in consultation with judicial stakeholders and consumer protection organisations, to ensure that the regulation remains fit for purpose.

It is therefore respectfully submitted that the Taking Control of Goods (Fees) (Amendment) Regulations 2021 should be repealed in their entirety. Their continued operation serves no defensible legal or public interest and has had the effect of facilitating questionable commercial practices that lack statutory authority. In its place, a properly drafted extension to Regulation 12 should be introduced, incorporating a formal dispute resolution mechanism and clarifying the limits of lawful VAT recovery within the existing certification regime. This reform is modest, proportionate and necessary. It will realign the enforcement regime with the intent of Parliament, reinforce the role of the certificated enforcement agent as the accountable party, and protect debtors from unwarranted financial demands that cannot be independently verified. If enacted, this amendment will restore regulatory integrity and ensure that VAT is recovered only where it is both legally due and transparently incurred.

18. Statutory Public Register of High Court Enforcement Officers

The need for a statutory and publicly maintained register of High Court Enforcement Officers arises from the growing disparity between the legal obligations imposed on individual officers and the opacity with which their identities and contact details are often presented to those affected by enforcement action. The current practice, by which a private company known as the High Court Enforcement Officers Association Limited maintains a register of its members, falls short of what is required to ensure transparency, accountability and lawful redress in enforcement proceedings. The lack of a central, government-maintained register has led to confusion, delay and, in some instances, obstruction of justice for parties who seek to challenge misconduct or secure appropriate remedies.

These issues are often compounded by the misuse of controlled goods agreements, whereby enforcement agents routinely invite individuals to sign CGAs listing vehicles or other property without verifying ownership or explaining the legal implications. Such agreements are then used to justify enforcement against third-party goods, leading to disputes where the listed items do not belong to the debtor but were nonetheless recorded as 'controlled' through improper means. The absence of direct access to the responsible High Court Enforcement Officer makes it extremely difficult for third parties to raise timely objections or seek protective relief under CPR Part 85 or Schedule 12. In many cases, enforcement companies rely on opaque corporate structures to shield officers from direct accountability and frustrate challenges to the lawfulness of enforcement action.

The statutory framework set out in Regulation 6 of the High Court Enforcement Officers Regulations 2006 makes it clear that a High Court Enforcement Officer is an individual appointed by the Lord Chancellor to enforce High Court writs within a defined jurisdiction. The regulation does not confer that status upon any incorporated entity or partnership. This principle was reinforced by the Court of Appeal in *Trevor Bone v Simon Williamson* [2024] EWCA Civ 4, which authoritatively held that the named officer on a writ of control bears personal liability for the conduct of agents acting under his or her authority. The Court rejected arguments that liability could be evaded through the interposition of a limited company, confirming that enforcement powers and responsibilities are vested in the officer alone and not in any commercial enterprise that may purport to represent them.

Despite this clarity, many entries on the current industry-maintained register provide only proxy details or addresses of enforcement companies, rather than those of the certificated individual. This creates a practical barrier to accountability, particularly for members of the public or vulnerable debtors who lack access to professional legal tools for identifying the officer in question. While lawyers may be able to obtain personal details through Companies House, enforcement complaints, court filings or financial disclosure, these options are neither appropriate nor available to litigants in person or unrepresented third parties who are nonetheless entitled to seek legal redress for breaches under Schedule 12.

In contrast, the position of certificated enforcement agents is already governed by a statutory public register maintained by the County Court, which includes contact details and is readily accessible online. It is a matter of legal consistency and public confidence

that officers exercising more intrusive powers under High Court writs should be subject to at least the same level of transparency and formal oversight. The absence of such a register undermines the ability of courts, claimants and defendants alike to ensure that enforcement action is being carried out lawfully and with appropriate safeguards. It also frustrates the operation of important procedural rules, including those under CPR 84.16 and CPR 85, which require timely and accurate notification of claims against enforcement agents and their principals.

It is therefore proposed that the Ministry of Justice establish and maintain a central, publicly accessible register of all appointed High Court Enforcement Officers, to be updated in real time and to include each officer's name, certificate number, direct postal address and an official enforcement email address designated for legal correspondence. The register should be published under the statutory authority of the Lord Chancellor and should form part of the Ministry's broader obligations to oversee the conduct and integrity of High Court enforcement under Part 2 of the Courts Act 2003 and the associated regulations. Such a register would provide an authoritative and verifiable means for debtors, third parties and legal representatives to contact the responsible officer in respect of any matter arising from an enforcement act. It would eliminate ambiguity over whom to serve in proceedings under CPR Part 85, streamline the process for making complaints or initiating judicial review claims, and reduce the risk of procedural irregularity caused by misdirected communications.

Implementation of this reform would not require the creation of new enforcement mechanisms or statutory bodies. It would involve the transfer of an existing function from a private association into the custody of the Ministry of Justice, using infrastructure and publication protocols already in place for similar public registers. The duty to keep the register current could be tied to the annual renewal of certificates under the High Court Enforcement Officers Regulations 2006, with officers required to confirm and update their contact information as part of the renewal process. Non-compliance could result in administrative suspension, ensuring continued accuracy and public protection.

Where disputes arise from the wrongful inclusion of third-party goods in a controlled goods agreement, complaints should also be capable of referral to the proposed Independent Examiner of Enforcement Conduct. The Examiner should be empowered to investigate such complaints, particularly where third-party ownership has been ignored or misrepresented, and to recommend corrective action under CPR 84.13 including the return of goods, revocation of enforcement steps, or disciplinary referral. This would provide a vital additional layer of independent oversight and ensure proportionate, evidence-based enforcement outcomes.

This modest but vital reform would bring clarity and openness to an area of enforcement that has been persistently marked by obscurity and confusion. It would uphold the rule of law by ensuring that those who are entrusted with the most coercive powers under the civil justice system remain publicly accountable for their conduct. Most importantly, it would protect the rights of vulnerable and unrepresented individuals by providing them with a clear and lawful route for communication, complaint and redress. This is a reform whose time has come and which Parliament is urged to adopt without delay.

19. Enhancing Transparency: CIVEA and HCEOA to Share Guidance with the ECB

The present regulatory framework governing civil enforcement in England and Wales lacks a consistent and independent mechanism for monitoring internal communications within trade bodies representing enforcement agents. This gap in oversight has enabled the continued circulation of advice and internal guidance that may not always reflect the standards of legality, impartiality and ethical conduct required of those exercising state-sanctioned powers under Schedule 12. It is submitted that the ECB should be placed under a positive statutory duty to require full disclosure and routine review of all member-facing communications issued by the Civil Enforcement Association and the High Court Enforcement Officers Association, including newsletters, circulars and any form of instructional publication intended for enforcement personnel.

Such a measure is necessary to address a longstanding deficit in transparency. Whereas individual agents are subject to regulation through certification, disciplinary proceedings and judicial supervision, their conduct is significantly influenced by the training materials and policy guidance disseminated by these industry bodies. Yet, these communications remain private and beyond the reach of public scrutiny, despite their clear regulatory impact. Recent public concerns have been exacerbated by the unauthorised release of internal materials on social media platforms, revealing instructions and messaging that appeared to encourage or condone unlawful practices. These include the circumvention of procedural safeguards, mischaracterisation of debtor rights and the minimisation of statutory duties under the TCGR 2013 and the TCGFR 2014. The integrity of enforcement practice cannot be assured unless the provenance and content of such materials are independently reviewed for compliance with legal standards.

The ECB, established to serve as an independent public oversight body, must be afforded the power and obligation to receive and scrutinise all member-facing literature produced by the principal industry associations. This duty should not be discretionary. The Board's ability to assess sector-wide conduct and recommend regulatory interventions is significantly compromised if it remains reliant on external disclosures or whistleblowing for access to relevant content. Compulsory submission of all past and future internal publications would allow the Board to identify patterns of non-compliance, detect misleading interpretations of legal duties, and recommend corrective action. It would also deter the circulation of improper guidance by creating a clear expectation that all such materials are subject to independent review.

The proposed reform would not alter the existing legal functions of the industry associations nor interfere with their right to represent the interests of their members. It would, however, introduce a necessary public safeguard to ensure that representations made by those bodies are consistent with the law and the ethical standards expected of those authorised to enforce it. This change would reflect the model already adopted in other regulated sectors, where industry guidance, training protocols and policy materials are routinely reviewed by independent regulators for consistency with professional and legal obligations.

Statutory underpinning for such a duty could be incorporated into the framework governing the ECB, which is itself established under the oversight of the Ministry of Justice. The reform would require only modest amendments to the Board's terms of reference and could be implemented without further primary legislation if structured through ministerial regulation. To ensure effective compliance, industry associations should be required to provide the Board with copies of all communications issued to their members within a specified time frame following publication. The Board should, in turn, be authorised to report publicly on its findings and to make recommendations for reform or disciplinary action where patterns of misleading or unlawful guidance are identified.

This proposal would substantially enhance the accountability of the civil enforcement sector, align regulatory practice with public law principles, and rebuild confidence among stakeholders, particularly vulnerable debtors and third parties who are most likely to suffer harm from misleading or unethical enforcement practices. It would empower the ECB to fulfil its statutory mandate effectively and restore the credibility of the enforcement profession as one that operates with legal precision and ethical integrity. Parliament is invited to consider this reform as a necessary step in modernising the regulatory architecture of civil enforcement in the public interest.

20. Empowering the ECB to Inspect Enforcement Training Materials and Practices

The current absence of statutory oversight in relation to the training and conduct of enforcement agents presents a serious lacuna within the framework governing civil enforcement under Schedule 12 and its supporting instruments, including the TCGR 2013 and TCGFR 2014. It is proposed that the Ministry of Justice confer upon the Enforcement Conduct Board an express statutory duty to regulate, audit and approve all training curricula, internal guidance, and field instruction protocols employed by enforcement companies. This recommendation arises from growing concern, supported by first-hand accounts from former enforcement agents, that a number of private companies are disseminating and endorsing practices inconsistent with the letter and spirit of the law.

The core issue lies in the proliferation of unofficial or company-led training schemes that operate in the absence of centralised scrutiny. Numerous incidents have emerged where such training appears to have cultivated, normalised or even instructed agents in tactics that are unlawful, unethical or likely to result in the exploitation of vulnerable individuals. These practices are incompatible with the requirements of proportionality and procedural compliance laid down in paragraphs 14 to 16 and 23 to 33 of Schedule 12, which regulate entry to premises and the taking control and sale of goods. They also undermine the duties of enforcement agents to act fairly, honestly and without unreasonable force, as reflected in Regulation 10 of the Taking Control of Goods Regulations 2014 and the overarching protections afforded under the Equality Act 2010, including sections 20 (reasonable adjustments), 29 (discriminatory barriers) and 149 (public sector equality duty).

The need for reform is underscored by documented case material. In one reported incident, an enforcement trainee was instructed by a senior agent to falsely allege physical assault during a confrontation so as to manufacture evidential footage that would favour the enforcement narrative in subsequent complaint or criminal proceedings. In another, a

trainee was reportedly advised to demand money from third parties under the threat of taking control of their goods, and then to issue misleading receipts falsely stating that the payment had been made voluntarily, thereby defeating any claim under CPR 85.4 or 85.8. These practices, if accurately reported, suggest systemic disregard for legal constraints and a culture of operational impunity among certain enforcement firms.

Most alarming is the documented account of an agent enforcing a High Court writ against a corporate debtor who deliberately targeted the private residence of a company director, entered the home in the absence of the occupants, and removed personal valuables including family jewellery, passports and travel documentation. When the householder returned, closed-circuit footage reportedly captured the agent physically attacking her before calling emergency services and making a false report of assault. Despite the homeowner's protests, attending police officers failed to inspect the writ, which was later found to contain an incorrect debtor name, a false address, and a counterfeit seal of the court. No search of the agent or his vehicle was undertaken, despite an allegation of theft having been made. These failings highlight both the consequences of unsupervised enforcement practice and the pressing need for co-ordinated training of police officers to identify fraudulent documentation and unlawful conduct in the context of enforcement operations.

Such incidents are neither trivial nor isolated. They point to a structural problem in the delegation of enforcement powers to private actors without sufficient regulatory supervision or mechanisms for early intervention. Where breaches of procedure occur as a result of improper training, access to redress is often delayed or denied. It is essential that the statutory framework include a clear pathway for affected parties to seek accountability. To that end, unresolved breaches or misconduct arising from unlawful instruction should be made expressly referable to the proposed Independent Examiner for Enforcement Conduct. The Examiner should be empowered to investigate complaints relating to abusive or misleading training practices, and to recommend corrective action or compensation where those practices have contributed to procedural breaches or unlawful enforcement.

The proposed amendment would confer upon the ECB the duty to approve all training materials used by enforcement firms, whether in written, digital or practical form, and to audit the delivery of that training through scheduled and unscheduled inspection. The Board would be empowered to withdraw authorisation where companies are found to provide training that contravenes statutory provisions or promotes conduct inconsistent with the civil enforcement code. Furthermore, enforcement agents who rely on unlawful instruction as justification for their conduct would not be entitled to indemnity or immunity under Schedule 12, unless they can show that the guidance originated from a source independently approved by the Board.

These reforms are capable of immediate adoption by statutory instrument under sections 62 or 63 of the TCEA 2007 and would require corresponding amendments to the Certification of Enforcement Agents Regulations 2014. Additional protocols would be necessary to require the police to inspect writs and warrants at the point of complaint, to record allegations of unlawful entry or false representation, and to notify the ECB where impropriety is suspected. Where misconduct results in the unlawful control of goods, affected parties should have access to remedies under CPR 84.13, including the return of

goods and compensation, with relief not limited solely to financial redress but extending to any appropriate corrective action. In cases where breaches remain unresolved or where enforcement companies obstruct redress, referral to the Independent Examiner should be automatic.

In conclusion, the unchecked dissemination of improper enforcement training presents a direct threat to the rule of law, the safety of the public, and the integrity of civil enforcement proceedings. The proposed statutory duty upon the ECB to oversee all aspects of enforcement training, together with a clear right of referral to the Independent Examiner where breaches occur, is a proportionate and necessary measure grounded in evidence and responsive to real harms. It would raise professional standards, enhance legal compliance, and restore public confidence in an enforcement sector whose authority must always be exercised under the strictest lawful conditions. A separate paper, to follow later in 2025, will set out in detail the proposed reforms to police procedure in responding to enforcement-related incidents.

21. Mandatory Service of Sealed Writ of Control with Enforcement Notices

The present statutory framework governing High Court enforcement, as set out under Schedule 12 and the TCGR 2013, does not impose any express obligation on a High Court Enforcement Officer or their agents to serve the debtor with a copy of the sealed Writ of Control. This omission has given rise to serious concerns regarding transparency, procedural fairness, and the ability of debtors to verify the legality of enforcement action taken against them. The Writ of Control is the foundational instrument that confers authority upon the enforcement agent to exercise the powers granted under Schedule 12. Its non-disclosure to the affected party compromises the fundamental legal principle that all exercises of state authority must be capable of being scrutinised and challenged where necessary.

Paragraphs 6 and 7 of Schedule 12 require the service of a Notice of Enforcement prior to taking control of goods. Regulation 6 of the TCGR 2013 prescribes the form and content of that Notice, including details of the amount claimed, the contact particulars of the creditor and enforcement agent, and the timing of further enforcement. Nowhere, however, is there any obligation upon the enforcement agent to include or provide the writ itself. As a result, it is possible for enforcement to proceed without the debtor ever having sight of the very legal instrument said to authorise the action. This position is markedly at odds with the safeguards in place for County Court enforcement, where section 126 of the County Courts Act 1984 requires that a bailiff acting under a warrant of execution must carry that warrant and produce it on demand. No principled basis exists to justify a lower standard of disclosure in High Court enforcement, where the powers exercised are broader, and the consequences for the debtor can be equally or more severe.

The rationale for reform is both compelling and straightforward. In practice, there have been repeated instances of confusion, misidentification and challenge in circumstances where the debtor is not able to verify the claim number, creditor identity or issuing court, particularly where multiple enforcement actions have occurred or where the debtor disputes the debt. Absent the sealed writ, the debtor must rely entirely upon the

representations of the enforcement agent as to the legitimacy and scope of their authority. This is inconsistent with the principle of informed consent and the right of the affected party to examine the legal basis for any coercive action taken against them. Moreover, the increasing digitisation of writs and remote issue by the High Court means there is no logistical barrier to contemporaneous provision of a copy at the time of enforcement.

The practical benefit of requiring the sealed writ to be served is also evident in litigation arising under rule 84 of the CPRs, particularly where third parties seek to bring claims to exempt goods or to challenge the validity of the writ itself. In many such cases, the absence of the writ at the point of enforcement has delayed or frustrated the proper administration of justice, increasing the burden on the court and exposing both debtors and third parties to unnecessary prejudice.

The proposed reform is therefore that both paragraph 26(1) Schedule 12 and the TCGR 2013 be amended to require the High Court Enforcement Officer or their authorised agent to provide a copy of the sealed Writ of Control to the debtor, in any instance where a Notice of Enforcement is served or where documents are left at premises in the debtor's absence. The writ so served must be the sealed version issued by the court and must display the claim number, creditor's name and date of issue. These elements are essential to enable the debtor to verify the legitimacy of the action, to engage with the appropriate parties, and, where necessary, to apply for a stay of execution, variation or set-aside of the underlying order.

This proposal is proportionate, enforceable and administratively straightforward. It would improve the clarity, fairness and transparency of enforcement proceedings, and it would align the practice of High Court Enforcement Officers with established procedural safeguards already applicable in other enforcement contexts. Such an amendment would restore confidence in the civil enforcement process and reduce the likelihood of error, abuse or unlawful action going unchecked. It would ensure that enforcement agents do not act behind a veil of implied authority but are held to the proper evidential standard when invoking the coercive powers of the court.

In conclusion, the law must require that the sealed Writ of Control is served on the debtor in every case where enforcement is contemplated. This amendment would uphold the integrity of the High Court enforcement process, safeguard the rights of the debtor, and provide a clear procedural framework through which lawful and accountable enforcement can proceed. It is submitted that this change be introduced by statutory instrument under section 62 or 63 of the TCEA 2007 and applied prospectively to all writs issued following commencement of the revised Regulations.

22. Extending Paragraph 66, Schedule 12: Injunctive Relief for Vulnerable Debtors

The statutory framework governing civil enforcement under Schedule 12, as supplemented by the TCGR 2013, is presently deficient in its capacity to safeguard vulnerable debtors from the consequences of wrongful enforcement. Although paragraph 66 of Schedule 12 provides a civil remedy in tort for unlawful taking control of goods, that remedy is both limited in scope and reactive in nature. It offers no express basis for injunctive relief and fails to acknowledge the particular legal, practical and ethical challenges faced by debtors

who are or reasonably appear to be vulnerable. In consequence, the existing legislative structure lacks a coherent procedural mechanism for preventing or swiftly remedying enforcement action that breaches either statutory safeguards or duties arising under the EA 2010, including the duty under section 20 to make reasonable adjustments for disabled persons, the prohibition under section 29 against discrimination in the provision of services, and the public sector equality duty under section 149 to eliminate discrimination, advance equality of opportunity, and foster good relations.

The concept of vulnerability is embedded in the Ministry of Justice's National Standards for Taking Control of Goods, issued in April 2014. It also finds implicit recognition in Regulation 10 of the 2013 Regulations, which requires that enforcement agents must not take control of goods unless they have considered whether it is appropriate in all the circumstances. Yet these protections are aspirational rather than enforceable unless a debtor is able, after the fact, to establish a claim for wrongful interference under paragraph 66(1). In practice, vulnerable debtors often lack the legal knowledge, resources or capacity to bring such claims. Further, the courts have no express power under paragraph 66 to grant interim relief to prevent enforcement action that is manifestly inappropriate, unlawful or undertaken under a defective instrument.

The jurisprudential and policy rationale for strengthening these protections is well-established. Vulnerable debtors, including those with physical or mental impairments, cognitive limitations, language barriers or reliance on carers, face distinct risks in the enforcement context. The removal of essential items such as medical equipment, mobility aids or vehicles required for care duties can have an immediate and devastating impact on health, welfare and livelihood. The nature of such harm is often irreparable and disproportionate to the underlying debt. Enforcement in such circumstances, particularly where undertaken without lawful authority or contrary to recognised vulnerability safeguards, not only undermines public trust but may give rise to breaches of the anticipatory reasonable adjustment duty under section 20 of the EA 2010.

Judicial commentary has recognised the importance of such duties. In R (Bridges) v Chief Constable of South Wales Police [2019] EWHC 2341 (Admin), the Divisional Court emphasised that public authorities must adopt frameworks that proactively fulfil their obligations to accommodate those with disabilities. The judgment reinforces the principle that legal safeguards cannot be left to post hoc enforcement but must be embedded in procedure. Similarly, in Murphy v Lambeth LBC (Unreported, 2015), the court acknowledged the duty of enforcement agents to exercise heightened discretion in the presence of vulnerability. These authorities support the proposition that vulnerable debtors require a bespoke procedural remedy that enables the court to intervene at an early stage, rather than rely solely on retrospective redress through damages.

The proposed statutory amendment would take the form of a new sub-paragraph 66(3A) within Schedule 12. This provision would empower the court, upon application by a debtor who is or appears to be vulnerable, to grant injunctive relief to prevent unlawful enforcement; to order the return of goods or money taken in breach of the Regulations or under a defective instrument; and to award damages where the enforcement agent knew or ought reasonably to have known of the debtor's vulnerability. This framework would give

statutory force to remedies that are otherwise only available through complex or costly litigation and would integrate seamlessly with the existing scheme of the Act.

Procedurally, such applications could be brought under Part 8 or Part 23 of the CPRs, with urgent listings available where there is a risk of serious harm. The applicant would be required to file a supporting witness statement setting out evidence of vulnerability, the conduct complained of and the relief sought. Damages, where claimed, would be assessed in accordance with established tortious principles and may include consequential losses arising from the deprivation of essential goods or disruption to care arrangements. The availability of such a remedy would not only serve the public interest in fair and humane enforcement, but would also promote compliance by enforcement agents with the National Standards and the statutory duties imposed by the EA 2010. These include the duty under section 20 to make reasonable adjustments for disabled individuals, the prohibition under section 29 against discriminatory treatment in the provision of enforcement services, and the duty under section 149 on public authorities to eliminate discrimination, advance equality of opportunity, and foster good relations. These obligations are particularly engaged where enforcement conduct places at risk the welfare or dignity of debtors who are disabled or otherwise vulnerable. Compliance is further reinforced by parallel duties under the Mental Capacity Act 2005, where applicable.

This reform would not represent a radical departure from established law but rather a principled development consistent with the doctrine of *ubi jus ibi remedium*. It would assist in giving practical effect to rights that are presently under-enforced, particularly in cases where the debtor lacks the capacity, resources or support to bring proceedings under the HRA 1998 or by way of judicial review. Specifically, it would support the enforcement of rights protected under Article 6 (right to a fair hearing), Article 8 (right to respect for private and family life), and Article 1 of Protocol No. 1 (peaceful enjoyment of possessions), all of which are incorporated by Schedule 1 to the Act. The proposed amendment would maintain the balance between the legitimate interests of creditors and the inherent dignity and legal protections owed to debtors, while reinforcing the rule of law and procedural safeguards in the field of civil enforcement, as required by section 6 of the HRA 1998.

It is submitted that Parliament and the Ministry of Justice should adopt this reform without delay. The statutory addition would provide a proportionate, enforceable and targeted safeguard for vulnerable debtors, elevating the current framework to meet the demands of procedural fairness and social justice. It would enable the courts to act promptly and effectively to prevent or correct injustice, and would represent a necessary evolution of the civil enforcement regime.

Statutory references: Schedule 12, paragraph 66 to the TCEA 2007; TCGR 2013,; EA 2010, sections 20 (duty to make reasonable adjustments), 21 (failure to comply with that duty), 29 (provision of services) and 149 (public sector equality duty); CPRs (1998), Parts 8 and 23; Mental Capacity Act 2005; HRA 1998, including section 6 (duty of public authorities to act compatibly with Convention rights), Article 6 (right to a fair hearing), Article 8 (respect for private and family life), and Article 1 of Protocol No. 1 (protection of property).

Judicial and policy references: R (Bridges) v Chief Constable of South Wales Police [2019] EWHC 2341 (Admin) (on Judiciary.uk); Murphy v Lambeth LBC (Unreported, 2016 but on i-law.com); National Standards for Taking Control of Goods (April 2014).

23. Recording Royal Mail Tracking for Notices of Enforcement

The issuance of a Notice of Enforcement under paragraph 7 of Schedule 12 is the procedural gateway through which lawful enforcement may commence. It initiates the compliance stage and is a condition precedent to the taking control of goods. Its function is not merely administrative, but serves a substantive legal purpose: to ensure that the debtor is aware of the impending enforcement action and afforded an opportunity to resolve the matter voluntarily before further steps are taken. Despite its importance, the current statutory framework does not prescribe a reliable or verifiable method by which service of the Notice of Enforcement must be effected. This absence of formal service verification introduces a material risk to the integrity of the enforcement process and is incompatible with the principles of procedural fairness and legal certainty.

Paragraph 7 of Schedule 12 provides that enforcement agents may not take control of goods unless the debtor has been given notice. Regulation 6 of the TCGR 2013 sets out the prescribed contents of such a notice, and Regulation 8 allows for delivery by post. However, the legislation is silent as to what constitutes sufficient proof of posting or receipt, and whether the enforcement agent must retain any record capable of satisfying a court that the statutory precondition has been met. This lacuna gives rise to evidential uncertainty and leaves both the debtor and the court in a position of dependency on the unverified assertions of enforcement firms, which may lack objectivity or accountability.

In the case of Kaki v National Private Air Transport Services Co Ltd [2021] EWCA Civ 1725 (BAILII), and its earlier iteration at [2015] EWCA Civ 731, the Court of Appeal made clear that the burden of proving service rests upon the party asserting it. The absence of a statutory requirement to use traceable postal methods was identified as a source of evidential insufficiency. Lord Justice Aikens, sitting with Lady Justice Sharp and Lord Justice Bean, emphasised the judicial expectation that parties who rely on postal service must be able to demonstrate when, where, and how such service was effected. The Court's observations in that case give weight to the proposition that service should not be left to unverifiable internal records, particularly where procedural rights of notice and response are engaged. It is submitted that enforcement agents, as public-facing actors in the civil enforcement system, ought to be held to the same evidentiary standards as litigants.

The proposed reform is therefore a modest but essential step. It would require enforcement agents to send Notices of Enforcement by a postal method that generates a unique tracking number, such as Royal Mail Tracked 24 or Signed For. That tracking number should be retained on the case file for a period not less than twelve months and be made available upon request to the debtor, to the court, or to any relevant regulatory or supervisory body. The tracking data would provide contemporaneous evidence of dispatch and delivery, reduce the incidence of disputes regarding non-receipt, and allow the court to determine questions of service on the basis of objective data rather than untested hearsay.

This reform would operate entirely within the spirit and structure of the existing regime. It would not alter the contents of the Notice of Enforcement nor restrict the range of permissible delivery methods. It would simply overlay a procedural safeguard to ensure that the statutory requirement to give notice is capable of being verified. Such verification is not an academic exercise but a critical element of procedural fairness, reflecting the fundamental common law principle of audi alteram partem. Debtors must be given a fair opportunity to be heard before enforcement action is taken. That right is illusory where notices are not reliably served or where disputes about delivery cannot be resolved with reference to evidence.

The proposed amendment aligns with the aims and expectations of the National Standards for Taking Control of Goods, published by the Ministry of Justice in 2014. These standards underscore the need for transparency, respect, and accountability in the treatment of debtors. They further recommend that enforcement firms maintain accurate and contemporaneous records of all actions taken. The proposed requirement for tracking number retention would ensure that such recommendations are not merely aspirational but carry operational force. In doing so, it would also assist the work of the ECB and other oversight bodies in investigating complaints and monitoring compliance.

Nor is the reform unduly burdensome. Royal Mail's tracked services are widely used, administratively efficient, and inexpensive. Most enforcement firms already employ automated systems to generate postal documentation. Integrating tracking references into their workflows requires minimal additional effort and cost, while substantially improving transparency. Moreover, enforcement agents routinely rely on those same services when sending fee schedules, inventory lists and payment receipts. There is no principled reason why a Notice of Enforcement, which is the linchpin of the statutory process, should be afforded lesser procedural safeguards.

The CPRs also provide useful context. Under CPR Part 6.15, courts are empowered to authorise alternative methods of service where there is good reason. The existence of a formal and verifiable service process would reduce the need for such orders and ensure that the initial stages of enforcement are conducted in a manner consistent with the standards applied in civil litigation.

In conclusion, the adoption of a mandatory requirement for tracked postal service of Notices of Enforcement is a proportionate, practicable and procedurally just reform. It will reduce disputes, improve evidentiary standards, enhance compliance with existing obligations, and support fair access to justice for debtors and creditors alike. It is therefore recommended that the Ministry of Justice introduce an amendment to the TCGR 2013, requiring that all postal service of Notices of Enforcement be conducted using a traceable method and that the associated tracking reference be retained for a period of not less than twelve months. Such an amendment would bring clarity, consistency and accountability to one of the most contested stages of civil enforcement.

24. Amending Paragraph 26, Schedule 12: Debtor's Right to View Enforcement Authority and ID

The law of civil enforcement, as governed by Schedule 12, confers substantial powers upon certificated enforcement agents. These powers include the authority to enter private premises, take control of goods, and demand money under threat of further enforcement. Such powers, though essential to the effective recovery of debts, are coercive in nature and must therefore be exercised with a high degree of legal accountability, procedural fairness and public transparency. Yet under the current framework, there exists no clear statutory obligation requiring an enforcement agent to produce evidence of their identity or legal authority when requested by a debtor after an enforcement visit has occurred. This omission creates fertile ground for procedural abuse, frustrates the debtor's ability to challenge unlawful enforcement, and diminishes public confidence in the civil enforcement system as a whole.

Paragraph 26 of Schedule 12 permits entry to premises where the enforcement agent is so authorised, but it does not compel the production of proof of that authority upon challenge. While Regulation 5 of the Certification of Enforcement Agents Regulations 2014 requires agents to carry their certificate, it stops short of mandating its disclosure. Similarly, section 126 of the County Courts Act 1984 refers to the showing of warrants when requested but does not provide a remedy for failure to comply. This leaves the legal framework incomplete. The Taking Control of Goods: National Standards 2014 do advise that enforcement agents should present identification and evidence of authority upon request, but these standards have no statutory force. They are unenforceable in law and routinely ignored in practice.

The practical consequence of this regulatory gap is that debtors who question the validity of enforcement activity are often met with silence, delay or evasiveness. This is especially detrimental to vulnerable debtors, including individuals with disabilities, language barriers, or limited legal knowledge, who may not be in a position to assert their rights with confidence. When requests for proof of identity or authority are ignored, such individuals are left unable to verify whether the enforcement action taken against them was lawful. This impairs their ability to apply to the court for relief under paragraph 66 of Schedule 12 or to seek urgent injunctive relief where appropriate. It also makes it more difficult to pursue redress through regulatory or complaints processes, including those administered by the Local Government and Social Care Ombudsman, the ECB, or the High Court.

To address this evidential vacuum, it is proposed that Parliament amend Schedule 12 by inserting a new provision which imposes a clear and enforceable obligation upon enforcement agents to provide documentary proof of their identity and legal authority when requested by a debtor or any person in charge of the premises. The proposed provision would enable a request to be made either at the time of the enforcement visit or within a period of twelve months thereafter, thereby accommodating the continuing nature of enforcement and preserving the debtor's right to retrospective examination of legality. The proposed amendment would further require that the enforcement agent respond to such a request within seven days and without charge, supplying either a copy of the warrant or writ under which they acted or written confirmation of authority from the instructing creditor. Identity would be proven by provision of the current enforcement certificate issued under section 64 of the TCEA 2007.

The legal justification for such a reform is firmly grounded in established public law principles. First, the right to procedural fairness, as protected under Article 6 of the ECHR and Article 1 of Protocol No. 1, requires that individuals be afforded a real and effective opportunity to contest any interference with their property. Second, the principle of legality, as articulated in Anisminic Ltd v Foreign Compensation Commission [1969] 2 AC 147 (BAILII), demands that public powers be exercised in accordance with their legal limits and subject to judicial scrutiny. Third, the administrative principle of audi alteram partem requires that affected individuals be given a proper chance to understand and respond to state-sanctioned action.

From a policy standpoint, the proposed amendment strengthens enforcement transparency, deters fraud, and upholds professional standards. It provides a deterrent against impersonation or misrepresentation by unlicensed individuals who might otherwise exploit the current evidential lacuna. It aligns with the protections in the Fraud Act 2006 and supports the objectives of the Consumer Rights Act 2015, which expects clarity and fairness in the conduct of those acting under authority. It would also reinforce the professional standing of genuine certificated enforcement agents, many of whom already carry and present the necessary documentation as a matter of best practice.

The proposed reform is practical, proportionate and capable of seamless integration within the existing framework of enforcement law. It requires no structural alteration to the core powers contained in Schedule 12 but merely strengthens the evidential requirements that govern their exercise. By introducing a limited retrospective right to documentary verification, capped at twelve months from the last enforcement step, the reform avoids placing unreasonable burdens on enforcement agents while enhancing legal accountability. By making the duty to provide such documentation mandatory and time-bound, the reform preserves judicial economy and prevents disputes from escalating due to uncooperative conduct.

It is therefore respectfully submitted that Parliament should give urgent consideration to amending Schedule 12 by inserting a new paragraph which codifies the debtor's right to receive documentary proof of enforcement agent identity and authority upon request. Such a reform would harmonise enforcement practice with principles of natural justice, close a longstanding gap in the statutory framework, and reaffirm the simple constitutional principle that the exercise of coercive power must be capable of scrutiny. Those who act in the name of the state must be willing to prove they do so lawfully.

25. Amending Paragraph 68 to Define Offences by Reference to Lawful Excuse

The civil enforcement framework established under Schedule 12 is central to the lawful recovery of debts by authorised agents acting under warrant or writ. While this framework seeks to balance the interests of creditors, debtors and third parties, it remains incomplete in a critical respect. Paragraph 68 of Schedule 12, which creates criminal liability for obstructing enforcement agents or interfering with controlled goods, lacks the legal qualifier "without lawful excuse." This omission departs from established doctrine in criminal law, invites injustice through overreach, and fails to acknowledge the legitimate interests of third parties or lawful possessors acting in good faith. The purpose

of this recommendation is to amend Paragraph 68 to incorporate the phrase "without lawful excuse," thereby restoring legal coherence, protecting the innocent, and ensuring proportionality in enforcement-related prosecutions.

Paragraph 68 currently provides that a person is guilty of an offence if they intentionally obstruct a person lawfully acting as an enforcement agent or intentionally interfere with controlled goods. However, the language of the provision does not distinguish between culpable interference and actions which may be justified by necessity, ownership rights or other legitimate grounds. The criminal law of England and Wales has long recognised that criminal liability must not attach to conduct which is reasonable in the circumstances and undertaken with a lawful excuse. This principle is foundational and appears expressly in numerous statutes, including section 1(1) of the Criminal Damage Act 1971, where the absence of lawful excuse is an essential element of the offence. The incorporation of this phrase allows the court to consider context and motive, and to distinguish between criminal behaviour and acts that are morally or legally justified.

The failure to include this safeguard in Paragraph 68 creates real and pressing problems. Third parties may, without knowledge of enforcement action, remove goods for protection or convenience, or assert ownership over property wrongly identified as belonging to the debtor. In such cases, prosecution under the current wording may proceed on a strict basis, even where the person has acted in good faith and without malice. While it may be open to the courts to read in a defence or to apply a purposive construction, reliance on judicial interpretation where criminal sanctions are involved undermines legal certainty and increases the risk of inconsistent outcomes.

The decision of the Court of Appeal in R v Joseph Karumba Wangige [2020] EWCA Crim 1319 (BAILII) illustrates the broader dangers of strict statutory construction in the enforcement context. There, the Court warned against over-criminalisation and highlighted the importance of ensuring that any statutory provision which may lead to criminal conviction must be clear, balanced and not capable of punishing the innocent. Although that case concerned the question of double jeopardy, the reasoning supports the principle that criminal liability must be carefully circumscribed to protect the rule of law.

The proposed amendment would therefore revise subparagraph (2) of Paragraph 68 to read: "A person is guilty of an offence if he intentionally interferes with controlled goods without lawful excuse." This modification does not alter the structure or intent of the offence but brings the wording into alignment with long-standing principles of English criminal law. It reflects a consistent approach found in comparable legislation, including the Theft Act 1968, the Criminal Damage Act 1971, the Protection from Harassment Act 1997 and section 89 of the Police Act 1996.

Furthermore, the amendment would uphold the enforcement standards articulated in the Taking Control of Goods: National Standards 2014, which emphasise fairness, proportionality and transparency. Those standards are intended to ensure that enforcement action is not excessive and that all parties are treated with dignity.

Criminalising interference without reference to lawfulness or excuse risks penalising conduct that may be entirely consistent with those values. Moreover, where goods are disputed, the appropriate legal forum remains the civil courts under Part 85 of the CPRs, not the criminal courts.

From a policy perspective, the insertion of the words "without lawful excuse" will avoid unnecessary criminal proceedings, prevent the wrongful prosecution of third parties and promote confidence in the legal system. It will also assist enforcement agents and police officers by clarifying the circumstances under which obstruction or interference may amount to a criminal act. In cases of disputed ownership, third-party claims or mistaken identity, the amendment will offer a statutory basis for declining prosecution and directing parties to the civil courts.

In conclusion, the current formulation of Paragraph 68 of Schedule 12 is anomalous in that it omits a standard safeguard that is integral to the fair application of criminal law. By failing to distinguish between malicious interference and justified conduct, it exposes individuals to criminal sanction in circumstances where civil resolution would be more appropriate. The proposed amendment is modest in scope but fundamental in effect. It restores doctrinal consistency, ensures fairness, and reflects the standards of accountability and restraint expected in modern enforcement practice. Parliament should therefore amend Paragraph 68 of Schedule 12 to include the words "without lawful excuse," thereby preserving the integrity of the criminal law and reinforcing public confidence in the enforcement system.

26. Requiring PCN Number and Authority Details in Traffic Debt Enforcement Notices

The enforcement of Penalty Charge Notices arising from traffic contraventions has become a core aspect of modern civil debt recovery, routinely delegated by local authorities to private enforcement firms operating under Schedule 12 and the TCGR 2013. Yet despite the routine nature of this work, and the relatively modest sums often involved, there remains a significant procedural deficiency which undermines the debtor's ability to identify, verify and where appropriate challenge the lawfulness of enforcement action. The core deficiency lies in the absence of a legal requirement that enforcement documentation expressly state the Penalty Charge Notice number and the name of the enforcing authority. This omission is not trivial. It inhibits transparency, frustrates accountability, and prevents the subject of enforcement from properly understanding the basis of the action taken against them. This recommendation urges a statutory amendment requiring that all enforcement documents relating to traffic debts explicitly disclose both the relevant PCN reference number and the name of the authority on whose behalf enforcement is undertaken.

Schedule 12 sets out the procedural framework for the taking control of goods. Paragraph 7 provides that a debtor must be given notice of enforcement prior to any further steps, and Regulation 6 of the 2013 Regulations prescribes the content of that notice. However, there is no provision requiring the enforcement agent to identify the

specific traffic contravention or even to state the PCN number to which the debt relates. Nor is there any obligation to name the authority instructing the enforcement. This is a serious gap in legal process. It creates a scenario where documents affixed to a debtor's door, vehicle or letterbox may refer in vague terms to a warrant or sum owed without any clear link to the original contravention, enforcement authority or enforcement power.

In practice, this procedural vagueness impairs the debtor's right to examine the lawfulness of the enforcement at an early stage. Where multiple PCNs are outstanding or enforcement action is erroneously taken against the wrong individual or vehicle, the absence of identifying information makes it more difficult to raise a challenge or assert a third-party claim under CPR Part 85. This deficiency therefore not only burdens the debtor but impedes the court's ability to resolve disputes effectively. In cases where the debtor is vulnerable, lacks legal advice or speaks limited English, the inability to identify the issuing authority or specific PCN deprives them of a meaningful opportunity to contest the enforcement and exercise their rights.

It is well established that any interference with goods or property must be lawful, proportionate and procedurally fair. The obligation to provide sufficient information to enable a debtor to understand and respond to enforcement action arises from Article 6 of the ECHR, which guarantees the right to a fair hearing, including adequate notice and an opportunity to present one's case. It also derives from the common law principles of natural justice. The HRA 1998 incorporates these rights into domestic law through Schedule 1 and imposes, by section 6, a duty on all public authorities, including enforcement bodies and the courts, to act compatibly with them. Where enforcement documents omit the PCN number and details of the enforcing authority, the debtor is placed at a procedural disadvantage that undermines these protections. Such omissions are inconsistent not only with the requirements of Article 6 but also with Article 1 of Protocol No. 1, which protects the peaceful enjoyment of possessions, and with the transparency obligations in the Taking Control of Goods: National Standards (2014), which require enforcement agents to provide clear, accurate and complete information at all stages of the enforcement process.

Moreover, the failure to identify the originating authority inhibits the proper scrutiny of the agent's authority to act. It should be recalled that enforcement agents act as agents of the creditor and are subject to fiduciary and public law constraints. Transparency concerning who has instructed the enforcement, and in relation to which specific penalty, is fundamental to the rule of law. Without this, there is a risk of impersonation, double enforcement, or the pursuit of penalties that have already been paid, appealed or set aside. The Courts have made clear in decisions such as R (Kay) v Lambeth LBC [2006] UKHL 10 (BAILII) that any exercise of public power must be clearly justified and lawfully authorised. This applies equally to civil enforcement exercised through private agents acting under delegated authority.

The remedy lies in a simple but necessary statutory amendment to the TCGR 2013. It is proposed that a new regulation be inserted under Part 8 of the Regulations, requiring that all documents issued by enforcement agents in connection with the recovery of

traffic contravention debts must state both the PCN reference number and the name of the local authority on whose behalf enforcement is conducted. Where multiple PCNs are subject to the same enforcement instrument, each must be identified separately by number, date of issue and enforcing body. This requirement must also extend to Warning of Immobilisation notices and any documentation left at premises or affixed to vehicles, so that third parties and bystanders can also ascertain the nature and legality of the enforcement. Such a reform would be consistent with Paragraph 60(1) of Schedule 12, which requires agents to provide information about their actions, and would strengthen the debtor's ability to raise timely objections or claims under the TIGA 1977.

The proposed change imposes no undue administrative burden. The PCN number and enforcing authority are known to the enforcement agent from the outset and are part of the warrant data routinely transmitted to them. Including this data on documentation is an exercise in responsible drafting, not onerous reform. On the contrary, the measure would reduce the volume of disputes and complaints arising from uncertainty or mistaken enforcement, and enable local authorities to respond more swiftly to representations made by or on behalf of the debtor.

In conclusion, the absence of a legal obligation to disclose the Penalty Charge Number and name of the enforcing authority on enforcement documents is a long-standing procedural shortcoming that undermines transparency and legal accountability in traffic debt enforcement. The proposed amendment to the TCGR 2013 would bring clarity, consistency and procedural fairness to an area of law that frequently impacts the vulnerable and the unrepresented. It would enhance trust in the enforcement process, ensure proper authorisation, and uphold the principle that no person should be subject to enforcement without clear knowledge of the legal basis upon which it is founded. Parliament and the Ministry of Justice are therefore urged to implement this reform without delay.

27. Requiring Full Printed Name of Enforcement Agents on All Issued Documents

The statutory regime governing civil enforcement in England and Wales under Schedule 12 and its implementing regulations provides a detailed procedural framework for the taking control of goods. That regime, while broadly effective, exhibits several technical shortcomings which risk undermining public trust, procedural clarity and judicial accountability. One such deficiency lies in the absence of a formal requirement that an enforcement agent identify themselves clearly and consistently on all documents issued to a debtor or third party. It is the purpose of this recommendation to demonstrate the pressing need for a statutory amendment requiring all enforcement agents to print their full name in block capitals, in addition to any signature or company insignia, on all notices, warnings and receipts, in a manner that matches precisely the name held on their certificate issued under section 64 of the TCEA 2007.

The conduct and certification of enforcement agents is governed by the Certification of Enforcement Agents Regulations 2014. Regulation 3 provides that no person may act as

a certificated enforcement agent without having been found by the court to be a fit and proper person, with appropriate knowledge of the law and practice of enforcement, and sufficient financial standing to carry out the role responsibly. That certification process is designed to ensure public confidence in the lawful delegation of coercive powers. However, unless there is a practical mechanism by which members of the public can identify an individual enforcement agent with certainty and trace that agent against the public register maintained by the Ministry of Justice, the protections envisaged by Parliament are left unfulfilled in operational reality.

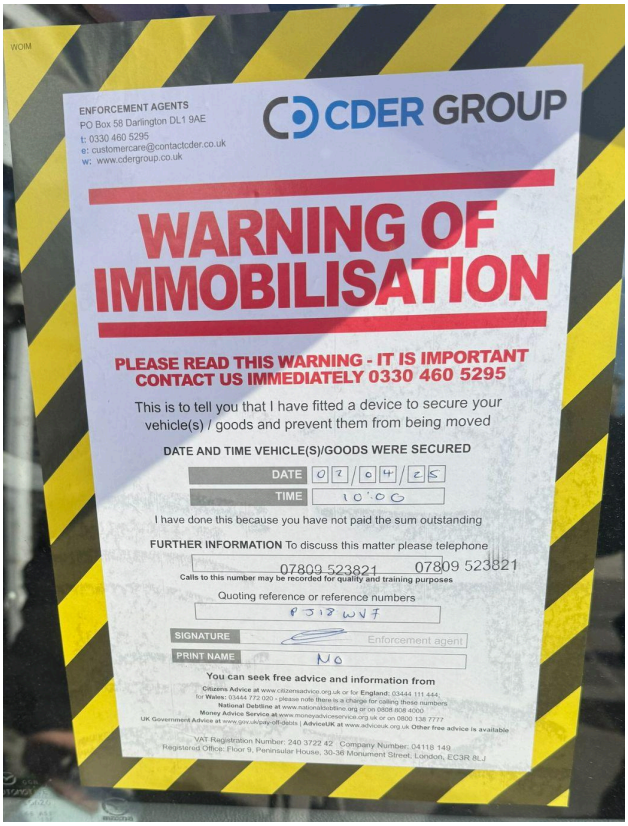
At present, there exists no statutory obligation requiring an enforcement agent to disclose their full name in block capitals on documents served. Instead, many agents sign only with initials, partial names, or stylised marks which render their identity obscure. This practice frustrates legal redress. In a recent documented instance, an agent signed only the letters "MO", leaving no reliable way for the debtor or court to ascertain whether that individual held a valid certificate, or whether enforcement was lawfully undertaken. In an age where significant enforcement activity is carried out by private companies on public authority, and where warrants may be executed in the absence of the debtor, the ability to identify with certainty the individual responsible for enforcement steps is indispensable to both procedural fairness and legal accountability.

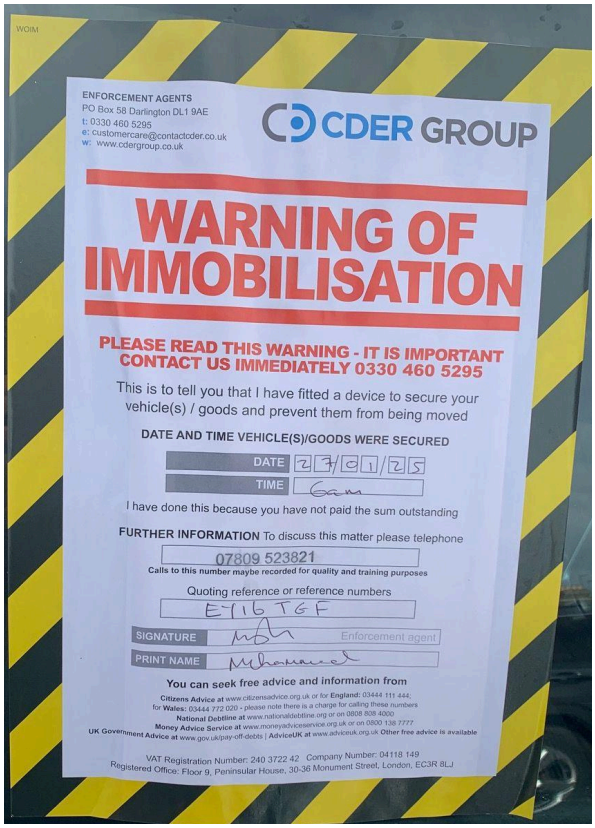
The legal foundations for this proposal lie not only in the statutory framework but also in well-established public law principles. In *R (L and others) v Manchester City Council* [2001] EWHC Admin 707, (BAILII) Lord Justice Munby affirmed that administrative conduct must be procedurally fair and not arbitrary, particularly where it affects individual rights. That principle applies with equal force to the acts of enforcement agents executing public functions under delegated statutory authority. The HRA 1998 incorporates into domestic law the procedural guarantees set out in the ECHR, including Article 6, which confers the right to a fair hearing, and Article 13, which supports the right to an effective remedy. Section 6 of the HRA 1998 imposes a legal duty on enforcement bodies and the courts to act compatibly with those rights. For a remedy to be effective, the individual or authority whose conduct is challenged must be identifiable. The absence of a legal requirement for enforcement agents to print their full name on enforcement documentation therefore risks undermining these rights by impeding accountability and frustrating the exercise of procedural safeguards to which debtors are lawfully entitled.

The absence of proper identification also frustrates mechanisms for complaint and judicial review. Under section 64 of the TCEA 2007, complaints against enforcement agents may be made to the court which issued the certificate. However, a complainant cannot be expected to engage that process unless the agent's name is known and capable of verification. Similarly, challenges under CPR Part 85, which permit third parties to assert proprietary claims in goods taken into control, and claims for conversion or unlawful interference under the TIGA 1977, all require the claimant to identify with specificity the agent who took the relevant enforcement step. The current practice, whereby such individuals may remain anonymous or misidentified, is inconsistent with these procedural rights and undermines the supervisory jurisdiction of the court.

The proposed reform is straightforward and imposes no material burden on agents or their employers. It is proposed that Regulation 16(3) of the TCGR 2013 be amended to require that any written warning affixed to immobilised goods must contain, in addition to the information already prescribed, the full name of the enforcement agent printed legibly in block capitals, exactly as it appears on their certificate issued under section 64 of the TCEA 2007. This requirement should apply equally to all documents issued to the debtor, including the Notice of Enforcement, Warning of Immobilisation, inventory of controlled goods and receipts for any money taken or accepted. The inclusion of the printed name ensures consistency with the certification regime and permits rapid verification against the Ministry of Justice's online register. The power to make such an amendment lies with the Lord Chancellor under section 62 of the TCEA 2007 and may be exercised by statutory instrument. It is modest in scope, easily implemented, and capable of immediate compliance by all responsible enforcement companies through a simple alteration to their standard documentation templates.

The necessity of the proposed reform lies in its capacity to improve transparency, strengthen accountability, and reduce procedural uncertainty in both public and private enforcement contexts. The consistent display of the full name of an enforcement agent acting under warrant is not a luxury, nor a bureaucratic formality. It is the minimum standard required to ensure that those exercising the coercive powers of the state can be held to account individually where misconduct is alleged or where judicial supervision is engaged. In light of repeated complaints and practical cases involving obscured or illegible identification, Parliament is respectfully urged to consider and adopt the proposed amendment without delay. It will ensure that the vital principle of traceability is upheld and that justice remains accessible and effective for all who are affected by the exercise of enforcement powers.





28. Charity And Debt Counselling Listings On Debtor Documents:

The statutory framework governing civil enforcement in England and Wales, as set out under Schedule 12 and supplemented by the TCGR 2013 and the Certification of Enforcement Agents Regulations 2014, is designed to ensure that the exercise of enforcement powers is conducted lawfully, transparently and in accordance with principles of procedural fairness. A critical component of this framework is the requirement to serve a Notice of Enforcement upon a debtor before any physical enforcement steps are taken. Such notice represents the first and, in many cases, only formal communication a debtor receives informing them of enforcement action and of their rights. Regulation 6(2)(g) of the 2013 Regulations mandates that the notice must include details of how the debtor may seek advice on paying the sum outstanding. However, the practical implementation of this requirement has produced a structural deficiency that Parliament must now address.

The present practice is for enforcement agents and their principals to include within the Notice of Enforcement and associated communications a list of well-known debt charities such as StepChange, National Debtline, Citizens Advice, Money Advice Service and AdviceUK. These organisations play an important role in providing financial guidance and helping individuals manage debt obligations. However, they are not equipped, trained or

mandated to advise on the legality of enforcement conduct, procedural breaches, or regulatory non-compliance by enforcement agents. Their disclaimers, where published, make this limitation plain. Despite this, the exclusive or prominent listing of these charities on enforcement notices has the unintended consequence of misdirecting debtors and third parties to advice channels that are structurally unable to assist with what may be the most pressing and time-sensitive issue: the lawfulness of the enforcement process itself.

The resulting prejudice is neither theoretical nor trivial. Where enforcement is carried out improperly, unlawfully, or through material procedural error, it is vital that affected individuals are able to access prompt, accurate and specialist guidance. Failure to do so may result in the unlawful removal of exempt goods, the taking of money not lawfully due, the interference with third-party property rights or, in extreme cases, personal injury or reputational harm. The delay caused by misdirected advice not only compounds these harms but may render judicial remedies such as applications under CPR 85 or paragraph 66 of Schedule 12 practically unavailable, particularly in urgent cases requiring interim relief.

The legal foundations for this proposed reform are anchored in longstanding principles of administrative fairness and access to justice. In *R v Secretary of State for the Home Department, ex parte Doody* [1994] 1 AC 531, (BAILII) Lord Mustill held that persons subject to adverse administrative decisions must be given sufficient information to make meaningful representations. That principle is now firmly embedded in domestic public law and is echoed in Article 6 of the ECHR, as incorporated into domestic law by section 1 and Schedule 1 of the HRA 1998, which guarantees the right to a fair hearing in the determination of civil rights and obligations. Section 6 of the Act imposes a duty on all public authorities, including enforcement bodies and the courts, to act compatibly with that right. These requirements are not met where individuals are deprived of access to essential procedural information, particularly in circumstances where statutory powers are exercised summarily and without prior judicial scrutiny. The absence of timely and adequate information undermines both the fairness of the process and the individual's ability to seek an effective remedy, in breach of the principles enshrined in Articles 6 and 13 of the Convention.

Further support is drawn from paragraph 66 of Schedule 12, which permits applications to court for the return of goods taken in breach of the enforcement regime, and from section 3 of the TIGA 1977, which confers a right of action where goods are wrongfully taken or retained. For such rights to be effectively exercised, the affected party must know both that a breach has occurred and how to respond to it. In many cases, this requires prompt access to specialist knowledge of enforcement regulations, case law and CPRs that fall entirely outside the competence of generalist debt charities. The failure to distinguish between financial counselling and enforcement-specific legal advice within official documentation risks invalidating the very safeguards these statutory provisions were designed to ensure.

Accordingly, it is proposed that all Notices of Enforcement and any enforcement documents issued or affixed pursuant to the TCGR 2013 or the Schedule to the Certification of Enforcement Agents Regulations 2014 be amended to include a mandatory disclaimer in the following terms: "Where debt charities are listed as sources of support, please note: Debt charities are not equipped to investigate enforcement impropriety or procedural breaches. Their focus is on financial counselling. For free advice on enforcement impropriety, contact National Bailiff Advice or visit www.nationalbailiffadvice.uk www.dealingwithbailiffs.uk". This wording is measured, accurate and fair. It does not denigrate the services of debt charities but clarifies their remit and provides a credible referral to a publicly accessible specialist resource which addresses a longstanding procedural deficiency.

The inclusion of National Bailiff Advice as a referenced support service is not merely beneficial, it is necessary. This publicly available and independently maintained platform is uniquely focused on the statutory, procedural and regulatory dimensions of civil enforcement. It provides structured guidance to those seeking to challenge defective enforcement notices, unauthorised entry, misapplied fees, failure to observe vulnerability provisions under Regulation 12 of the 2014 Regulations, and a range of other improprieties. The cost of inclusion is negligible. The impact on public understanding, access to remedy and judicial economy is significant.

In practical terms, this amendment may be implemented by the Lord Chancellor pursuant to the power under section 62 of the TCEA 2007 to amend regulations by statutory instrument. It would require only a minor revision to Regulation 6 of the 2013 Regulations, which governs the content of the Notice of Enforcement, and a consequential adjustment to associated guidance and template documents issued by enforcement agents and their instructing authorities.

In conclusion, the absence of a disclaimer and appropriate signposting to specialist enforcement guidance within Notices of Enforcement constitutes a structural omission which Parliament is invited to correct. The proposed amendment is modest in scope and wholly consistent with the statutory duty to ensure that the use of enforcement powers is transparent, proportionate and subject to lawful scrutiny. Ensuring that debtors and third parties are accurately informed of their procedural rights and the correct sources of redress is not only consistent with the common law duty of fairness and the right to a fair hearing, but essential to the maintenance of public confidence in civil enforcement. The proposed reform should therefore be adopted without delay.

29. Defining Defective Instruments under Paragraph 66:

The enforcement of civil debts under Schedule 12 engages fundamental principles of procedural legality, accountability and the protection of property rights. The framework is designed to ensure that enforcement powers are exercised strictly in accordance with law, and that both debtors and affected third parties are protected from unlawful or irregular conduct. Paragraph 66 of Schedule 12 provides an important statutory remedy,

allowing for recovery of goods or damages where goods have been taken in breach of the Schedule. However, the paragraph does not currently define what constitutes a defective enforcement instrument, nor does it articulate the conditions under which an enforcement power must be treated as unlawful. That omission gives rise to significant legal ambiguity and inconsistency in enforcement practice, which this proposal seeks to address by way of statutory amendment.

At present, Paragraph 66 provides that a debtor may bring proceedings where goods have been taken in breach of the Schedule, but the Schedule does not define what constitutes such a breach where the enforcement instrument is defective. In practice, the courts are left to determine on a case-by-case basis whether an enforcement power is defective and whether its exercise gives rise to liability. This reliance on judicial inference and common law development is inefficient, unpredictable and frequently prejudicial to vulnerable parties. There is no statutory clarity as to whether an enforcement power issued to an incorrect address, naming a legally non-existent debtor, or exercised after it has expired, is to be treated as void or merely voidable. The result is uncertainty for creditors, enforcement agents, debtors and the courts alike.

It is proposed that Parliament should amend Paragraph 66 of Schedule 12 to introduce a statutory definition of defective enforcement instruments. This definition would provide a clear, predictable and enforceable standard, and would reflect established principles of public law, private law, and civil procedure. The proposed wording would deem an enforcement instrument to be defective where it has been issued to an address unconnected to the debtor, where it names a person or entity that does not exist in law, or where the underlying enforcement power is no longer exercisable due to lapse of time or discharge by operation of law or judicial order.

The first category of defect concerns the address to which the enforcement power applies. Paragraph 14(6) of Schedule 12 permits the taking control of goods only at premises where the debtor usually lives or carries on a trade or business. That is the effect of paragraphs 7 to 10 of the Schedule. Where an enforcement power is directed to an address at which the debtor has no connection, and where goods belonging to third parties may be taken in error, there is an obvious risk of unlawful deprivation of property. This is particularly acute in cases involving former tenants, mistaken identities, or properties with multiple occupants. Codifying this form of defect would align with the territorial limitations imposed by the Schedule and would provide a safeguard against enforcement at inappropriate locations.

The second proposed ground concerns the naming of a person or entity that does not exist in law. A writ or warrant directed to a trading style, an alias, or a deceased person is not merely irregular but fundamentally void. It cannot confer legal authority where the named party has no juridical existence. Enforcement action under such an instrument gives rise to a serious risk of misidentification, and of the wrongful taking of goods from third parties. This defect is not uncommon in practice and results in unnecessary

hardship and litigation. A statutory definition would serve both to prevent such errors and to ensure that where they occur, there is a clear and swift remedy.

The third and final category concerns enforcement powers that have expired or been extinguished. The CPRs prescribe specific time limits within which enforcement must be commenced. CPR 70.5 and CPR 83.2 require that leave be obtained if six years have passed since the judgment or order was made. A warrant or writ issued outside the prescribed period without leave, or continued after the debt has been satisfied or the order stayed, is no longer valid. Yet in the absence of statutory guidance, enforcement agents may continue to act in purported reliance on expired powers, leaving debtors to challenge the validity only after harm has been done. This amendment would codify the settled principle that enforcement powers are finite and conditional and that the expiry or extinguishment of such a power renders its exercise unlawful.

The legal justification for this reform is compelling. Article 6 of the ECHR, as incorporated into domestic law by section 1 and Schedule 1 of the HRA 1998, guarantees the right to a fair hearing in the determination of civil rights and obligations. Article 1 of the First Protocol protects the right to peaceful enjoyment of possessions, while Article 13 underlines the right to an effective remedy for breaches of Convention rights. Section 6 of the HRA 1998 imposes a duty on all public authorities, including enforcement bodies and the courts, to act compatibly with these rights. Each of these provisions is engaged by enforcement activity, particularly where defective instruments lead to the taking of goods without lawful basis or adequate procedural safeguards. The common law duty of fairness, as affirmed in *R v Secretary of State for the Home Department, ex parte Doody* [1994] 1 AC 531, further requires that statutory powers be exercised lawfully and transparently, and that affected individuals are placed in a position to challenge those powers effectively. A statutory definition of defective instruments would give practical effect to these constitutional and procedural guarantees.

The reform would also promote administrative efficiency and judicial economy. The Civil National Business Centre (CNBC), which issues High Court writs and county court warrants, would be better equipped to assess applications if the statutory definition were clear. Courts would be relieved of the burden of interpreting the scope and validity of enforcement powers in every instance. Enforcement agents would be better trained and more easily held to account. Above all, debtors and third-party owners of goods would enjoy a clearer pathway to justice and a firmer legal basis for resisting unlawful enforcement.

The proposed amendment is modest in scope and entirely workable within the existing statutory and regulatory framework. It may be enacted through primary legislation or, where appropriate, by statutory instrument under the enabling powers set out in section 62 of the TCEA 2007. The language of Paragraph 66 of Schedule 12 should be revised to confirm that an instrument is defective where it was issued without lawful authority or contains a material error, irregularity or omission that affects its validity, including but not limited to an incorrect debtor, address, expired power, or procedural non-compliance.

This language is flexible enough to cover the most common and harmful forms of defect while preserving the discretion of the court to grant appropriate relief.

In conclusion, the absence of a statutory definition of defective instruments within Paragraph 66 of Schedule 12 constitutes a significant gap in the enforcement regime. This proposal seeks to fill that gap in a manner that is consistent with legal principle, fair in its operation, and practical in its implementation. It reflects the rule of law, respects the rights of individuals, and reinforces the integrity of civil enforcement. The proposed amendment should therefore be adopted without delay.

30. Reforming Paragraph 66 to Include Non-Debtor Claimants

Schedule 12 governs the statutory procedures by which enforcement agents may take control of goods. Paragraph 66 of that Schedule provides a statutory remedy for those who suffer loss or damage as a result of an enforcement agent's breach of its provisions. At present, however, that remedy is restricted in scope, being conferred only upon "the debtor". This creates a serious deficiency in the statutory scheme, since it fails to afford protection to third parties who suffer loss through no fault of their own, whether as owners, co-habitants, lessees or businesses operating from the premises affected. This paper proposes a focused and proportionate legislative amendment to remove that restriction, such that any person who incurs loss or damage by reason of a breach of Schedule 12 may bring proceedings under Paragraph 66.

The statutory limitation of the remedy to debtors alone fails to reflect the reality of enforcement practice. In many cases, goods are taken from shared premises or from properties containing items belonging to individuals other than the debtor. It is a matter of frequent occurrence that vehicles, tools or goods belonging to employers, family members or third parties are wrongly taken under warrant. Under the present framework, those individuals are denied the benefit of a statutory remedy, and must instead rely upon more burdensome and fragmented causes of action, including conversion, trespass to goods or claims brought under CPR Part 85. These alternative routes are procedurally complex, technically demanding, and inconsistent with the statutory intent of Schedule 12, which is to codify enforcement practice and provide clarity in its application.

Paragraph 66(1) presently provides that where a debtor incurs loss or damage as a result of a breach of Schedule 12, that debtor may bring proceedings. The proposed amendment would strike out the words "the debtor" and replace them with "any person". The effect is to make the statutory remedy available to any individual or legal person who suffers loss as a result of a breach of the Schedule. That loss may be financial, proprietary or reputational, and may arise from the wrongful taking or interference with goods, the improper entry into premises, or the failure of the enforcement agent to comply with any of the mandatory provisions of the Schedule. The remedy would include claims for damages, for the return of goods, or for any other relief the court considers just.

This amendment is justified on legal, procedural and public interest grounds. First, the restriction to debtors alone is inconsistent with the wider principles of tort law, which confer a right of action upon any person who suffers loss as a result of another's wrongdoing. The TIGA 1977 recognises a right to claim where goods are wrongfully taken or damaged, irrespective of whether the claimant is a party to the underlying transaction. To deny the same individual a statutory remedy under Paragraph 66 is both illogical and unjust.

Second, the current provision conflicts with the principles set out in the HRA 1998 and the ECHR. Article 1 of Protocol No. 1, incorporated into domestic law by section 1 and Schedule 1 of the HRA 1998, confers the right to peaceful enjoyment of possessions. Where a third party's property is wrongly interfered with by an enforcement agent acting in breach of statutory duty, that right is engaged. Article 13 of the Convention requires the State to provide an effective remedy for the breach of any Convention right, and section 6 of the HRA 1998 imposes a duty on public authorities, including the courts, to act compatibly with those rights. Limiting the availability of a remedy to debtors alone fails to comply with these obligations and places the wider enforcement regime at risk of legal challenge on human rights grounds. A system that excludes third parties from redress where their property is unlawfully taken cannot be reconciled with the principles of proportionality, legality and procedural fairness embedded in the Convention framework.

Third, the proposed amendment aligns with the reasoning of the Court of Appeal in Kaki v National Private Air Transport Services Co (Holdings) Ltd [2015] EWCA Civ 731. In that case, the Court recognised that remedies for procedural or substantive breaches of duty must be made available to those directly affected by the breach, whether or not they were parties to the original contractual or statutory arrangement. Lord Justice Aikens made clear that where loss is directly caused by breach, the remedy must follow, or the framework fails in both logic and justice.

The present reliance on CPR Part 85 as the principal remedy for third parties is procedurally inadequate. That regime is predicated upon the need to file formal claims in contested goods proceedings, often with strict deadlines and evidential burdens that are inappropriate in cases of straightforward statutory breach. It also creates a confusing dual-track process, whereby debtors proceed under Paragraph 66 while third parties must adopt an entirely different and more technical approach. This results in inconsistent remedies, duplicative litigation and needless costs. It also delays redress for those whose goods have been wrongfully taken and compromises public confidence in the fairness of enforcement law.

The proposed amendment would ensure that all individuals affected by a breach of Schedule 12 have a direct right of recourse, within the existing judicial structure. It would not displace common law causes of action or CPR Part 85, but would sit alongside them, providing a clearer and more accessible remedy where the harm arises from a statutory breach. The courts would retain their discretion to determine the appropriate relief in

each case, whether by ordering the return of goods, the award of damages or declaratory relief.

The practical implications of the amendment are modest and wholly achievable. Jurisdiction would remain with the County Court or High Court, as appropriate under Paragraph 66(4). Enforcement agents and creditors would be subject to a higher standard of diligence, knowing that their actions may give rise to statutory liability to any person harmed. This would encourage greater care in identifying goods and verifying the identity of the debtor prior to enforcement, reducing the incidence of wrongful interference. The Civil National Business Centre and the Ministry of Justice could issue supplementary guidance to ensure compliance.

In conclusion, restricting the remedy under Paragraph 66 to debtors alone is legally flawed, procedurally inefficient and incompatible with modern human rights standards. It fails to recognise the realities of enforcement practice and the rights of those whose goods may be wrongly taken in the execution of enforcement powers. The proposed amendment is modest, principled and proportionate. It reflects the statutory purpose of Schedule 12, strengthens access to justice, and reinforces the procedural safeguards that underpin lawful enforcement. It is therefore recommended that Paragraph 66(1) be amended to read as follows: "If any person incurs loss or damage because an enforcement agent breaches a provision of this Schedule, that person may bring proceedings for the breach." This change would give full effect to the legislative intention behind the TCEA 2007 and ensure that civil enforcement in England and Wales operates with fairness, legality and accountability for all.

31. Mandatory Disclosure of Creditor and Debt Details on Enforcement Documents

The current enforcement framework under Schedule 12 of the TCEA 2007, the TCGR 2013 and the TCGFR 2014 fails to require enforcement agents to provide the most basic information needed by debtors and third parties to understand, verify or challenge the debt. Paragraphs 7, 8 and 13 of Schedule 12 require the giving of notice and the provision of information upon request, yet enforcement notices often omit key details including the creditor's name, PCN numbers, Claim numbers and the classification of the liability. This obstructs access to justice and undermines procedural safeguards.

In High Court enforcement, debtors are frequently not told the originating County Court claim number, judgment date or adjudged amount. In traffic contravention enforcement, Notices of Enforcement and Warnings of Immobilisation often omit the name of the issuing authority and the relevant Penalty Charge Notice (PCN) number, substituting internal company references that have no meaning outside the enforcement company itself. The result is that debtors are unable to identify the origin of the liability, assess its legitimacy, or exercise procedural remedies such as an application under CPR 75.8. For third parties whose goods have been taken, the omission of these particulars makes it impossible to bring a meaningful claim under CPR 85.4 or the TIGA 1977. In both scenarios, the absence of disclosure – whether negligent or justified on specious data protection grounds –

frustrates the exercise of statutory rights and deprives affected persons of a fair opportunity to contest enforcement.

Some enforcement companies have asserted that disclosing creditor names or PCN numbers would breach the DPA 2018. This view is legally unsustainable. Schedule 2 of the DPA 2018 permits the disclosure of personal data where necessary for the exercise of legal rights or obligations. Article 6(1)(c) and (e) of the UK GDPR further permit processing where required for compliance with a legal obligation or the exercise of official authority. Moreover, neither a PCN number nor the name of a creditor constitutes personal data as defined by section 3(2) of the DPA 2018, since such information does not identify a living individual. To withhold these details under the guise of data protection is misconceived, may amount to a deliberate obstruction of procedural rights, and is inconsistent with section 6(1) of the HRA 1998, which obliges public authorities to act compatibly with Convention rights.

This practice also offends the common law duty of procedural fairness, as affirmed in R v Secretary of State for the Home Department, ex parte Doody [1994] 1 AC 531, and is incompatible with Article 6 ECHR and Article 1 of Protocol No. 1. Both provisions require lawful and proportionate interference with civil rights, supported by adequate procedural safeguards. Where enforcement documents fail to identify the creditor or the nature of the debt, those safeguards are absent. The result is that both debtors and non-debtors are denied a fair opportunity to respond or protect their property.

It is proposed that Regulation 7 of the TCGR 2013 be amended to require every enforcement document issued to a debtor or third party to include the following: (a) the name of the creditor; (b) the creditor's internal reference number; (c) the nature of the debt (for example, council tax, PCN, CCJ); and (d) where applicable, the originating claim number, judgment date and amount, or the PCN number and issuing authority. Failure to provide this information should render the notice non-compliant and revoke enforcement until a corrected notice is served. Time for compliance should recommence on the date of service of a compliant notice.

This reform is narrow in scope, cost-neutral, and gives practical effect to rights already conferred by Schedule 12, CPR 75.8, CPR 85.4 and the TIGA 1977. It would support lawful, transparent enforcement and ensure that legal remedies are not denied through administrative omission or strategic withholding of information. The change is necessary to safeguard procedural fairness, promote access to justice, and uphold the rule of law.

32. Remove Third-Party Claimant Requirement to Lodge Funds

It is respectfully submitted that CPR 85.5(6) to (8)(e) and paragraph 60(4)(a) of Schedule 12 to the TCEA 2007 impose a barrier to justice that is neither necessary nor justified in a democratic society governed by the rule of law. These provisions require third-party claimants, whose goods have been taken under Schedule 12, to pay into court a sum equal to the value of the goods in order to pursue their claim. In practice, this operates as a prohibition on access to justice, particularly where claimants are lawfully entitled to the goods but are unable to meet the immediate financial demand imposed on them. It is

proposed that these provisions be repealed and replaced with a procedurally fair mechanism subject to judicial discretion and grounded in proportionality.

The injustice is especially stark where the value of the goods far exceeds the liability under enforcement. It is not uncommon for vehicles worth over £10,000 to be taken in pursuit of a traffic debt of £65. This mismatch leads to disproportionate outcomes and exposes claimants to the risk of having their property converted or sold before their legal entitlement has been heard. CPR 85.5(6) compels claimants to pay a sum often far exceeding the debt in question within a mere seven days. The result is that enforcement agents and their representatives gain unjust procedural advantage, and the court's process becomes a mechanism for securing windfall recoveries with no adjudication on the merits.

In legal practice, this rule is routinely used tactically by enforcement solicitors to dissuade or displace legitimate third-party claims. The demand for a deposit, coupled with a short time frame and legal complexity, places an impossible burden on many claimants. The system excludes parties not for want of legal merit but for want of money. The effect is to defeat ownership claims without a hearing, causing irreversible loss where goods are sold and the proceeds distributed before judicial determination. Enforcement companies often retain not only fees and costs but sometimes surplus proceeds, all without the scrutiny of the court. The process thereby displaces the role of the court as arbiter and reduces the function of civil enforcement to a means of profit generation.

This outcome is plainly incompatible with Article 6 of the ECHR, which protects the right of access to the court. The requirement to pay a sum equivalent to the value of the goods taken in order to be heard is a financial bar that no modern legal system should tolerate. The interference is not proportionate to any legitimate aim. It is also inconsistent with section 6(1) of the HRA 1998, which requires public authorities, including courts, to act compatibly with Convention rights. Any process which deprives a person of the opportunity to assert ownership of goods simply because they cannot match the enforcement agent’s valuation within a prescribed period is inconsistent with those obligations.

The procedural scheme also offends the common law principle that justice must not be denied on grounds of poverty. In cases where the third party is vulnerable, in financial hardship, or asserting rights in respect of essential goods such as a vehicle required for work, the requirement to pay into court has the effect of excluding the claim altogether. It frustrates legitimate legal claims, encourages procedural attrition, and shifts the balance unfairly towards commercial enforcement interests.

It is therefore proposed that CPR 85.5(6) to (8)(e) and paragraph 60(4)(a) of Schedule 12 be repealed. In their place, the court should be granted discretion to order payment into court or security for costs only where it is just and proportionate to do so, having regard to the value of the goods, the nature of the dispute, the financial resources of the parties, and any risk of prejudice. Such orders should follow a hearing in open court, with both parties having a fair opportunity to make representations. The current seven-day time frame should be removed or extended to allow meaningful participation in the claim.

This reform would re-centre the third-party claim procedure on the substantive issue of ownership and entitlement. It would prevent enforcement agents from invoking the

deposit requirement as a tool of procedural defeat. It would also ensure that claims are resolved on their legal merits, not on the claimant's financial position. The outcome would be a fairer, more efficient system of civil enforcement, aligned with the values of the TCEA 2007 and the overriding objective of the CPR.

Parliament and the Ministry of Justice are invited to adopt this proposal as a necessary correction to a defect in the current rules which undermines confidence in the fairness and accessibility of civil enforcement. Its removal would bring the enforcement of third-party rights into alignment with long-established principles of justice and ensure that the court remains the forum for resolving disputes, not excluding them.

To preserve procedural balance, it is recommended that any repeal of CPR 85.5(6) to (8)(e) and paragraph 60(4)(a) of Schedule 12 be accompanied by an express clarification that the court's inherent discretion to order security for costs, where just and proportionate, remains available under CPR 3.1(5). This would ensure that enforcement proceedings remain fair to all parties while removing the blanket and exclusionary financial barrier currently imposed on third-party claimants.

33. Statutory Regulator and Independent Examiner for Enforcement Conduct (IEEC)

The civil enforcement sector in England and Wales exercises substantial powers backed by the authority of the courts, including the taking control of goods, forced entry, and the removal of vehicles from the public highway. These powers, conferred under statutory warrant, are executed by commercial enforcement agents who act without direct judicial supervision. Despite the gravity of these powers, there is no statutory regulatory body with the authority to oversee conduct, investigate breaches, or impose meaningful sanctions. The absence of statutory oversight has enabled poor practice, particularly against vulnerable debtors and third parties, and allowed systemic abuses to persist.

Voluntary initiatives such as the ECB lack the necessary powers or independence to provide effective regulation. The ECB is not established by statute, cannot compel cooperation, does not have investigatory powers, and has no ability to issue penalties or enforce compliance. It is funded by the same enforcement companies it purports to oversee. As a result, enforcement standards vary widely, redress is often unavailable, and public trust is undermined.

It is proposed that Parliament introduce a statutory regulator, established by Act and receiving Royal Assent, with independent governance and legal authority. The regulator should be empowered to (a) license and supervise all enforcement companies and certificated agents, (b) issue binding codes of conduct and practice directions, (c) investigate misconduct and compel the production of evidence, (d) revoke licences, suspend agents, impose financial penalties and require remedial measures, and (e) publish findings to ensure transparency and deter future breach. In addition to financial compensation, the regulator must be expressly empowered to recommend or require non-financial corrective action where warranted. This includes, but is not limited to, the return of controlled goods, the revocation or suspension of enforcement steps, and referral for judicial oversight. Such remedies are already available to the courts under CPR 84.13 and paragraph 66 of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007,

yet are rarely exercised. The proposed regulatory scheme would therefore give effect to this existing jurisdiction in a structured, independent framework, ensuring unlawful enforcement is not left unremedied and that procedural breaches are met with proportionate and enforceable responses.

This jurisdiction is already available to the courts under CPR 84.13, which permits the court to set aside enforcement steps, and under paragraph 66 of Schedule 12, which enables relief in cases of unlawful taking control. However, these provisions are seldom invoked and remain underdeveloped in practice. Clarifying that the regulator and Independent Examiner may mirror these judicial powers in recommending the return of goods or the reversal of enforcement action reinforces the feasibility of a robust remedial framework beyond monetary compensation. It also ensures that procedural and legal breaches are met with proportionate corrective measures in substance, not merely symbolic redress.

The need for specialised oversight is heightened by the technical and often misunderstood nature of enforcement law. Enforcement under Schedule 12 of the TCEA 2007, the TCGR 2013, the TCGFR 2014, and the CPR requires familiarity with complex statutory safeguards, procedural time limits, and ownership presumptions. This area of law is not generally understood by non-specialist ombudsman bodies. While Local Government Ombudsman (LGO) schemes play an important role in broader complaints handling, they lack the expertise and jurisdiction to investigate breaches of specific enforcement provisions or unlawful execution of writs. Complaints involving third-party ownership, defective warrants, or abuse of highway enforcement powers demand forensic understanding of highly technical procedures which generalised complaints frameworks cannot adequately address.

Accordingly, the new statutory regulator must incorporate a dedicated IEEC, with express statutory power to receive and determine complaints from any person or business adversely affected by enforcement action. The Examiner must be independent of industry, act without conflict of interest, and be empowered to (a) receive written complaints, (b) conduct investigations with the cooperation of enforcement companies, (c) issue determinations, and (d) recommend or impose redress, including compensation, apology, referral for regulatory sanction or judicial review. The role should be publicly funded and modelled on similar schemes such as the Financial Ombudsman Service, with safeguards for procedural fairness.

To support visibility and accessibility, all enforcement documents issued to debtors or third parties must include clear signposting to the regulator and by extension, the IEEC. This requirement should extend to statutory notices (for example, Notice of Enforcement, Controlled Goods Agreement, Notice After Entry) and any other correspondence related to enforcement. Contact details and a plain-language summary of the right to complain must be prominently displayed. The right to complain must be real, intelligible, and not dependent on prior legal knowledge or resources.

It is proposed that the statutory regulator and IEEC be publicly funded. The vast majority of enforcement arises from the recovery of public debts, such as council tax, court fines and traffic penalties, with only a small proportion linked to private High Court writs. As enforcement powers are exercised primarily for public benefit, oversight must be publicly

funded to ensure independence, avoid regulatory capture, and uphold public confidence. While some may suggest that industry funding could be retained with appropriate reforms or safeguards, such an approach remains fundamentally incompatible with the principle of independent regulation. A regulator that depends financially on those it regulates cannot be expected to act impartially in adjudicating complaints or imposing sanctions. Public funding is essential to eliminate the risk of industry influence, ensure objective oversight, and guarantee that enforcement conduct is held to account by a body capable of acting solely in the public interest.

This proposal is necessary to protect the rights of those affected by enforcement action, particularly in circumstances where enforcement is unlawful, disproportionate, or procedurally defective. The creation of a statutory regulator and an Independent Examiner would fill the current accountability vacuum, bring enforcement into line with other sectors exercising coercive power, and reinforce the rule of law. Public funding is essential to ensure true impartiality, removing the risk of industry bias and guaranteeing that complaints are addressed independently, by those with the requisite expertise. This will prevent repeated wrongdoing, secure meaningful redress, and restore public confidence. Parliament is urged to legislate accordingly.

The current model adopted by most enforcement companies reflects a three-stage complaint process which has its origins in the statutory complaints framework applied by public authorities, including the model prescribed by the Local Government Act 1974, sections 26A-B and 30 and the Parliamentary Commissioner Act 1967 sections 5(1), 10 and 11, and operated through the Complaint Handling Code issued by the Housing Ombudsman and mirrored in the PHSO Complaint Standards, which have been widely adopted in central and local government policy frameworks. This public sector model typically involves (1) an initial complaint to the authority or body concerned, (2) an internal or external review by an independent body, and (3) a final response or resolution based on the findings and recommendations made. Enforcement companies have informally mirrored this structure, but without any statutory underpinning, external supervision, or enforcement mechanism. As a result, complaints are often dismissed internally without impartial review, leaving no realistic avenue for redress or accountability.

Proposed Statutory Complaints Procedure for Civil Enforcement: A Three-Stage Model Ensuring Accountability and Redress

It is therefore proposed that the statutory regulator of civil enforcement adopt a formal three-stage complaint process, embedded in law and binding on all enforcement companies and instructing authorities. This process should be designed to ensure procedural fairness, independence, and enforceability of outcomes. At stage one, a complainant, whether debtor, third party, or legal representative, would raise a written complaint with either the enforcement company or the creditor on whose behalf the agent acted. The complaint would be investigated and answered in writing within a prescribed timescale, setting out findings and any proposed remedy or explanation.

If the complainant remains dissatisfied, stage two would involve an automatic right of escalation to the proposed Independent Examiner of Enforcement Conduct (IEEC) through its complaints investigation division, would be required to examine both the substance of

the original complaint and the adequacy of the response provided at stage one. The examiner would prepare a legal analysis addressing whether the enforcement conduct was compliant with Schedule 12, the TCGR, TCGFR and relevant case law or professional standards. This analysis would be sent to the instructing creditor for formal comment.

Stage three would require the instructing creditor, whether a local authority, court service or private client, to respond to the examiner's findings and either accept the recommendations, offer a remedy, or provide legal justification for refusing to do so. Upon receipt of this response, the examiner would retain the power to issue a binding determination. This could include the imposition of a regulatory sanction against the enforcement company or individual agent, the award of compensation to the complainant, a formal apology, or referral of the matter to the appropriate licensing or judicial body. Where relevant, the regulator may also recommend procedural or policy reform by the creditor to prevent recurrence.

This structured process would provide clarity, consistency, and enforceability. It would mirror the public sector model upon which it is based, while incorporating specialist legal analysis and external oversight to reflect the seriousness of powers exercised under warrant. It would further ensure that the instructing authority remains accountable for enforcement conduct carried out in its name, while preserving the complainant's right to meaningful redress.

Conclusion: Restoring Legal Balance Through Structural Reform

The proposals set out in this paper are not limited to technical amendments or regulatory refinement. They address deeper constitutional concerns that go to the heart of the civil justice system. At stake are foundational principles: access to justice, the rule of law, and proportionality in the exercise of delegated powers.

Current enforcement law permits outcomes that disproportionately affect the most vulnerable, often without effective judicial oversight, procedural clarity or timely remedy. The absence of transparency, accountability and meaningful safeguards undermines public confidence and invites arbitrary conduct in an area of law that directly interferes with property, family life and personal security.

These proposals seek to restore equilibrium between creditor rights and debtor protections, to uphold the minimum legal standards expected of public functions, and to reinforce the legitimacy of enforcement practices in line with constitutional and human rights norms. They are restorative in purpose and corrective in effect. They aim not merely at procedural improvement but at the reconstitution of a fair and principled enforcement regime.

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