



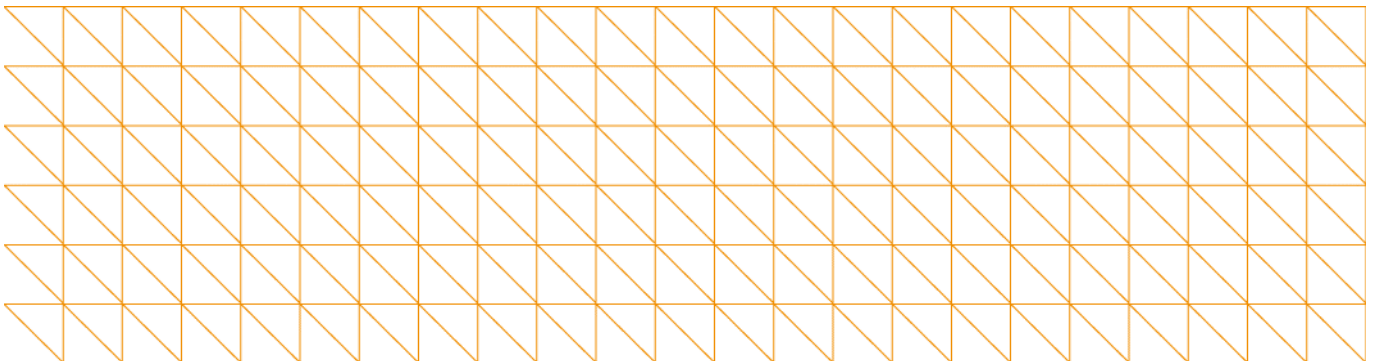
Ministry of
JUSTICE

Regulation of Enforcement Agents

Response to Consultation

CP(R) 02/07

18 March 2008





Ministry of
JUSTICE

Regulation of Enforcement Agents

Response to consultation carried out by the Ministry of Justice.

This information is also available on the Ministry of Justice website:
www.justice.gov.uk, the Home Office website at
www.homeoffice.gov.uk/about-us/haveyoursay/closed-consultations and the
SIA website at **www.the-sia.org.uk**

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Introduction

This document is the post-consultation report for the consultation paper, *Regulation of Enforcement Agents*.

It will cover:

- the background to the report
- a summary of the responses to the report
- a detailed response to the specific questions raised in the report
- the next steps following this consultation.

Further copies of this report and the consultation paper can be obtained by contacting **Anne Marie Goddard** at the address below:

**Enforcement Division
Her Majesty's Courts Service
4th Floor Steel House
11 Tothill Street
London
SW1H 9LH**

**Telephone: 020 7210 0425
Email: regenforceria@hmcourts-service.gsi.gov.uk**

This report is also available on the Ministry's website: www.justice.gov.uk.
Home Office website at www.homeoffice.gov.uk/about-us/haveyoursay/closed-consultations and the SIA website at www.the-sia.org.uk

Background

The consultation paper *Regulation of Enforcement Agents* was published on 30 January 2007. It invited comments on three options for regulation of enforcement agents and the evidence on all the options.

The paper explored three options. The three options were:

- no change;
- the creation of a new regulator, the Enforcement Services Commission (ESC); and
- regulation by the Security Industry Authority (SIA).

The paper made it clear that regulation by the SIA was the Government's preferred option. We set out the case for the preferred option, invited comments on these options and set questions to explore the evidence.

The consultation period closed on 25 April 2007 and this report summarises the responses, including how the consultation process influenced the final shape/further development of the policy/proposal consulted upon.

A list of respondents is at Annex A.

Summary of responses

1. A total of 438 responses to the consultation paper were received. Only 52 responded on the three options put forward in the consultation paper. A breakdown of the 52 respondents is as follows:
 - 14 Enforcement Agents, Enforcement Businesses, Professional and Trade Associations (referred to as Enforcement Agents);
 - 12 Individuals
 - five Local Authorities;
 - five Government Departments and Statutory Bodies (referred to as Government Departments);
 - five Public Interest Groups;
 - four Stakeholder Groups and Representative Organisations (referred to as Stakeholder Groups);
 - three Creditor Groups;
 - two Members of Parliament; and
 - two Solicitors and Legal Advisers (referred to as Solicitors).
2. 24 responses which were received by e-mail were corrupted and unreadable so it has not been possible to include them in this analysis. The remaining 362 (from individuals) were all very similar in nature. They did not respond on the options but used the opportunity to ask the Government to reconsider the powers of entry given to enforcement agents. They did, however, answer some of the questions. Some of these individuals did not supply names.
3. All 414 responses were analysed for evidence of impact of the proposals and the levels of support across the range of groups.
4. Questions 1 and 2 were posed to identify the impact, if any, on different groups of people of the decision to regulate enforcement agents.
5. The paper revisited the three options set out in the Partial Regulatory Impact Assessment of the White Paper *Effective Enforcement* published in March 2003. The three options were:
 - No change,
 - The creation of a new regulator, the ESC, and
 - Regulation by the SIA.

6. Question 3 asked which of the options the respondent preferred and requested specific reasons why.
7. Question 4 sought views on whether there were any other issues the Government would need to consider as some considerable time had elapsed since the White Paper in 2003 which proposed regulation.
8. It is important that we quantify the impact any new burden has on business and in particular the possible cost implications on small business. At the time of consultation we did not have sufficient evidence to quantify the impact. Question 5 requested views on whether the impact will be greater on small firms than large ones.
9. In response to question 3 on the options there was overwhelming agreement across the range of responses that there was still a need for statutory regulation. Regulation by the SIA was the most popular option although it did not receive overwhelming support. The majority of enforcement agents supported an alternative proposal put forward by the British Parking Association in response to this consultation paper. The proposal, however, did not receive support from any of the other sectors and is a form of self-regulation which was dismissed in previous consultations and is not supported by Government.
10. In the absence of a viable alternative the Government proposes to proceed with its preferred option of regulation by the SIA.

Responses to specific questions

Questions 1 and 2 were posed to identify the impact, if any, on different groups of people of the decision to regulate enforcement.

1. Do you think that better regulation of enforcement agents would have a positive impact for different groups of people including minority groups? If so why?

280 of the 414 respondents answered this question.

250 respondents from across all the sectors agreed that regulation would have a positive impact. This comprised of all the public interest groups, local authorities, stakeholder groups, creditor groups, Members of Parliament and solicitors, as well as 214 individuals, 12 enforcement agents and three Government Departments. Not all respondents provided reasons. The majority of reasons given were:

- regulation would assist in protecting the vulnerable and would weed out the unscrupulous (84 responses);
- regulation would improve standards (68 responses);
- the rights of all parties would be more transparent (54 responses); and
- regulation would improve public confidence in the enforcement process and improve the reputation of enforcement agents or agencies (33 responses).

2. Do you disagree that regulation of enforcement agents would have a positive impact for different groups of people including minority groups? If so, please provide specific details.

21 individuals and three enforcement agents stated that they disagreed that regulation of enforcement agents would have a positive impact for different groups of people, including minority groups. The three enforcement agents qualified their response by giving the following reasons:

- regulation would not make any difference to different groups of people, and that the present system works and does not need changing;
- bailiffs / enforcement agents already act responsibly;
- problem is not with bailiffs but creditors who pass on unsuitable cases for bailiff action;

- current system of being accountable to a district judge is satisfactory; and
- regulation could result in fewer uncooperative debtors paying, and the costs being passed on to debtors who do pay.

We are encouraged that the general consensus is that regulation of enforcement agents would have a positive impact for debtors. The evidence provided suggests that regulation would protect the vulnerable and would not be limited to specific groups of people.

The Full Impact Assessment will include an Equality Impact Assessment.

The paper revisited the three options set out in the Partial Regulatory Impact Assessment of the White Paper *Effective Enforcement*. The three options were:

- No change
- The creation of a new regulator ESC, and
- Regulation by the SIA.

The paper made it clear that regulation by the SIA was our preferred option.

3. Which of the options do you prefer? Please provide specific reasons why.

Only 52 responses were received to this question. Of these 21 chose one of the three options given in the consultation document.

19 others stated that they did not consider any of the options acceptable, nine did not state a preference and a further three stated that they would be content with either option 2 or option 3.

Option 1 – No Change

None of the respondents were in agreement with the option of no change.

Option 2 - The creation of a new regulator, the Enforcement Services Commission

Nine respondents favoured this option. This group comprised of four enforcement agents, two individuals, one stakeholder, one local authority and one creditor group. The reasons given were:

- greater regulatory powers could be provided for, including a complaints board;

- inappropriate to associate enforcement agents with security staff;
- regulatory body needs to have expertise and in depth knowledge of industry; and
- independent regulation was required and the SIA was not suitable in the light of its past/present performance.

Option 3 - Regulation by the SIA

12 respondents across all the sectors favoured this option. This group comprised of one enforcement agent, five individuals, one stakeholder, one local authority, one Government Department, one public interest group, one creditor group and one Member of Parliament. The reasons given were:

- costs less than separate commission;
- SIA is the best alternative since a separate commission would take too long to set up; and
- gives one point of call for parking offences and parking fines.

Either option 2 or option 3:

Three respondents, made up of one Government Department, one solicitor and one individual supported regulation but indicated they had no strong preference for either option.

None of the options

19 replies were received from across the sectors that indicated they did not support any of the options. The reasons given were:

- 12 respondents supported instead a new alternative option for regulation provided by the Bailiffs and Enforcement Agents Council (BEAC)¹. Three respondents disagreed with this proposed alternative. A copy is attached at Annex B. All the responses for and against this proposal were from enforcement agents and stakeholder groups. It is not clear who has been consulted on the proposal as comments were only received from within the industry. Self-regulation was fully explored in the Green Paper *Towards Effective Enforcement* published in March 2001 and although these

¹ The British Parking Association (BPA) drafted proposals for regulation by the BEAC. This body would require the compulsory self regulation of all private sector bailiffs, but could also include public sector bailiffs and debt collectors in time if, and when agreed. The BEAC would be established by Government Order, and be self-funding from the fees of registrants / companies. It would handle complaints, be responsible for education and training, and introduce an approved contractor scheme.

proposals are a little more developed, without the support of the entire industry the arguments against self-regulation still exist;

- support instead for the Bailiff (Licensing) Bill² (one individual);
- regulation is unnecessary and control of the industry should be dealt with in contractual agreements (one enforcement agent); and
- the ESC costs too much, and the SIA has insufficient powers (one creditor group).

The London Motorist Action Group (LMAG) also expressed the view that neither of the proposed regulators had sufficient powers, and instead commended the creation of a Scottish Civil Enforcement Commission. It stated that it would like to see a similar body created for England and Wales. In addition it considered that the BEAC proposals had merit and should be explored further.

No preference stated

Nine respondents did not express an opinion on the options.

Six provided comments on why they did not support option 3:

- the SIA would have insufficient powers (four responses); and
- absence of a complaint handling capability (two responses).

Two provided comments which supported regulation but raised related issues:

- regulation should be extended to include enforcement agents who carry out evictions; and
- confusion for complainants should be avoided.

One respondent commented that it will encourage and facilitate a more just, equitable, professional and less confrontational approach to the work of enforcement agents.

² The Bailiffs (Licensing) Bill is a private member's bill being introduced by Lord Lucas.

There was overwhelming agreement across the range of responses that there was a need for statutory regulation. The creation of a separate Enforcement Services Commission would be costly and take longer to set up. The proposed alternative, put forward by the British Parking Association, of a Bailiffs and Enforcement Agents Council (BEAC) is compulsory self-regulation. It is not clear who has been consulted on the proposal as comments were only received from within the industry. Self-regulation was fully explored in the Green Paper, *Towards Effective Enforcement* published in July 2001 and although these proposals are a little more developed, without the support of the entire industry the arguments against self-regulation still exist.

Contractual regulation would not provide the safeguards called for to protect the vulnerable. It also could not set consistent standards for the industry as it would be dependent on the individual standards of the contracting party.

The Scottish Civil Enforcement Commission was to be created as a new public body to appoint, regulate and oversee the work of a new unified Scottish enforcement profession and to promote an increased understanding of civil enforcement by the public. The legislative framework for its creation exists under Part 3 and Schedule 2 of the Bankruptcy and Diligence etc (Scotland) Act 2007 which was granted Royal Assent on 15th January 2007.

The first Minister of the Scottish Government announced in January the decision not to proceed with implementing a Scottish Civil Enforcement Commission. The decision was made after consultation with stakeholders who considered standards within the profession to have risen since 2002.

Existing problems with the Scottish enforcement system are to be addressed through an alternative approach. This includes changes to representation on the Advisory Council, publication of a Code of Practice, and looking at the possibility of making membership to the professional association, the Society of Messengers at Arms and Sheriff Officers (SMASO), compulsory.

We recommend regulation by the SIA. The SIA has a stakeholder engagement strategy and engages with each stakeholder using methods appropriate to that specific group or individual. The benefit of the SIA option would be that they would establish networks that will enable these diverse interests and individuals to contribute to SIA policy-making in a constructive manner.

As some considerable time had elapsed since the White Paper in 2003 which proposed regulation it was considered necessary to seek views on whether there were any other issues the Government would need to consider.

4. Are there any particular issues that the Government should be aware of?

This question drew the largest response. 357 respondents sent in their comments. This group consisted of 346 individuals, three enforcement agents, two public interest groups, one stakeholder, one local authority, one Government Department, one creditor, one Member of Parliament and one solicitor. The issues that were raised were as follows:

- need for a complaints procedure and more powers;
- crown employees should be regulated;
- regulatory body should also be responsible for individuals carrying out evictions - not just court evictions; and
- objection to forcible entry/increased powers for enforcement agents.

Need for a complaint procedure and more powers

A large number of views were expressed, mostly supporting or reiterating the idea that the new regulatory body should have sufficient powers to regulate effectively and protect the vulnerable.

30 respondents expected the regulatory body to handle complaints. This group comprised of seven enforcement agents, six individuals, four public interest groups, three local authorities, three Government Departments, three creditors, two stakeholders, one Member of Parliament and one solicitor.

Three respondents (comprised of one stakeholder, one creditor and one public interest group) expressed concern that the SIA would need to have more powers if it is to operate effectively.

In contrast the Commission for Local Administration for England stated that the Local Government Ombudsmen has authority to investigate complaints of injustice arising from maladministration by local authorities under their jurisdiction, which includes the use of private enforcement agents by Local Authorities for local taxation debts and parking offences. The creation of a regulatory body could cause confusion for complainants, as there would then be two bodies to complain about an issue, which in the complainant's eyes seem to be one matter.

Her Majesty's Inspectorate of Courts Administration pointed out that they already perform an inspection function in respect of enforcement and would expect to establish strong links with any regulator. They expect to continue inspecting according to their remit under section 59 of the Courts Act 2003.

Crown employees should be regulated

17 respondents (comprised of nine enforcement agents, three individuals, one local authority and one public interest group) stated that regulation should include Crown employees.

Regulatory body should also be responsible for individuals carrying out evictions - not just court evictions

The Children's Society expressed concern at the use by local authorities of private bailiff companies who disregard health and safety when executing forced evictions on Gypsy and Traveller sites. They also highlight discriminatory language used by such companies advertising this type of service on their websites.

The Commission for Racial Equality expressed concern at the lack of assessment of welfare needs of Gypsies and Irish Travellers evicted from unauthorised sites, and poor timing and lack of notice on evictions. Some local authorities mistakenly believe contractors, rather than the authorities, have obligations to promote race equality and good race relations in respect of evictions. It is not clear how anyone wishing to complain about an enforcement agent enforcing a private landowner's common law powers against trespass could go about this.

The Department for Communities and Local Government also drew attention to the common law right of landowners to evict gypsies/travellers considered to be trespassing, and also local planning authorities' use of private enforcement agents to return a piece of land to its original condition when a planning control has been breached. They consider regulation should cover enforcement agents working in these circumstances.

Objection to forcible entry / increased powers

The consultation paper was issued during the Parliamentary passage of the Tribunals, Courts and Enforcement Act 2007 and respondents used the opportunity to voice concern about the provision of forced entry for enforcement agents. 245 responses were received on this subject.

Of these, 201 individuals were opposed to forced entry. 34 individuals did not refer in their response specifically to powers of entry, but did state they did not want to see bailiffs given more powers. 10 individuals broadly agreed with the CAB position that powers of entry should be subject to strong safeguards and used only as a last resort.

One individual person expressed positive support for allowing forced entry, but this was in reference to her own circumstances which involved difficulty in obtaining possession of a property.

Many of the 201 opposed to forcible entry were among those concerned about use of such a power against people who are mistakenly chased for debts that are not theirs or victims of identity theft, with many claiming to have direct

personal experience of this. They also mentioned the possibility of property being taken that does not belong to the debtor.

Avoidance of debt problems

46 respondents (comprised of 44 individuals, one local authority and one public interest group) used the opportunity to express their concerns about the need to keep people out of debt in the first place. Some suggested that there should be support for credit unions and better education on money matters. However most attacked irresponsible lending practices and promotion of credit products, which some felt the government could do more to control.

In the light of the comments made by the Commission for Local Administration for England and the role of the Local Government Ombudsmen we will need to look in detail at the different complaints procedures. This will not be a role for the SIA.

The Government does not consider it necessary to regulate Crown employees but has given a commitment to ensure that there is a common set of standards and a common system across the enforcement industry.

Enforcement agent powers are covered by the Tribunals, Courts and Enforcement Act 2007. The Government has given a commitment that the extended powers of entry will not be brought in to force until the statutory regulation of the industry is in place.

It is important that we quantify the impact any new burden has on business and in particular the possible cost implications on small business. At the time of consultation we did not have sufficient evidence to quantify the impact.

5. It would be helpful to receive specific information from small businesses as to what you estimate the cost implications of the proposals will be. Please give your views on whether they will have a greater impact on small firms than large ones

15 responses received included views or comments on whether the impact of the proposals on small firms would be greater than on large ones.

- three enforcement agents, two individuals and one public interest group submitted a view that the cost implications to smaller businesses would be greater than to larger ones.
- four enforcement agents did not consider that there was sufficient detail in the proposals at this stage to be able to make an accurate estimate.

- one enforcement agent, one stakeholder group and one creditor group suggested that the cost implications would be the same or equal to small firms and large.
- two respondents suggested that small businesses will struggle with the costs and it would delay growth and expansion.

The Full Impact Assessment will include a small business impact assessment which will be written in conjunction with the Small Business Service.

Conclusion and next steps

1. There was an overwhelming response across the sectors that there was still a need for independent statutory regulation. Regulation by the SIA received more support from across the sectors than any of the alternative options. A separate independent regulator for enforcement agents would be cost prohibitive. In the absence of any viable alternative the Government's preferred option remains regulation by the SIA.
2. The detail of the issues raised by respondents will be included in the Full Impact Assessment to be published by the Autumn 2008.
3. There is still a lot of preparatory work to do on the detail and the need to continue to involve enforcement agents and stakeholder groups. The Tribunals, Courts and Enforcement Act 2007 provides for an interim solution of enhanced and extended certification which will be developed further.

Consultation Co-ordinator contact details

If you have any complaints or comments about the **consultation process** rather than about the topic covered by this paper, you should contact Laurence Fiddler, Ministry of Justice Consultation Co-ordinator, on 020 7210 2622 or email him at consultation@justice.gsi.gov.uk

Alternatively, you may wish to write to the address below:

**Laurence Fiddler
Consultation Co-ordinator
Ministry of Justice
5th Floor Selborne House
54-60 Victoria Street
London
SW1E 6QW**

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given on page 3.

The consultation criteria

The six consultation criteria are as follows:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

These criteria must be reproduced within all consultation documents.

Annex A – List of respondents

None of the respondents indicated they wished to remain anonymous.

Enforcement Agents (incl. Professional / Trade Associations)

Alexander's Certificated Bailiffs
Association of Civil Enforcement Agencies (ACEA)
Bailiff Manager Scarborough Borough Council
Collect Services Limited
Empire Enforcement Limited
Enforcement Services Association
Equita Limited
High Court Enforcement Officers Association Limited
Local Authority Civil Enforcement Forum (LACEF)
Menai Professional Enforcement Services
Swift Credit Services Limited - Bailiff Company
Whyte & Co – Certificated Bailiffs
Bill Carpenter – Certificated Bailiff
Carl Copping – Bailiff

Stakeholder Group (incl. Representative Organisation)

British Parking Association
Enforcement Law Reform Group
Institute of Revenue, Ratings and Valuation (IRRV)
London Motorist Action Group

Local Authorities

Cambridge City Council
Castle Point Borough Council
Milton Keynes Council
Tendring District Council
Wirral Metropolitan Borough Council

Government Departments (incl. Statutory Body)

Commission for Local Administration in England
Commission for Racial Equality
Department for Communities and Local Government
Her Majesty's Inspectorate of Courts Administration
Office of Fair Trading

Public Interest Groups (incl. Advice Organisations)

The Children's Society
Citizens Advice
The Darbari Trust UK - Advice Sector
Money Advice Trust
John Kruse – Academic, Debt Advisor

Creditor Groups

Credit Services Association
Institute of Credit Management
P & A Receivables Services PLC - Credit Management

Members of Parliament

Austin Mitchell MP
David Taylor MP

Solicitors (incl. Legal Advisers)

Geoffrey Parker Bourne
Liverpool Law Society

Individuals

Chris Beatty
Alan Clark – Member of the British Parking Association
Philip Evans
Brian Hammond
Adrian Johnson – Council Enforcement Co-ordinator
Andrew McCulloch
Mark F Shelton – Security Operations Manager [SIA licensee]
Matt Sissons
Simon Smith - SIA Non Front Line Licence Holder
Mark White
David J Wright
One response with no name supplied

362 respondents did not answer the questions on the three options.

42 responses were received by fax or e-mail from individuals who did not supply details of their name or organisation for identification purposes.

The remaining 320 individuals/organisations which supplied names are listed below.

Matthew Acaster	Angela Davis	Steve Jones	Debbie
Tania Ackroyd	Mark Dawson	Max Jones	Ruppenthal
Mohammed Adam	Melanie-Jane Day	Dave Jones	P Saker
Advantage	Caroline de	John Jones	Jody Salisbury
AFM Security	Leeuw	Peter Judd	David Sampson
Joanne Agius	Catherine	D Judge	Kamaldeep Samra
Alan Akeister	Dempsey	Simon Kearney	Jeff Saunders
Ceri Allen	Trish Devlin	Fiona Keel	Harley Saunders
David Anderton	Michael Dias	Denise Kennedy	Bill Saville
Arc Music	Derek Dorman	Atif Khan	J Scaife
John Archer	S Driffill	Kidd Rapinet	Helen Scarlett
Ian Ardron	David and Jacqui	Solicitors	Ian Seaman
Nigel Armstrong	Duffill	Ross King	Suzie Shiers
Art N Body	Dave Duggan	Anne King	Tony Siddorn
Leigh Ashton	Mike Dunmore	Mel Kirton	Anne Siedle
Barbara Ashworth	J Dunn	Bryan J Lamb	John Slack
Manager	Thomas	Judith Lappin	Helen Smith
Rossendale CAB	Ecclestone	Richard Lee	Steve Smith
Mark Astill	Olusola Fadero	Dave Lloyd	Barbara Smith
Grant Atkins	Marie Fahy	Lisa Long	Adrian Smith
S Austin	Chris Fallows	Stuart Longley	Simon Smith
Debbie Bacon	Derek Farnfield	Gloria Loveday	Heather Smith
Roger Bacon	Paul T Farrell	Dave A Lucas	Fleur Soper
Salim Badat	Dr R D Feltham	Roger Lyne	Nick Speare
Paula Bailey	Dee Finch	Cherie MacDonald	St Albans Central
Mike Bamber	John Finnerty	Martin Maciazek-	Adrian J St
John Banks	Firmbase Ltd	Ralph	Vaughan
Bill Barcas	First Hydro	Tristan Maguire	Eleanor Stapleton
Kevin Barnard	Company	Keith Malone	B Start
Martin Barnes	Patrick Flanagan	Anna Marshall	Tanya Steele
Iain Barnett	Amy Flower	Brenda Mathews	Cathy Stevens
Elizabeth Barratt	Ellen Fogarty	Anne McClary	Tom Stewart
D Bate	Roger Forward	Dawn McHale	Charis Stibbards
Jill Bath	Oscar Franklin	Gillian McIver	Nick Stiles
Chris Batten	Don Gallacher	Bob McLachlan	Mel Stillwell
Wendy Bawn	David Gardiner	David McMullan	Wendy Strathdee
	Laura Gartlan		

Steven Baxter	Grace Garvey	John Meaney	Elaine Tapley
Terry Bennett	Anthony Gee	Lisa Merriman	Tera UK
Carolina Bermudez-Martinez	Peter Gibbins	Mark Miller	The Clockhouse
Jane Bland	GIS Limited	Joanne Mitchell	Carl Thomas
Andrew Blunt	Steve Gold	Belinda Mollross	Kristin Thomas
Martin Blyth	Keith Gould	David Moore	John Thomas
Peter Bourne	Lorraine Grant	Susan Morgan	Margaret Thomas-Baptiste
W Brad	Clive Gregory	Morgan Photography	Claire Thompson
Barry Bramer	Matt Griffiths	Martin Mottershead	Paul Thompson
Derek Brent	Alexander V Grigorash	Tony Munn	Kevin Thomson
Patricia Bridges	Emil Gudfinnson	Mike Murphy	Rebekah Thorpe
R Brody	David Guthrie	Adrian Muxlow	John Tibbs
Howard Brooksbank	Philip Haig	Jennifer Myddleton	Roger Tidy
Jean Brown	Henry Hall	Frances Nehme	Alison Tolhurst
Chris Bryant	Lucy Patricia Hallam	Lee Nicklin	Steve Tomlinson
John Burgess	Richard Ham	Mark Norman	Peter Townsend
Graeme Burton	C Hamill	Brendan O'Donovan	Tom Trainer
Stu Burton	Chris Hampshire	Sean O'Hara	Steven Tummons
Ian Carrington	Ray Hancock	Mark O'Neill	Ultimate Security Worldwide Limited
Darren Carter	Paul Hanlon	Rosemary Orekogbe	Samantha Underwood
Anna Cave	John Harding	Stephen Orme	Natasha V
Chadwick Hotel	Roy Harris	Gordon Orr	Ieke van Stokkum
Marios Charalambous	David Harrison	Tony P	Mike Vardy
Jude Chesser	Robert Harrison	Sue Palterman	John Vaudrey
Ken Chilvers	Roger Hart	Derek Parry	Vital Sign Solutions Limited
Maria Cimas	Hastings Citizens Advice	Andrew Partington	Sally Wade
Jackie Clarke	Russell Healey	Garry Parvin	Geoff Walker
Benjamin Cleaver	Jim Henson	M Peers	Iain Wallace
David Codd	Chris Hewson	Chris Perrott	Phil Walshe
Jason Colbourne	Ginni Hogg	Trevor Perry	Anthony Walters
John Coldwell	Clive Hollins	Diana Perry	Sharron Ward
David Coles	Clare Hooper	Alan Pickering	Sarah Watters
Jamie Collier	Roger Horne	Daniel Pidgeon	Robin Webb
Bridget Comery	Matthew Howard	Roger Pitfield	Ken & Sal Weston
Carolyn Compston	Lisa Howes	Barbara Pitney	Glen Wharmby
Ronald Cooke	Paul Hudson	Nicola Powers	Raj Wilkey
Kenneth Coulthard	Anna Humphreys	James Prettyman	L Williams

Hugh Cowan	Paul Hurst	Bob Pritchard	Aileen Williams
Juliette Cowan	Eric Hutcheon	John Pye	John Willingham
Phil Cuff	Robert Innes	Tom Ram	Bob Wilson
Sandra Cully	Bill Isom	Kristina Ramsden	David Wilson
Sandra Cully	Paul C James	A Raney	Helen Wood
Kat Curry	Richard James	Nick Redman	Sylvia Worthy
Mark Curtis	Ted Jeavons	Tony Richardson	George C
Lynn Daley	Anne Jessett	Arthur Riding	Wrangham
Ms Trace Davis	Deryck Johnson	David Ritson	Lin Wren
Stephen Davis		Claire and Paul Roulliers	

Annex B - The Bailiffs and Enforcement Agents Council (BEAC)

PROPOSAL DRAFTED BY THE BRITISH PARKING ASSOCIATION

An alternative and cost effective approach is for Government to establish compulsory self regulation initially for **all** private sector Bailiffs and enforcement agents (i.e. those using the procedure in Schedule 12 of the Tribunals, Courts & Enforcement Bill to take control of goods and sell them to recover a sum of money), through the creation by order (statutory instrument), of The **Bailiffs and Enforcement Agents Council (BEAC)**. The BEAC would be responsible to the **Privy Council** for regulating the profession and protecting the public by ensuring that such bailiffs and enforcement agents provide high standards of performance and conduct.

The Council would:

- Maintain a register of bailiffs and enforcement agents.
- Set standards of conduct and performance.
- Be responsible for education and training.
- Deal with complaints and allegations of misconduct.
- Introduce an Approved Contractor Scheme.

Note: It would not be necessary for the Council to undertake all these tasks itself. It may prefer to delegate some to accredited professional associations, in the same way that the DVLA (in conjunction with the DfT) has developed 'Accredited Trade Association' status in respect of access to its register of keeper details.

The Council would be self-financed from the fees charged to registrants and approved companies and from its own income generating activities. Some pump priming funds would be needed during the initial set up period to establish the body.

The Council will be made up as follows:

- A chair appointed by the Secretary of State or Privy Council.
- nine registered members (elected by the registrants).
- three industry organisations' representatives (nominated by the trade associations but appointed by Privy Council).

- three representatives from external bodies (including nominees from the advice sector).
- 7 lay members (appointed through Privy Council).

Note: There would be no remuneration for members of the Board, (apart from the chair), although reasonable expenses would be paid.

This would create a Regulator that is not a Government Department, nor an executive agency nor an individual (e.g. a Commissioner). It would be an independent Council made up of members of the profession and members of the public. Whilst regulation would be statutory (i.e. set by law), the organisation would be independently run and managed. Responsibility to the Privy Council would ensure a degree of independence from central and local Government, easily the single biggest user of bailiff services.

PROTECTION OF TITLE

Only those people that meet the requirements agreed by the Council would be able to call themselves a Registered Bailiff or a Registered Enforcement Agent and use the procedure in Schedule 12. The title and activity would thus be protected and those found to be acting outside a Code of Conduct (to be a requirement for all registrants), could and would be removed from the register.

Anyone not 'qualified' to act in this way would be committing a criminal offence.

Thus the public would be protected from the unscrupulous practitioner and practitioners would be able to demonstrate accountability and good conduct.

EDUCATION AND TRAINING

The Council would set standards of education and training and of professional competence. It would help develop occupational standards and assess and accredit appropriate courses/qualifications/bodies. In this way possible other income generating activities could be developed without impeding the integrity of the body. It would also agree the requirements for Approved Contractor status.

FINANCING

Government estimates that there are currently 5,200 enforcement agents operating in England and Wales but we believe this to be conservative. All private sector bailiffs and enforcement agents (say 2500) would be **required** to register in order to continue to practice and other public sector EAs would no doubt wish to join to obtain one of the titles. While a comprehensive business plan would need to be developed an outline financial plan is attached based on 2500 registrants.

The costs are also based on those of the Architects Registration Board – a valuable model for the Council. Income would include the fees of individual

Registrants, fees from Approved Contractors as well as other income generating activities of the Council. The potential income in the early years could therefore be around £1.0m, which should be sufficient to manage an organisation of this nature.

Note; The organisation would be managed by a small secretariat and would not need to be based in London.

The initial cost to a Registrant would be around £400 pa (including a joining fee) with the subsequent annual renewal costs around £250 – lower than existing charges for current certified bailiffs. If the number joining was beyond that figure and up to the number of 5200 suggested by Government, then the cost to an individual would be reduced considerably. Registration renewal would be upon confirmation of previous good conduct, completion of mandatory CPD and a renewal fee.

TIMESCALE

The new organisation could be set up and operational in a year.

ADVANTAGES

The main advantages of such a structure are that it:

- Would be self-regulatory but formed by statute.
- Would be self-financing.
- Would be modest and not overburdensome administratively.
- Could be introduced quickly.
- Would be independent of bailiffs and their clients and therefore unbiased.
- Would be comprehensive covering all private sector bailiffs and enforcement agents.

SUMMARY

The Council would:

- Set up and maintain a register of bailiffs and enforcement agents.
- Protect the public and the profession.
- Set standards of conduct, performance and training.
- Deal with complaints or allegations of misconduct.
- Be self-financing.

Precedents:

- The Nursing and Midwifery Council.
- The Health Professionals Council.
- The Architects Registration Board.

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