

Title: Transforming Bailiff Action IA No: MoJ123 Lead department or agency: Ministry of Justice Other departments or agencies:	Impact Assessment (IA)
	Date: 13/12/2011
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
Contact for enquiries: Anne Marie Goddard 0203 334 6330	

Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£m	£m	£m	Yes/No
			In/Out/zero net cost
What is the problem under consideration? Why is government intervention necessary? <p>The complexity of the current law and fee structures may generate inefficiencies and be associated with undesirable behaviours by some enforcement agents. This may cause problems for both debtors and the enforcement agent sector. Government intervention is required to correct a failure in the way that separate enforcement regulations and fee structures have developed over the years. Enforcement regulation currently differs significantly between many various types of debt that are considered to be similar in nature.</p>			

What are the policy objectives and the intended effects? <p>The aim is to simplify and clarify the process, improve the accountability of enforcement agents and address unnecessary or inappropriate enforcement activity. In so doing the objective is to balance the interests of debtors, creditors and the enforcement industry. One intended effect is to protect the public against unnecessary and aggressive action and inappropriate costs and to enable debtors to identify their rights and responsibilities when their debts are being enforced. Another intended effect is to ensure that enforcement agents are able to carry out enforcement action effectively and efficiently and are adequately remunerated for the activities they carry out.</p>

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base) <p>The Government has considered the continued application of voluntary standards, implementation of the Tribunals, Courts and Enforcement Act 2007 (TCE Act) (preferred option) and full independent regulation for enforcement agents. The Government considers that independent regulation would impose unnecessary burdens on business and that voluntary standards would not meet the policy objectives. The preferred option considered in this Impact Assessment is: Option 1: Implementation of the provisions in the TCE Act. This would provide clarity, simplification and unity of the law. It would provide a single fee structure and introduce certification and training. There are two sub-options: a) where competence requirements associated with certification are flexible; b) where competence requirements associated with certification are defined in relation to set qualifications.</p>

Will the policy be reviewed? It will be reviewed 3 years after implementation.					
Does implementation go beyond minimum EU requirements?			Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes/No	< 20 Yes/No	Small Yes/No	Medium Yes/No	Large Yes/No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister



Date: 13/12/2011

Summary: Analysis & Evidence

Policy Option 1

Description:

Implementation of Part 3 of, and Schedules 12 and 13 to, the Tribunals, Courts and Enforcement Act 2007 , with changes in the law, costs that can be recovered and training and certification

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	NQ	NQ	NQ

Description and scale of key monetised costs by 'main affected groups'

Aggregate impacts identified cannot be sensibly monetised, including the full financial impacts on enforcement agent firms (although two specific impacts have been monetised, see below). This would require information such as the current case processes, current fee levels and structures, how enforcement firms work with agents and more. Some scenarios are provided in the IA text to indicate the extent of costs, however these are only for indicative purposes and based on a set of simplifying assumptions, and are not considered robust enough. MoJ will be gathering evidence during consultation

Other key non-monetised costs by 'main affected groups'

There may be implementation costs to enforcement agents associated with IT costs. There may be additional costs associated with providing certification, and for option 1b) in terms of providing training and certification. These could range from £40,000 to £2 million per annum, depending on the training option, and the volume of enforcement agents requiring certification. Debtors would incur any costs associated with higher fees. Creditors may incur fees related to unsuccessful High Court case enforcement. If the £15 charge applied to the theoretical maximum number of cases this would total £0.7m .

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	NQ	NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

Impacts identified cannot be sensibly monetised, including the full financial impacts on enforcement agent firms. This would require information such as the current case processes, current fee levels and structures, how enforcement firms work with agents and more. Some scenarios are provided in the IA text to indicate the extent of costs, however these are only for indicative purposes and based on a set of simplifying assumptions, and are not considered robust enough. MoJ will be gathering evidence during consultation

Other key non-monetised benefits by 'main affected groups'

Efficiency benefits related to clarification and simplification of the law to enforcement agents, debtors, creditors, third sector and other related industries. Benefits associated with a more just fee structure and system, and which reflects underlying costs of enforcement activities and removes cross-subsidisation, and therefore generates wider economic benefits. Benefits associated with a more professional and competent enforcement industry improving accountability and greater choice for creditors.

Key assumptions/sensitivities/risks

Discount rate (%)

Assumes fees proposed in the "Enforcement Fee Structure Review" report, with the assumption used in the report. There is a risk the analysis is based on a small sample of firms and may not be representative. Fees assumed in the IA do not take account of wider proposals here e.g. training. It may be that additional fees would not make up for these additional burdens for enforcement agents. Assumes no adverse behavioural changes, e.g. collection rates remain the same. Assumes training courses already available and implementation is effective at reducing aggressiveness.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:	Yes/No	IN/OUT/Zero net cost

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	England and Wales				
From what date will the policy be implemented?					
Which organisation(s) will enforce the policy?					
What is the annual change in enforcement cost (£m)?	Expect negligible				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	No				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: n/a		Non-traded: n/a		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs: n/a		Benefits: n/a		
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties Statutory Equality Duties Impact Test guidance	Yes/No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	Yes/No	
Small firms Small Firms Impact Test guidance	Yes/No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	Yes/No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	Yes/No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	Yes/No	
Human rights Human Rights Impact Test guidance	Yes/No	
Justice system Justice Impact Test guidance	Yes/No	
Rural proofing Rural Proofing Impact Test guidance	Yes/No	
Sustainable development Sustainable Development Impact Test guidance	Yes/No	

Evidence Base (for summary sheets) – Notes

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
	Ministry of Justice consultation paper: Transforming bailiff action. How we will provide more protection against aggressive bailiffs and encourage more flexibility in bailiff collections, February 2012
	Enforcement Fee Structure Review A report by Alexander Dehayen for the Ministry of Justice, November 2009
	Primary Legislation: Tribunals, Courts and Enforcement Act 2007
	Draft Regulations: The Taking Control of Goods Regulations, February 2012
	Response to consultation: Regulation of Enforcement Agents , March 2008
	Consultation paper: Regulation of Enforcement Agents, January 2007
	White Paper: Effective Enforcement. Improved methods of recovery for civil debt and commercial rent and a single regulatory regime for enforcement agents, March 2003
	National Standards for Enforcement Agents published by Lord Chancellor’s Department, April 2002
	Green Paper: Towards Effective Enforcement. A single piece of bailiff law and a regulatory structure for enforcement, July 2001
	Independent Review of Bailiff Law Report, Professor J Beatson QC, June 2000
	Questionnaire in Annex 5

Evidence Base

1. Introduction

- 1.1 Effective enforcement is crucial to both the criminal and civil justice systems. People ordered to pay a court judgment, criminal penalty, compensation award or simply the debt they owe, such as rent arrears, may have little or no incentive to do so if they know there is no effective means of enforcement. Unless there is prompt and efficient enforcement, the authority of the courts, the deterrent value of penalties and public confidence in the justice system might all be undermined, as might the operation of markets. Whilst debtors should be protected from the oppressive pursuit of their debts they should also not be able to avoid facing their financial responsibilities.
- 1.2 Enforcement action may be necessary when a debtor fails to pay or negotiate a reasonable instalment regime with a creditor who is entitled to collect what they are owed. There are several different enforcement options depending on the type of debt such as attachment of earnings, deductions from benefits, charging orders and seizure and sale of goods by bailiffs. This Impact Assessment (IA) concentrates on enforcement by the seizure and sale of goods by bailiffs. The proposals in this IA describe bailiffs and enforcement officers as enforcement agents.

Background

- 1.3 Under the current system, different enforcement powers are present through various statutory and common law requirements for various types of debt. These require different procedures to operate according to the type of debt recovered, with various associated fee structures. Debt areas include: council tax, child support, distress for rent, stamp duty land tax, customs and excise duties and other indirect taxes, non-domestic rates, social security, road traffic fines, taxes, county court judgments, criminal fines and High Court judgments. While there are some similarities in powers and practice between some types of debt there is also much disparity.
- 1.4 The current regulatory structure for enforcement agents in England and Wales is very fragmented. In addition, there are no set competence requirements for enforcement agents. Whilst there is a current legal requirement to obtain a certificate from the county court for enforcement agents collecting council tax, distress for rent and traffic enforcement, the same requirement does not exist for enforcement agents collecting debts on behalf of the Child Maintenance Enforcement Commission, magistrates' court or HM Revenue and Customs. Although the county court grants the certificate, they do not provide any regulatory oversight.
- 1.5 Because there is no overall regulatory oversight of enforcement agents or their activity there is no precise information about the overall number of cases they enforce, but some of this information is available through particular agencies or public bodies. For example HM Courts & Tribunals Service report that in 2010 approximately 151,000 warrants¹ of execution were issued, however, not all warrants would have been successfully enforced. Judgments of the Queen's Bench Division may be enforced in many ways. The most common is the issuing of a writ of fi-fa (fieri facias). This empowers the High Court Enforcement Officer to seize and, if necessary, to sell the debtor's goods to raise money to pay off the debt. There were 44,900 writs of fi-fa issued in 2010².
- 1.6 The Chartered Institute of Public Finance and Accountancy (CIPFA) produced revenue collection statistics for 2009-10, including enforcement action to levy distress (i.e. seize property) in relation to non-domestic rates and council tax. It reported that the number of national non-domestic rate accounts was around 1.8 million in 2009-10. Of these, approximately 110,000 (or 6%) of accounts were referred to enforcement agents to seize property, and the resulting number of accounts where goods were removed was around 1,000. In terms of council tax, the total volume of accounts at initial billing was 21 million, and almost 1.5 million (or 7%) were referred to enforcement agents. This resulted in almost 1,000 accounts where goods were removed.

¹ The most common method is the warrant of execution against a debtor's goods, where unless the amount due under the warrant is paid, saleable items owned by a defendant can be recovered by a bailiff acting on behalf of the court and sold. Other warrant types are for the repossession of property, the return of particular goods or items, and to enforce an order for which the penalty for failure to comply is imprisonment, the warrant of committal authorises the bailiff to arrest and deliver the person to prison or the court.

² <http://www.justice.gov.uk/publications/statistics-and-data/courts-and-sentencing/judicial-annual.htm>

- 1.7 The Child Maintenance Enforcement Commission also reports that over the one year period up to March 2011 there were 11,325 child enforcement distress actions referred to enforcement agents. However, it is unclear what the volume of resultant property seizures was.
- 1.8 The total volume of criminal fines and road traffic debt fines is not known with certainty. Some initial estimates from HM Courts & Tribunals Service indicate these might be around 1.2 million road traffic debt fines per year, and around 580,000 criminal fines.
- 1.9 Overall, the estimated total volume of enforcement action might be around 3.5 million cases per annum³ excluding enforcement action covering distress for rent, stamp duty, social security and taxes. Table 1 below gives an indication of volumes across different types of debt. It also outlines the statutory and contractual certification requirements by each type of debt, and where possible, the approximate volume per annum including unpublished figures.

Table 1: Certification Requirements by Debt Area

Debt Area	Statutory certification requirement	Contractual certification requirement	Volumes of enforcements per annum (using enforcement agents)
Council tax	Yes	-	Approximately 1.5million
Child support	No	Yes (CMEC)	Approximately 11,500
Distress for rent	Yes	-	Not known
Stamp duty land tax / penalties	No	Yes (HMRC)	Not known
Customs & excise duties and other indirect taxes	No	Yes (HMRC)	Not known
Non-domestic rates	Yes	-	Approximately 110,000
Social security	No	Yes (HMRC)	Not known
Road traffic	Yes	-	Approximately 1.2 million
Taxes	No	Yes (HMRC)	Not known
Criminal fines	No	Yes but with 6 months grace	Approximately 580,000
Writs of Fi Fa	No	No	Around 45,000
			Approximate total per annum: 3.5million ³

- 1.10 In May 2002 the then Lord Chancellor's Department published the National Standards for Enforcement Agents, to share, build on and improve good practice and raise the level of professionalism across the enforcement sector. The standards are not legally binding, but offer a tool for the industry and creditors to inform their own arrangements and benchmark their professional standards. There are also two trade associations in the enforcement industry, the Civil Enforcement Association (CIVEA) and the High Court Enforcement Officers' Association (HCEOA). They aim to promote higher standards from within the industry through codes of practice, training and complaints procedures.
- 1.11 This IA focuses on reforms to the current system including fees, complexities of the law, and regulatory inadequacies or absences that present problems for debtors and enforcement agents. The reforms were consulted on previously and resulted in provisions in the Tribunals, Courts and Enforcement Act 2007 (TCE Act), which may now be brought into effect. In particular past consultation included:
- Independent Review of Bailiff Law Report, Professor J Beatson QC, June 2000;
 - Green Paper: Towards Effective Enforcement. A single piece of bailiff law and a regulatory structure for enforcement, July 2001; and
 - White Paper: Effective Enforcement. Improved methods of recovery for civil debt and commercial rent and a single regulatory regime for enforcement agents, March 2003.

³ The volumes covered in Table 1 relate to a one-year period, however different types of debt cover a different year. For example non-domestic rates and council tax figures for 2009-10 are provided, whereas child support data covers a one-year period up to March 2011. Although these cover different time periods, these have been summed up to give an approximation of a 1 year period.

Problem under consideration

- 1.12 Enforcement action is by its very nature intrusive. It is necessary for an enforcement agent to be assertive and firm if they are to be effective. However, there is anecdotal evidence that some enforcement agents may veer towards aggression in the pursuit of effectiveness. The complexity of the current law and fee structures contribute to the problem, as this may lead to enforcement agents misrepresenting their legal authority, or charging excessive fees. There are three main elements of the problem under consideration, as follows:

Clarification of Law

- 1.13 At present, the law relating to enforcement by the seizure and sale of goods is complex, unclear and confusing. It is contained in numerous statutes, secondary legislation and common law and its language is old fashioned. There are also different requirements depending on the type of debt recovered. This confusion can result in enforcement agents misrepresenting their legal authority.
- 1.14 Furthermore, different processes may be required for similar types of debt. For example, neighbouring local councils may have differing obligations and procedures when agreeing contracts with enforcement companies to collect council tax debt. As a result, enforcement agents require knowledge of all the different requirements applying to their clients.
- 1.15 When an enforcement agent breaches the National Standards for Enforcement Agents there is currently no prescribed remedy available for the debtor. Nor are there any set penalties for contravening the standards. These features may contribute to enforcement agents breaching the standards. Anecdotal evidence of possible breaches has been received by the Ministry of Justice (MoJ) in correspondence. The examples include allegations that enforcement agents/agencies:
- Failed to provide proof of identification even when requested to do so.
 - Insisted they would enter premises where 12 and 14 year old children were the only persons present on the premises.
 - Failed to respond to complaints.
 - Misrepresented their powers.
 - Damaged goods and property.
 - Breached Data Protection legislation.
 - Used inappropriate and offensive language.
- 1.16 Quantitative research has not been carried out to assess how widespread these issues might be. More evidence on this should be obtained over the consultation period as part of the consultation exercise. At this point in time sufficient anecdotal evidence has been presented to suggest that problems exist and are not completely isolated.
- 1.17 There may be little incentive for a debtor to complain about breaches of the voluntary standards. A debtor may complain to the industry trade associations who endorse the standards. However debtors may struggle to accept that complaining to the trade associations is a credible option as they may believe that these associations, funded by enforcement agents, may routinely favour the enforcement agent.
- 1.18 As a result of these factors, current voluntary standards appear not to be delivering consistently acceptable behaviour from enforcement agents nor an effective complaints process for debtors. There have been direct calls for the regulation of enforcement agents in correspondence to MoJ Ministers and in responses to previous consultations by enforcement agents, the third sector and members of the public, e.g. 'Your Freedom (2010)'.
- 1.19 Some aspects of the law relating to enforcement actions are outdated and seem incompatible with a modern and proportionate enforcement regime. For example, common law dating back to 1812⁴ indicates entry by taking up floor boards above a tenant's room may be a valid mode of entry.

⁴ Gould v Bradstock 1812

1.20 Particular concerns have been raised over distress (i.e. seizing property) for rent and its lack of compliance with the European Convention on Human Rights. There is an outdated common law remedy that enables landlords to recover rent arrears without going to court. The Law Commission's Report *Landlord and Tenant – Distress for Rent (1991)* concluded that distress for rent has a number of features which make it unjust and recommended its abolition. However, a subsequent period of consultation revealed that distress for rent can be an effective remedy for recovering rent arrears, particularly for commercial premises. If it were to be abolished without any replacement there could be disadvantages both for landlords and for tenants of commercial premises.

Fee structures

1.21 Each enforcement power brings with it different fee structures, which are fragmented, lack clarity and are difficult to interpret in some instances. Furthermore, the fees and charges levied by enforcement agents are paid by debtors and not by the creditors that appoint them. This reduces the incentive on creditors to ensure that the fees are proportionate and reasonable. Current fee structures may not provide enforcement agents with adequate remuneration in some instances, while debtors may pay quite different charges for similar activities. There is anecdotal evidence that these factors might combine to make the current charging process prone to abuse. For example unnecessary visits or charging excessive "reasonable costs", which might not be specified in advance and where there is no definition of "reasonable". Quantitative research has not been carried out to assess how widespread these issues might be. More evidence on this should be obtained over the consultation period as part of the consultation exercise. At this point in time, sufficient anecdotal evidence has been presented to suggest that problems exist and are not completely isolated.

1.22 Problems may stem from the following characteristics:

- *Level of fees.* The current statutory fees differ across different debt types, and in many cases do not allow enforcement agents to levy a fee for the initial work undertaken, such as processing the creditor's request and sending a letter to the debtor. Fees may therefore not always align closely with costs. As such, enforcement agents may find it necessary to charge higher fees in certain cases in order to compensate them for other work where they are unable to collect any income.
- *Inappropriate incentives and potential for abuse.* As a result of the way fee levels are set i.e. by charging for activities rather than outcomes, the current fee regime could generate incentives for inappropriate enforcement agent behaviour. This may include undertaking successive stages of enforcement activity, whether or not this activity is necessary to secure repayment, or the incentive to pursue debts where it is possible to charge additional fees by applying the "reasonable costs" provision.
- *Lack of clarity* – The current fee structures are unclear due to their fragmented nature, and the scope for charging "reasonable costs" in some instances adds uncertainty. This lack of clarity is one factor which could conceal abuse of the current system or foster errors, including overcharging or fees being charged for the wrong debt type. In many cases it is difficult for the debtor to challenge the fees charged as it is not always possible to determine the extent of any over-charging or other errors.

Certification and Competence Requirements

1.23 There is currently a legal requirement for enforcement agents collecting council tax, distress for rent and traffic enforcement to obtain a certificate from the county court. The same requirement does not exist for enforcement agents collecting debts on behalf of the Child Maintenance Enforcement Commission, the magistrates' court or HM Revenue and Customs. As a result different enforcement agents may operate in different ways and this can cause confusion for debtors who have a complaint.

1.24 The current certification process requires the applicant to advertise in a newspaper their intention to apply for a certificate to allow members of the public to object if they consider the individual unfit to hold a certificate. The applicant completes an application form, provides a current Criminal Records Bureau clearance certificate, two relevant references, a security bond of

- 1.25 Advertising in the newspaper can cost up to £120. There has been criticism of both the cost of advertising and that the advert may not be placed in a newspaper local to where the applicant works and therefore not be seen by members of the public who have had dealings with the applicant and may consider they are not a “fit and proper person to hold a certificate”. The current process can take up to 90 days, although in some instances it has been known to take longer.
- 1.26 Currently there are no statutory competence requirements or other qualification requirements, although some reputable companies offer some form of training. The trade body CIVEA provide an examination which is open to their members. The trade body HCEOA requires an examination to be passed for agents to become full members, and HCEOA is also currently developing a training package.

Evidence for Change

- 1.27 MoJ hold regular stakeholder meetings with:
- Government Departments responsible for enforcement activity that use enforcement agents including the Department for Communities and Local Government (DCLG), HM Revenue & Customs (HMRC) and the Child Maintenance Enforcement Commission (CMEC).
 - A small group of local authorities.
 - Representatives and officers from CIVEA and HCEOA.
 - Representatives from the third sector including Citizens Advice, Z2K and Money Advice Trust.
- 1.28 All of these stakeholders have indicated that there is a need to clarify and simplify the law and fee structures and they support more formal regulation of the industry through implementation of the TCE Act apart from the third sector, which continues to call for full independent regulation. In response to a previous consultation⁵ Citizens Advice argued that current certification provides a complaints procedure and not a system of regulation, and lacks methods to investigate, monitor or set professional standards of conduct. In part this is because certification focuses on individual enforcement agents but not on firms.
- 1.29 In addition, in response to an earlier consultation⁶, Citizens Advice relayed information collected from various sources including a snap-shot survey of Citizens Advice Bureau (CAB) advisers covering 18,000 cases relating to enforcement agents. They found that almost 2,500 cases reported enforcement agent harassment, and over 800 returns cited conspicuous bad practice. Whilst from a research perspective these findings might not be completely representative of the whole sector, or might include an element of bias, Citizens Advice suggest that this evidence is still indicative that current supervision of the industry is insufficient.

⁵ DCA and HO Consultation paper – “regulation of enforcement agents” – April 2007

⁶ DCA and HO Consultation paper – “regulation of enforcement agents” – April 2007

1.30 This Citizens Advice snap-shot survey produced the results reported in Table 2 below.

Table 2: Key findings from Citizen Advice snap shot survey of CAB clients reported by 131 CAB advisers.

Questions on bailiff practices	Answered Yes %	Answered No or not answered %	Total returns
Did the bailiffs misrepresent their powers of entry?	37	63	507
Did the bailiffs threaten the client with imprisonment?	23	77	507
Did the bailiffs overcharge the client with their fees?	35	65	507
Did the bailiffs harass or intimidate the client?	61	39	507
Has the bureau or client experienced problems negotiating with the bailiffs?	74	26	507
Did the bailiffs remove protected goods?	4	96	507
Did the bailiffs seize third party goods (including goods on HP)?	4	96	507
Was the client vulnerable?	53	47	507
Did the bailiffs exercise discretion in a vulnerable situation?	44	56	507

Source: Putting bailiffs on the spot audit questionnaire responses submitted by 131 CABx between October and December 2006

1.31 Citizens Advice also published a report on the “Putting Bailiffs on the Spot” campaign (Oct 08) which related to enforcement action over council tax. There are also research methodology queries about how robust the findings are, hence this information is presented for indicative purposes only. This report indicated that out of 130 Citizens Advice Bureaux, 39% said enforcement agents misrepresented powers of entry, 41% said enforcement agents overcharged the client, 63% reported that enforcement agents harassed or intimidated clients, 79% reported problems negotiating with enforcement agents, 44% of clients were seen as vulnerable and in 50% of cases involving vulnerable clients, enforcement agents failed to exercise discretion.

1.32 Mind, a mental health charity, also conducted a poll between December 2009 and January 2010 of 453 people who had been subject to enforcement action about the impacts of enforcement agents on mental health. Again there are research methodology queries hence this information is presented for indicative purposes only. The results suggest that 50% of people reported suicidal feelings after a knock on the door from enforcement agents, 96% reported increased levels of anxiety after a visit from enforcement agents, 87% reported increased levels of depression, 80% experienced threatening behaviour, over 65% were subjected to aggressive behaviour, 74% felt it had a negative impact on their family, 10% were being pursued for debts of under £100, 70% were charged excessive fees on top of their debts, only 5% said enforcement agents provided them with information when they requested it, 78% did not complain and 55% claimed they didn't know who to complain to. Some 60% thought there was no point in complaining or they that were too distressed to do so. Of those who did complain, only 8% felt their complaint was dealt with adequately.

1.33 Some groups in the third sector argue that proposals to introduce a regulatory framework for the enforcement industry should go further than those presented in this IA. For example, the Advice Sector Law Reform Group argue that regulation should be independent and impartial and they would therefore like to see a statutory body responsible for regulating the activities of all enforcement agents, which:

- Provides control and oversight of individual enforcement agents and firms to tackle systemic bad practice.
- Provides a credible deterrent to aggressive behavior and excessive enforcement on the doorstep.
- Monitors business practices.

1.34 They argue that regulation is essential to protect vulnerable debtors and ensure that all enforcement agents are properly controlled and accountable. They note that enforcement agent problems are worsening, as in 2010/11 Citizens Advice Bureaux dealt with almost 23,000 cases relating to private enforcement agents, up from almost 20,000 the previous year. They make the following suggestions:

- It is vital to ensure fees are not excessive and are clear and robust. Criteria to measure affordability should be built into the fee structure, and guidance should be published on when enforcement agents should accept offers and / or return warrants.
- There should be a consistent framework for agreeing affordable repayments to cover the whole outstanding debt along with fees.
- Complaints and redress systems should form part of the regulatory framework as it is very difficult for debtors to complain about enforcement agents.

1.35 The Government believes that implementation of the TCE Act provides the right balance between these stakeholder views and the consultation paper explores this in more detail.

Policy Objectives

1.36 As described above, the policy proposals are driven by strong and common views that the current system is deficient in two specific areas:

- It provides the public with insufficient protection against unnecessary and aggressive action.
- It is unnecessarily complicated and complex for the public, and makes it difficult and burdensome for the enforcement industry to operate effectively.

1.37 The policy objective is to balance out the impacts that enforcement action may have on debtors, creditors and the enforcement industry. The aim is to:

- Simplify the process. The regulatory basis by which enforcement agents currently carry out work should be simplified and streamlined to support their improved operational efficiency, such as reducing the existing regulatory complexities and associated burdens.
- Clarify the process. Debtors need to be assured that the actions taken by enforcement agents, and the related fees, are appropriate. Debtors should be able to identify their rights and responsibilities when their debts are being enforced.
- Improve accountability. Debtors and creditors need to be assured that the enforcement agents managing the process possess the right level of competence and knowledge, are accountable and are authorised to carry out enforcement activities.
- Stop unnecessary or inappropriate activity. The aim is to ensure that enforcement agents have all the tools, regulatory framework and knowledge, necessary to carry out effective and efficient enforcement and are adequately remunerated for the activities they carry out.

Economic rationale for intervention

1.38 The conventional economic approach to government intervention to resolve a problem is based on efficiency or equity arguments. The Government may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or if there are strong enough failures in existing government interventions (e.g. waste generated by misdirected rules). In both cases the proposed new intervention itself should avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and redistributive reasons (e.g. to reallocate goods and services to the more needy groups in society).

1.39 In this case, the intervention would be justified on efficiency and equity grounds. Government intervention is required to correct failures in the way that separate enforcement regulations and fee structures have developed over the years, and this should generate efficiency improvements. The reforms also aim to reduce levels of abuse or error, which should generate improvements in equity (fairness).

Clarification of Law

- 1.40 There would be efficiency gains if a more simplified and streamlined process was used to achieve an equivalent outcome in terms of recovering unpaid debt. There may be a reduction in the time and resources required for each debt recovery action, which may lead to more cases being fully enforced, or being enforced more quickly, with wider economic benefits for the operation of markets and for contractual certainty.
- 1.41 The proposals should provide increased clarity and therefore result in a more just outcome. Existing complexities may result in information failures, and debtors and enforcement agents might not necessarily be aware of their rights and responsibilities. Debtors may be subject to disproportionate actions and existing procedures may sometimes be inappropriate. If the regulatory measures were clearer and more standardised across the various types of debt recovery streams this could provide a more just outcome for debtors, as well as improve administrative efficiencies including through fewer challenges associated with misconduct.

Fees

- 1.42 Enforcement agents are hired by creditors to pursue debts. Creditors may be concerned primarily with retrieving their debts rather than with how this is done and how much it costs (as the fees and charges levied by enforcement agents are paid by debtors and not by the creditors that appoint them). This arrangement does not provide a strong incentive for creditors to manage the fees charged by enforcement agents, and as a result enforcement agents may use excessive resources and levy excessive charges to achieve a particular outcome. There would be gains in economic efficiency if enforcement agents used less resource, for example through undertaking fewer visits to properties in order to achieve the same outcome. A reduction in the time and resources required to pursue enforcement action may at the margin lead to cases being enforced more quickly, with wider economic benefits for the operation of markets and for contractual certainty.
- 1.43 For these reasons fees are currently set by tariffs, although the individual tariffs do not always match underlying costs accurately. Further gains in economic efficiency would arise where the reforms lead to tariffs and fees relating more closely to underlying costs. Where this relation is currently weak then individual services would be over-utilised or under-utilised, generating economic inefficiency.
- 1.44 Debtors may currently be subject to disproportionate and uncertain fees and charges and this may be considered unjust. If the fee structure was clearer, more predictable and more closely tied to the service received this could be seen as improving equity (fairness) for debtors. There may also be an improvement in equity (fairness) if enforcement agents were more adequately remunerated for work carried out, for example if fees related more closely to costs. Simplification and clarification of fees might also improve administrative efficiency.

Certification and Competence Requirements

- 1.45 Debtors and society more widely may place a value on the way debts are pursued. Currently, the enforcement industry's voluntary codes do not seem to be providing all debtors with sufficient protection in the way debts are pursued. There may not be consistent application or uniformity of minimum standards and failures potentially exist in the application and enforcement in practice of voluntary codes. If certification and competence requirement reforms change the way in which debts are pursued so as to bring this more in line with society's preferences this may generate a gain in terms of equity (fairness).

Policy Proposals

- 1.46 The proposal is to implement Part 3 of, and Schedules 12 and 13 to, the TCE Act together with subordinate legislation in the form of the Taking Control of Goods Regulations to:
- i. Clarify and unify the law.
 - ii. Introduce a new fee structure.
 - iii. Introduce a new and extended certification process.

- 1.47 These three provisions are inextricably inter-related so it is not feasible to implement the provisions separately.
- 1.48 Part 3 of the TCE Act unifies the existing law relating to seizure and sale of goods for most purposes. It replaces the current law of rent distress with a modified regime for recovering rent arrears in the commercial property sector only, abolishing the common law right to distrain⁷ for rent arrears. It also requires every enforcement agent who would be responsible for taking control of goods to obtain a certificate of fitness from the county court. Part 3 of the TCE Act describes bailiffs and enforcement officers as enforcement agents.
- 1.49 Schedule 12 to the TCE Act prescribes the new procedure to be followed by enforcement agents when seizing goods, to be known as taking control of goods. The Schedule prescribes the entire process to be followed by enforcement agents when taking control of and selling goods, from the serving of a notice to taking control of goods (including which goods may be taken); powers of entry; care of goods seized; the sale of goods seized and the distribution of the sale proceeds. Paragraph 62 of Schedule 12 provides for regulations for the recovery from the debtor of amounts in respect of costs of enforcement related services⁸. The Taking Control of Goods Regulations prescribes the detail stipulated by Schedule 12.

Clarifying the Law

- 1.50 The proposal is to simplify and clarify the law to ensure that the process is clear and transparent without being over burdensome to all parties. The purpose of the Taking Control of Goods Regulations is to set out clearly the detail of the prescribed process that an enforcement agent should follow.
- 1.51 The consultation proposes that any new procedure to take control of goods by enforcement agents should seek to:
- Clarify and simplify the law to address misrepresentation of powers by enforcement agents.
 - Unify the law to address the current complex range of primary and secondary legislation and common law, which may raise confusion.
 - Render the law consistent with Human Rights legislation.
 - Balance the sometimes competing rights and responsibilities of creditors and debtors.
 - Establish the use of less invasive ways to take control of goods.
 - Verify the rights and responsibilities of debtors, creditors and enforcement agents when debts have to be enforced.
- 1.52 The detail in Part 3 of, and Schedule 12 to, the TCE Act together with the Taking Control of Goods Regulations address current complexities and inconsistencies in the enforcement process between different types of debt. In particular the Taking Control of Goods Regulations will:
- Define seven categories of debt to make it clear which type of debt allows the use of reasonable force;
 - Prescribe modes of entry to make it clear how an enforcement agent may enter premises;
 - Prescribe days and hours of entry to make it clear when an enforcement agent may enter premises;
 - Stipulate which goods are exempt and make it clear which goods an enforcement agent may not take into control.

Fees

- 1.53 We propose to implement Schedule 12 of the TCE Act which allows for a new fee structure to be placed in legislation, setting out the fees, costs and charges that are recoverable from the debtor.
- 1.54 The policy proposal is that any new fee structure should align fees more closely with the costs of the activity carried out by the enforcement agent, alter incentives to encourage more appropriate enforcement behaviour and be both clearer and fairer to debtors and enforcement agents.

⁷ Taking goods from the let premises and either holding them until the arrears are paid or selling them.

⁸ Referred to as fees throughout this impact assessment.

1.55 The fee structure proposed in the consultation paper and this IA encompasses a number of elements as detailed below. Annex 2 provides further detail of the fee structure proposed, including the level of fees assumed to inform the analysis in this IA. The fee structure and levels are based on the evidence provided by the “*Enforcement Fee Structure Review*” report⁹. MoJ will be seeking views on the proposed structure and levels during the consultation period to avoid any unnecessary additional burden on the enforcement industry.

1.56 The elements of the proposed fee structure are:

- *Staged approach.* A staged approach is proposed in order to more closely align incentives of enforcement agents with the required workload. The proposed stages are: administration, enforcement and sale.
- *Fixed fees and variable elements.* These would be linked to the various stages proposed. Fixed fees would allow a closer tie between the fee and costs incurred for activities required at a particular stage. For a number of reasons, such as complexity, higher value debts may be more costly to enforce and so an additional percentage element to the fee is proposed. The fixed fees and variable element have been set with reference to one another to ensure that fees cover costs satisfactorily.
- *Uniformity* across all types of debt enforced by enforcement agents within non-High Court and within High Court enforcement cases. The rationale is that many of the activities undertaken are similar across different debt types, apart from the distinction between High Court and other enforcement work. As such, a uniform fee structure would be appropriate and would reduce existing information problems associated with fee charges. It would enable debtors and other stakeholders to understand more easily what fees would be charged. Fees in High Court enforcement cases would differ only slightly from non-High Court enforcement, for example an additional enforcement stage. However, they remain parallel. Comparisons are available in Annex 2.
- *In High Court cases* remuneration is provided by the creditor for the early work undertaken when enforcement action is not successful. This forms part of the contractual agreement between the creditor and the High Court enforcement officer. Where High Court enforcement is unsuccessful, the creditor pays a fee equal to the administration stage, replacing the current High Court charging policy.

1.57 More detail on the construction of the fee structure is in the “*Enforcement Fee Structure Review*” report produced for MoJ and is published alongside the consultation paper and this IA.

Certification and competence requirements

1.58 The policy proposal is to ensure that there is an accountable and competent workforce that safeguards debtors, where debtors have access to a fair and effective complaint remedy when things go wrong. It is important that all enforcement agents have a clear understanding of what the enforcement business involves and are prepared and informed before commencing enforcement action.

1.59 The proposal is to implement section 64 of the TCE Act, which requires enforcement agents (with certain exceptions e.g. court officers and police officers) to hold a valid certificate issued by a county court. Provisions would be made (when the reforms are at implementation stage) for complaints against holders of certificates and about suspension and cancellation of certificates. Certificates would be issued subject to conditions, where competence would form part of the assessment criteria. Certification would be a market entry requirement. This would raise professional standards within the industry and enhance protection for debtors.

1.60 The certification process would ensure that all enforcement agents know what their rights and responsibilities are when recovering debts. This would be achieved by ensuring that every enforcement agent responsible for taking control of goods possesses the necessary knowledge and competences. While certification would be mandatory for enforcement agents (with certain exceptions) there are two alternative policy proposals for the competence assessment:

⁹ This report is published along the Consultation Paper and this Impact Assessment, produced by Alexander Dehayen for MoJ.

- a. *Flexibility* as to how the enforcement agent demonstrates he/she meets the prescribed assessment criteria to obtain a certificate.
- b. *Fixed mandatory* accredited qualification required to demonstrate the prescribed assessment criteria e.g. knowledge of the law, customer care and dealing with conflict situations, to a consistent standard to obtain a certificate.

1.61 The preferred option is for a fixed mandatory accredited qualification as this delivers consistency across England and Wales for all enforcement agents.

1.62 The flexible option would allow the enforcement agent to provide evidence of competence for the judge to consider at the hearing. This could include:

- Evidence of undertaking accredited training; or
- Evidence of alternative training; or
- Expert evaluation; or
- Self assessment.

This option will improve the current process but would not deliver a consistent standard.

Alternative Options

1.63 As described above the current voluntary standards do not provide any set penalties if they are breached by an enforcement agent and therefore may not provide an effective complaints process for debtors. They may therefore fail to deliver consistent acceptable behaviour from some enforcement agents. The Coalition has given a commitment to reduce burdens on business. The Coalition programme for government committed to 'shunning bureaucratic levers of the past and finding intelligent ways to encourage, support and enable people to make better choices for themselves'. The Government therefore has no immediate plans to introduce a regulator for enforcement agents.

1.64 There have been several calls for a regulator to be responsible for the enforcement industry following various Government consultations and calls for evidence. The Advice Sector Law Reform Group argues that regulating bailiffs would not damage a fragile economy and reputable enforcement agent firms would welcome statutory regulation to ensure that their reputations are not sullied by rogue enforcement agents.

1.65 The TCE Act does not, however, include provisions for establishing an independent regulator. Consideration was previously given to using the Security Industry Authority (SIA) for the regulation of the enforcement industry. On 14 October 2010, the Government announced that the SIA would no longer be an NDPB (Non-Departmental Public Body) and there will be a phased transition to a new regulatory regime for the private security industry. It is in the very early stages of development and therefore too soon to consider including the enforcement industry.

1.66 MoJ has received two separate submissions on possible statutory independent regulation both from the British Parking Association. Although the government has no immediate plans to introduce a regulator we consider that their proposals would benefit from further scrutiny. We have therefore included their proposals in the consultation paper and are seeking views on their feasibility and possible costs. However, the proposals do not contain any detail as to how they would work nor how much they could cost.

Affected key stakeholder groups

1.67 The main affected groups are:

- Enforcement agents and the enforcement industry, including Central and Local Government who employ their own officers;
- Creditors including, HM Revenue and Customs, Local Authorities and the Child Maintenance and Enforcement Commission;
- Debtors;

- HM Courts & Tribunals Service;
- Third Sector and voluntary organisations, including debt advice organisations;
- Legal professionals.

Costs & Benefits

- 2.1 This Impact Assessment (IA) identifies both monetised and non-monetised impacts on individuals, groups and businesses in the UK, with the aim of understanding what the overall impact to society might be from implementing the options considered. The costs and benefits of each option are compared to the do nothing option. IAs place a strong emphasis on valuing the costs and benefits in monetary terms (including estimating the value of goods and services that are not traded). However there are important aspects that cannot sensibly be monetised which might include how the proposals impact differently on particular groups of society or changes in equity (fairness).
- 2.2 In this case the impacts identified cannot be sensibly monetised, including the full financial impacts on enforcement firms. This stems from a lack of robust data combined with insufficient evidence to quantify how behaviours would change in the future. Whilst the following assessment refers to information provided in the “*Enforcement Fee Structure Review*”, a number of caveats apply to this research as noted in the assumptions and risks section below.
- 2.3 In order to fully quantify the aggregate impacts identified we would need to know:
 - Volume and mix of cases on which enforcement agents work.
 - Current case outcomes (including detail of fees in each case, value of debt, and repayment made).
 - Detail of income and profitability of enforcement agent firms and how profitability differs across different debt types.
 - How many enforcement agents currently operate, and how many of these are trained and/or certificated.
 - The number of firms in the industry and how many employees they have.
 - Detailed information of debtor experiences during each case, aside from the fees charged.
 - Adjustment costs which enforcement agent firms expect to incur in adapting to the reforms.
 - How exactly the reforms may impact efficiency and operating costs, such as through the changes to the law.
- 2.4 A qualitative assessment of the expected impacts has therefore been made and additional data and evidence is being sought during the consultation period.
- 2.5 MoJ also proposes to address the evidence gaps through some insight work to assist and augment the consultation process. This work is expected to seek evidence in two key areas:
 - a. The effect of the introduction of certification and competence requirements (amongst the enforcement industry and comparable sectors) on industry practice, and, in turn, on the experiences of customers.
 - b. The enforcement industry’s view of the proposed fee change, in particular whether it offers adequate (or possibly overly adequate) compensation for the introduction of competence requirements and certification.
- 2.6 The evidence gathering is still being scoped out, however it is expected to include the following:
 - a. An assessment of information, including that received in response to the consultation, to compare enforcement agent activities currently regulated, either through the debt types they work in or in terms of contractual obligations, with those that are not. This will involve working with stakeholders and using published sources to help identify what information exists and how it may be accessed. We will also use the consultation process to request further evidence from consultees.
 - b. Qualitative research with enforcement agents of different sizes and those working across different debt types. This would involve interviews to discuss views of current practices, including the burden of dealing with complaints, current spend on training,

- c. Research-assisted stakeholder consultation, including both enforcement agents' representatives and debtor representatives. The discussion would focus on the same as outlined above for enforcement agents. Debtor representatives discussions would focus on views of the current situation to get a view of the suitability of the current mix of regulation, what problems occur and perceived impacts of training and certification.
2. 7 A questionnaire in Annex 5 is also provided for enforcement agents to complete and submit to MoJ to inform future analysis in this area.

Option 0: Base case (do nothing)

2. 8 Under this option no intervention would be made. The current mix of regulatory and voluntary measures would remain as now, with no major changes anticipated to regulation, fee structures or training and certification. This mix would continue to obscure the rights and responsibilities of debtors, creditors and enforcement agents and concerns around aggressive enforcement agent behaviour would remain.
2. 9 This is a do nothing option included for comparative purposes. As its costs and benefits are compared against themselves they are necessarily zero, as is its net present value.

Option 1: Implement Part 3 of, and Schedules 12 and 13 to, the Tribunals, Courts and Enforcement Act 2007 (TCE Act) together with subordinate legislation

Description

2. 10 Option 1 considers proposals to implement a package of reforms as detailed in Part 3 of, and Schedules 12 and 13 to, the Tribunals, Courts and Enforcement Act 2007 (TCE Act) together with subordinate legislation in the form of the Taking Control of Goods Regulations. As discussed in the policy proposals section, this includes three main elements:
- i. Clarify and unify the law;
 - ii. Introduce a new fee structure;
 - iii. Introduce a new and extended certification process, making it mandatory for all enforcement agents (with certain exceptions) to obtain a certificate to operate.
2. 11 Within the package, there is the flexibility as to how the new certification process could operate, and we are consulting on two alternative policy proposals for assessing competence of applicants:
- a. *Flexibility* as to how the enforcement agent demonstrates he/she meets the prescribed assessment criteria to obtain a certificate; or
 - b. *Fixed mandatory* accredited qualification to demonstrate the prescribed assessment criteria e.g knowledge of the law, customer care and dealing with conflict situations, to a consistent standard to obtain a certificate.
2. 12 **Option b is the preferred option.** As options a) and b) are sub-options of option 1, we assess the differing impacts of these by highlighting the incremental impact of b) over a) in the costs and benefits sections.
2. 13 The consultation is seeking views on the fee structure and levels. For the purpose of this IA, the analysis is based on fees proposed in the "*Enforcement Fee Structure Review*" report prepared for MoJ.

Costs of Option 1

Costs to enforcement agents

Overall summary

2. 14 Enforcement agents may experience one-off adjustment costs and ongoing additional costs as a result of implementation of the legislative provisions depending on: their current operating procedures; the type of debt they collect (some are currently subject to more structured provisions than others); and different contracts that may stipulate differing requirements of enforcement agents. Enforcement agents may also incur additional costs associated with training and certification. However, the proposed fee structure reforms aim to ensure that the overall impact on profitability for the industry would be neutral after all the proposals from the consultation are taken into account.
2. 15 The fee impacts proposed in this IA make use of information provided in “*Enforcement Fee Structure Review*”. This report was based on a set of simplifying assumptions, and excluded any additional costs associated with certification and competence requirements. On this basis the report concluded that the proposed new fees would generate an increase in overall industry profitability. In practice we consider that any potential increase in overall profitability would be absorbed by additional costs associated with the proposed certification and competency requirements. As such all reforms considered together are considered to have (and intended to have) a neutral impact on overall enforcement agent profitability.
2. 16 It is not possible to quantitatively assess the overall costs to enforcement agent firms at this stage. Detailed information on the current operations of enforcement agent firms is not available, including information on the percentage of certificated or trained enforcement agents. This IA is based on the information available and the qualitative evidence provided by industry representative bodies. However, MoJ is seeking further evidence during the consultation period.
2. 17 The analysis below considers potential costs from each of the three elements of the package: clarifying the law, fees and certification, including the options with and without flexible training.

Clarifying the law

2. 18 The changes in the legal framework are expected to impact the activities and rules by which debt collection is carried out for all the types of debt since the changes streamline all debt areas into a simplified set of rules. Any additional costs to enforcement agents would therefore depend on the firm’s current practices and how the new requirements will affect these. Furthermore firms’ current practices might not be uniform across the industry, especially if voluntary codes are implemented to differing degrees by different enforcement agents and if current levels of competence and knowledge differ. The changes will involve clarifying aspects such as times during which enforcement agents can operate, goods they can seize, methods of entry and procedural steps.
2. 19 As a result of existing complexity, it is not possible to provide a quantitative aggregate assessment of the potential costs of the changes. This would require a mapping exercise for each component of the current regulation within each debt type to see how the changes might impact enforcement agents’ operations, including potential behavioural changes. The exercise would then need to compare how existing provisions are implemented and how they might be implemented in future, bearing in mind the variations by enforcement agent which might currently exist.
2. 20 The industry bodies CIVEA and the HCEOA have so far not provided detailed information on potential costs that their members may face from these changes to the law, but instead focus on the simplification and clarification benefits, as discussed in the benefits section below. We will be seeking further information on the costs during the consultation period.
2. 21 There may be one-off adjustment costs to set up processes in line with the new regulations. These are expected to be minimal and they are centred on simplifying and streamlining existing requirements.

2. 22 Overall, some of the legal clarifications might introduce additional procedures and costs for some enforcement agents and/or for some types of debt or types of debtor, and any cost increases may be higher for those enforcement agents which currently comply less well with the existing voluntary codes. However any such increases in gross costs would be covered by the proposed fee reforms and the overall increase in net costs is intended to be zero as overall profitability is intended to remain the same.

Fees

2. 23 There could be one-off adjustment costs associated with the proposed changes to the fee structure including potential IT costs, such as invoicing software. At this stage there is no evidence as to whether such transitional costs are likely to be significant, and MoJ will be seeking further information during the consultation period.
2. 24 As discussed in the policy objectives section, the aim of reviewing the fee structure and fee levels as part of the policy package is to ensure fees are more closely aligned with costs and that all areas of debt are profitable to an appropriate degree. This should improve incentives and behaviours. Annexes 3 and 4 compare the existing and proposed fee structures and levels.
2. 25 The difference in fee depends on the debt stream, the stage at which the debt is repaid, the value of the debt, and whether any additional costs relating to a particular activity are currently charged, such as hiring a van (“reasonable costs”). Given the unknowns around debt values and whether activity-specific costs are currently charged, it is not possible to establish exactly how existing fees compare to the proposed structure. It is likely that some future fees may be lower than now, especially given reports of very high charges for certain activities, while others may increase, particularly at the early stages of debt enforcement.
2. 26 In those cases where fees charged are currently much higher than the underlying specific costs, and where following the reforms fees will align more closely to costs, enforcement agents would incur a loss of income. (In other cases where fees for activities are currently not levied or are much lower than their associated costs, following closer alignment of fees to costs enforcement agents would secure higher fees – as mentioned in the benefits section).
2. 27 In developing the fee structure, the proposals focussed on overall profitability within debt streams rather than a comparison of fees directly. The “*Enforcement Fee Structure Review*” was based on the strong simplifying position of applying fee changes to existing volumes of cases and types of operational activity. Under these assumptions this review identified fee reforms which lead to an increase in expected overall profitability. As explained, in reality this simplifying position is unlikely to apply as the other reforms are likely to affect volumes and operational activities. The intention is that in practice overall profitability should remain the same. Views on this are being sought during the consultation period.

Certification and competence requirements

2. 28 Enforcement agents would incur costs associated with the proposed certification and competence requirements. The overall costs are not clear at this stage, and would depend on the nature of the certification process in terms of whether option a) or b) below is pursued.
2. 29 It is necessary to consider how many additional enforcement agents would require certification. There are currently around 1,950 enforcement agents on the Certificated Bailiffs register¹⁰. The costs associated with the current process, including the court fee, Criminal Record Bureau (CRB) check, individual bailiff bond and County Court Judgment (CCJ) search are around £320 in total. Certificates need to be renewed every two years. Ascertaining how many additional enforcement agents may require certification is unknown, but a number of scenarios are included below.
2. 30 If an additional 20% of enforcement agents required certification according to the current process, this would require nearly 500 additional enforcement agents to obtain a certificate. This would cost nearly £80,000 to the industry per annum (certification is only required every two years). However, given the requirement for certification within most debt streams through contracts or current law, a more realistic estimate may be 10% more enforcement agents

¹⁰ As of 1st December 2011, there were 1,939 certificated bailiffs on the register

requiring a certificate, in which case the cost to the industry would be around £40,000 per annum. These scenarios provide potential costs for option a).

2. 31 The incremental cost of option b) over option a) would be the required cost of training for enforcement agents, including the financial cost and cost of work foregone. Building on the figures above, it is possible to provide some scenarios for the potential cost of option b) to the industry, which includes training. It will be necessary to review these costs during the consultation period, particularly due to the interaction with the fees that should be charged. This is something we will be seeking additional information on.
2. 32 Training costs are unclear as these would include the cost of the training course and time taken out of work. To provide an indication, we assume these would range from a total of £1,000 to £1,500 in total. Two scenarios for the training element could be as follows:
- If we assume that none of the 1,950 certificated enforcement agents are currently trained (highly unlikely), training costs of £1,500 per agent and that 20% are currently not certificated or trained, the total cost to the industry could be nearly £2m per annum on average. However, we have evidence that some firms already train their employees, and CIVEA and HCEOA already have training courses in place.
 - A more realistic scenario could be if we assume one third of the 1,950 certificated enforcement agents are currently trained, training costs of £1,000 per agent and 10% currently spend nothing at all on certification, the total cost to the industry could be around £0.75m per annum on average.
2. 33 Under option a) training would be flexible. This would leave the enforcement agent open to demonstrating they meet the required competence criteria through methods they prefer to pursue. It is expected that enforcement agents would invest time or money in building competence, however given the flexibility, it is not possible to estimate any additional costs associated with this.
2. 34 In conclusion the gross cost of the certification and competence requirements reforms should be clarified during the consultation period. The illustrative calculations above imply that these might in the range of £0.75m to £2m per year. However the fee reforms are intended to ensure that any such increase in costs is met by higher fees. The net costs of the certification and competence requirements are therefore intended to be offset by changes in fees.

Costs to Creditors

2. 35 The proposals are not expected to have a significant additional impact on creditors except as outlined below. It is assumed that the volume of cases and effectiveness in enforcing debt remain the same.
2. 36 There may be additional costs to creditors associated with changes in enforcement agents' behaviour. For example, creditors may incur cash flow costs if enforcement action commences later than currently due to the requirement to give notice as set out in the proposals. However, this is not expected to have an impact on the actual collection of debt, but only on the method used.
2. 37 In non-High Court debt cases there are no anticipated additional financial costs to creditors. However in High Court cases the proposed fee to the creditor at the first stage of enforcement would be £15 higher, if the enforcement action is not effective. The volume of ineffective cases is unknown, however the worst case scenario would be that all 45,000 Writs of Fi Fa (Table 1) are be ineffective, generating a cost of £0.7m. In reality these costs would be expected to be lower as only the ineffective cases would attract the £15 charge.
2. 38 There are no expected additional costs to creditors associated with any impacts on enforcement agent costs or fees as these costs are covered by the fees which in turn are passed to debtors.

Costs to Debtors

2. 39 Debtors would continue to be liable to meet the overall costs of enforcement-related services undertaken by enforcement agents. This would include any related costs associated with the overall proposals that are passed on through the proposed fees.
2. 40 Any additional costs associated with paying higher fees are not expected to be equal across all debtors, and would depend on the current fees compared to those proposed, which will differ across debt streams, the value of the debt and when the debt is settled. In cases where debtors do experience higher costs, these are expected to be offset by gains in other areas, discussed in the benefits section.
2. 41 In particular the fee reforms are intended to leave overall enforcement agent profitability the same. As such any increase in overall costs for enforcement agents would be passed to debtors. This would include the increased costs associated with certification and competence requirements. Reforms relating to clarifying the law are not anticipated to generate overall increased costs for enforcement agents (although as explained elsewhere within the overall position there may be cost reductions in some places and increased costs in others).

Costs to HM Courts & Tribunals Service

2. 42 There are no expected additional net costs to HM Courts & Tribunals Service. There may be additional operating costs for HM Courts & Tribunals Service through an increased demand for judicial authority applications as a result of the clarifying the law proposals. There would also be increased one-off costs associated with increased certification applications. Any increase in costs is, however, expected to be met by the court fees which are charged for these services, and the intention is to set these fees at levels which secure full cost recovery.

Costs to other stakeholders

2. 43 The third sector, debt advice agencies and legal professionals may incur costs associated with familiarisation with the new regulatory measures. However these are expected to be minimal.

Costs to society and wider economic costs

2. 44 There are no anticipated additional costs to society or additional wider economic costs.

Benefits of Option 1

Benefits to enforcement agents

2. 45 There would be ongoing benefits to enforcement agents as a result of the proposed legislative provisions. These stem primarily from the expected efficiency gains associated with clarifying the law, and the proposed fees that would more closely align fees with costs.
2. 46 The extent of the benefits will depend upon current operations of enforcement agent firms, and the areas in which they operate. Benefits from streamlining would have a greater impact on those firms that operate across a greater number of debt types. The benefits from the proposed fee changes similarly depend on each firm's areas of operation.
2. 47 It is not possible to quantitatively assess the overall benefits to enforcement agent firms at this stage. This IA therefore provides a qualitative assessment based on the information available and evidence provided by the industry representative bodies. MoJ is seeking further evidence during the consultation period.
2. 48 As explained in the costs section, the overall volume of cases and overall effectiveness of debt recovery are assumed to remain as current. Profitability is expected to remain at existing levels after all proposals within this package are taken into account. Enforcement agents should in future operate more transparently and more professionally, which may yield wider reputation benefits.
2. 49 The analysis below considers potential benefits from each of the three elements of the package: clarifying the law, fees and certification, including the options with and without training.

Clarifying the law

2. 50 The clarification and simplification associated with the proposed package should allow efficiency savings to be made. These would arise through:
- Simplifying the training of new staff – new enforcement agents will now only have to learn the law according to one debt stream rather than multiple, as currently.
 - Simplifying billing and invoicing – currently a firm charges for different activities and at different levels for different debt types, complicating the billing process and management accounting. The aim of law clarification is also to set out the way fees would be charged and its structure. Firms would now only have to consider one set of invoicing and billing (apart from the High-Court and non-High Court distinction), rather than multiple.
 - Reducing disagreement between enforcement agents and debtors brought about by misinterpretation and misunderstanding of the law. The changes to the law would clarify the position for both sides and would save on resolving complaints brought about due to the lack of clarity.
2. 51 These efficiency benefits are confirmed by CIVEA and the HCEOA who recognise these factors could generate cost savings to their members. Such gains would be more significant for those firms who operate across multiple debt areas. It is not possible to assign a potential value to enforcement agent firms due to the limitations in operational knowledge, as previously outlined.
2. 52 Further to the overarching streamlining benefit, some individual components of the law could also enable efficiencies to be generated, such as by enabling the debtor and enforcement agent to enter into a payment arrangement after the debtor receives notice of enforcement.
2. 53 For enforcement agents who operate according to private contractual agreements, there could be savings associated with no longer changing their processes regularly to meet specific changes in contractual obligations. The regulatory proposals would replace such obligations once, and are not expected to be changed frequently.
2. 54 In conclusion, some of the legal clarifications might generate efficiencies and enable costs to be reduced. However any such reductions in gross costs would be covered by the proposed fee reforms and the overall reduction in net costs is intended to be zero as overall profitability is intended to remain the same.

Fees

2. 55 The proposed changes to enforcement agent fees are aimed at keeping the industry profitability at existing levels, taking into account the wider reforms proposed in this IA. As discussed in the costs section, fees for some activities are expected to be higher under the proposed new fees, whilst others are expected to be lower. Annexes 3 and 4 compare the current and proposed fees. Fees would be higher for early administrative stages that do not necessarily attract a fee currently, whilst they would be likely to be lower in cases where firms are able to charge directly for certain costs incurred, e.g. “reasonable costs”.
2. 56 To assess the benefit to enforcement agents of the proposed fee changes, it is necessary to consider the expected impact on profitability rather than looking at the change in fees directly. The “*Enforcement Fee Structure Review*” undertakes this analysis, looking at how future expected profitability for a representative firm under the proposed fees compares to current profitability, assuming the current enforcement actions within the new fee stages and the current requirements of enforcement agents.
2. 57 The findings of this report are that the average profit margin of a representative firm under the new structure would be around 17% for firms dealing with non-High Court debt and around 10% for firms dealing with High Court debt. This compares to average profit margins of around 8% and 12% respectively when the report was produced. Volumes of non-High Court debt enforcement are much larger than High Court debt enforcement meaning an overall profitability increase would be expected across the industry. Some firms work across both the High Court

2. 58 As explained in the costs section, the “*Enforcement Fee Structure Review*” was based on the strong simplifying position of applying fee changes to existing volumes of cases and types of operational activity. In reality this simplifying position is unlikely to apply as the other reforms are likely to affect volumes and operational activities, in particular the new certification and competence requirements. The intention is that in practice overall profitability should remain the same rather than increase. Views on this are being sought during the consultation period. In addition the sample size used for this review means that its findings might not be representative of the whole enforcement agent sector.

Certification and training

2. 59 Enforcement agents may see benefits associated with the proposed certification and competence proposals. First, they may benefit from the raised professional standards of conduct and Continued Professional Development that could lead to reputation gains. This would be greater under option b). Secondly, there may be indirect benefits associated with increased knowledge of procedures to deal with particular situations. The extent of these gains would depend on which option for certification would be pursued.
- As discussed in the costs section, certification option a) is an expansion of the existing process. As firms could currently operate according to this process, the potential reputation gains stem largely from coordinating across the whole industry to maintain a certain quality standard. Actions by some firms currently lead to an adverse perception of the industry as a whole.
 - Certification option b) is expected to go further than option a) in improving the reputation of firms due to the higher quality standard that would be ascertained across the industry under this option.
2. 60 It is not possible to provide monetised impacts for these potential benefits, however, we will be exploring this benefit to firms in more depth during the consultation period.

Benefits to creditors

2. 61 Simplification and clarification of the law could generate efficiency gains for creditors through a clearer idea of how debt enforcement using an enforcement agent would work, and how this compares to other methods. Creditors may face fewer legal challenges from debtors if regulations are unified and more clearly set out, reducing scope for disagreement.
2. 62 Creditors could benefit from further efficiency savings from a streamlined set of rules from no longer covering issues related to enforcement activities and fees in contractual agreements with individual enforcement companies as these would be set out once in law.
2. 63 Creditors may benefit from faster debt recovery if enforcement agents become more efficient and competent at recovering debt. Furthermore, the service of a notice would inform debtors of the consequential actions and charges and this may raise incentives to pay debt earlier. At this stage we assume that effectiveness of debt enforcement would remain the same.
2. 64 Creditors would benefit from being able to choose from a wider range of fully trained enforcement agents that are authorised to be fit for purpose. Creditors may also place a value on any reputation gains to enforcement agents, and in knowing the associated standards that should be upheld.

¹¹ Plimsoll, 2011.

Benefits to Debtors

2. 65 The package of reforms is expected to raise an overall benefit for debtors through; simpler, clearer, and more consistent rules for enforcement agents across all types of debt; a clear fee structure; and an improved mechanism for improving competency skills and accountability of enforcement agents. It is anticipated that the benefits to debtors from the proposals would outweigh any additional costs, such as from changes in fees. This is explained below.

Clarifying the law

2. 66 Clarifying the law should achieve benefits to debtors through:
- Enforcement agents would have a clear set of rules and procedures by which to operate, making it more difficult to operate outside of these and so potentially improving the debtor's experience.
 - Should a debtor experience any negative behaviour, it would be much clearer to ascertain whether an enforcement agent has behaved inappropriately and address the misconduct. The time taken and aggravation involved in dealing with negative experiences should be reduced.
 - The abolition of the out of court remedy distress for rent for domestic premises will provide the debtor with protection of the court before enforcement action is taken.

Fees

2. 67 The proposed fees should also generate a number of benefits to debtors, despite potentially higher fees in some cases:
- A clear, simple fee structure would allow debtors to see what charges they should expect to incur, and as a consequence should prevent overcharging. Overcharging would be easier to identify and take action against. There is also merit in knowing expected fees in advance and how these would change if debt repayment is delayed.
 - The new fee structure should benefit debtors through increased equity (fairness). Currently, enforcement agents may charge high rates for select areas of enforcement to cross-subsidise other areas. In future, fees charged across all areas would be the same for similar activities. They should also be more proportionate to the activity incurred, improving equity (fairness).
 - The proposed fee structure could reduce incentives for enforcement agents to undertake unnecessary actions that could increase the fee charged, rather than increasing enforcement effectiveness. Reduced interaction with the enforcement agent could improve the experience for the debtor, who may be intimidated by the enforcement agent.

Certification and training

2. 68 The certification element of the package should ensure that enforcement agent behaviour is improved where necessary. It should ensure that enforcement agents are more knowledgeable as to what is expected of them and it should be easier to account for misconduct, for example through revoking the certificate.
2. 69 This behavioural benefit would particularly be seen under certification option b), where set qualification requirements would form part of the certification process. These would cover wider issues than are necessarily tested on in the current certification process. Option a) would still require the enforcement agent to demonstrate they meet the prescribed criteria for certification, but in a less clear way.
2. 70 The overall package of changes could also lead to wider benefits to debtors. For example enforcement agents will be prohibited from entering premises where: the debtor is a child under the age of sixteen; where a child or vulnerable persons are the only persons present in the premises which the enforcement agent proposes to enter; and more sensitivity to 'can't pay' rather than 'won't pay' debtors. These aspects could also have financial benefits if they prevent debtors having to undertake actions such as taking a short-term high interest loan to pay the enforcement agent. Given these wider benefits, it is assumed that overall the benefits to debtors would outweigh any additional costs.

Benefits to HM Courts & Tribunals Service

2. 71 Overall, there are no expected additional benefits to HM Courts & Tribunals Service. There may be additional fees received through certification applications and for judicial authority for some enforcement activity. However, these are expected to be offset by increased operational costs. As explained, the intention is that HM Courts & Tribunals Service operates at full cost recovery, implying a neutral overall financial impact.

Benefits to other stakeholders

2. 72 The third sector, debt advice agencies and legal professionals would benefit from simplification and clarification of the law to provide more standardised advice across all types of debt. There could also be a wider benefit if their clients' experience is improved.

Benefits to society and wider economic benefits

2. 73 Society might place a value on the improved equity (fairness) for debtors associated with these proposals. There may also be increased economic efficiency if fees are set out clearly and if fees reflect the costs of the underlying activity better. The simplification of procedures and improved transparency might also be associated with improvements in efficiency.
2. 74 There may be wider economic and social benefits from raising knowledge and professional standards in the industry, and if such measures are considered to bring a fairer system to society.

One In One Out implications

2. 75 This one in one out section evaluates each of these impacts, and explains the overall OIOO position given the evidence currently available. The evidence required to quantify the impacts is not available as explained throughout this IA. Therefore, this IA is based on the information available and MoJ is seeking further information during the consultation process.
2. 76 **Regulatory simplification and clarification** that unifies processes, activities and related fee structures across all types of debt is expected to generate efficiency gains for enforcement agents, debtors and creditors. These may in turn reduce the volume of legal challenges, reduce unnecessary enforcement actions, reduce overcharging, increase accountability and increase clarity around which activities are required and what the fees should be.
2. 77 Enforcement agents are expected to incur costs and benefits associated with changing existing processes in line with the proposals. For example, activities may increase for one type of debt, while in another type of debt activities may decline, as compared to the current system. The extent of these changes is unknown as the current base position is unclear and to some extent, these would replace costs that would have been incurred anyway, for example through regular contractual updates that make specific provisions to processes, fees, and charges.
2. 78 The proposed **fee structure** reforms aim to keep enforcement agent profitability at existing levels. The fee impacts in this IA make use of information provided in "*Enforcement Fee Structure Review*". This report was based on a set of simplifying assumptions, and excluded any additional costs associated with certification and competence requirements. The report concluded there would be an increase in the overall industry profitability. In practice, increases in overall profitability would be absorbed by additional costs associated with the proposed certification and competency requirements and implementing and adapting to the new regulations. The intention is that overall industry profitability should remain the same. Taken in isolation, the new fee structure is therefore expected to generate benefits for enforcement agents as it would enable costs associated with other elements of the package to be met..
2. 79 **Certification** and competence requirements would raise financial costs to enforcement agents. While the data to derive specific costs is unavailable, some indicative estimates are provided. Certification could range from £40,000 to £80,000 per annum for the whole industry, whilst incorporating mandatory training could range from £0.75 million to £2 million per annum.

- 2. 80 There would be benefits to enforcement businesses from achieving greater competency and professionalism. This proposal would also benefit businesses including debtors and creditors from interacting with professional enforcement agents, and having a wider range of professional enforcement agents to operate with.
- 2. 81 Overall the costs to business are intended to be met by the fee change reforms, leaving zero overall net costs.
- 2. 82 More specific consideration on the **OIOO impacts is given by the main affected groups** below:

Enforcement agents

- 2. 83 Given the fees element of the package, the aim is to ensure that the enforcement agent industry is not adversely affected by the reforms given the additional requirements i.e. that current levels of profitability can be maintained. This is discussed in more detail here and in Table 3 below.
- 2. 84 Implementing the TCE Act and bringing all debt streams under a single piece of law will allow enforcement agents to streamline their operations, and help firms generate efficiencies through operating according to one system. Anecdotal evidence from the main industry body highlights that the complexity of the current enforcement law imposes significant burdens on firms, not just through the operational complexity of operating according to nine sets of rules, but also due to the number of unjustified complaints and litigation, and the infeasible fee structure in some areas.
- 2. 85 In recasting the constraints and regulations by which enforcement agents operate, the policy also aims to provide greater protection against aggressive enforcement agents. Consequently, in some areas some firms will be required to do more, such as a mandatory requirement to obtain a certificate and compliance with more restrictive law in some areas. On the other hand, other firms may be required to do fewer activities than the current case. The extent of this impact on firms will depend upon how different firms currently operate. Some of these changes will simply be one-off adaptations to the new regime e.g. IT changes for the new process, whilst other changes could generate an ongoing cost to firms e.g. more restrictions on which goods can be levied. These would be benefit enforcement agents that currently operate through private contracts that may change activities periodically, whereas in future all enforcement work would follow the same proposed activities.
- 2. 86 The new fee structure is anticipated to outweigh any additional costs identified, as it is expected to leave average profitability the same. The overall assessment is that there will be a **zero net costs to enforcement agent firms**.

Creditors

- 2. 87 The overall level for enforcement effectiveness is assumed to remain at current levels. Although as a second round impact in some cases debt might be recovered earlier. There may also be fewer challenges. In other cases debt might be recovered later due to increased requirements such as on notice periods.
- 2. 88 Streamlined regulation would raise efficiency benefits for creditors operating across various types of debt through: clearer methods of enforcement and reduced issues related to enforcement activities and fees covered in contractual agreements as these would be set in law. These may result in fewer legal challenges. Creditors might gain from improved transparency and from greater flexibility in selecting enforcement agents as these would all be professionally certified.
- 2. 89 Creditors pass the costs of paying enforcement agents to debtors so creditors should not be affected financially, except in High Court cases that are not successfully enforced, where the new fee to creditors will be £15 more per case. The number of cases where this applies is unknown, but the theoretical maximum aggregate cost of this would be £0.7m. In reality the actual figure might be much smaller and might be negligible. This is being investigated further during the consultation period. Overall, given the existing information, the benefits to creditors are expected to outweigh costs and this package is expected to raise a **zero net cost for creditors**.

Debtors

2. 90 Debtors should gain from improved enforcement agent conduct, greater transparency, reduced overcharging and improved accountability of enforcement agents. In some cases the reforms would lead to higher fees per case, although in others the fees could be lower. The fees should reflect work carried out by enforcement agents better and as a result reduce the risk of unnecessary activities that may currently raise overall fees per case. The proposed fee structure would be more just as similar enforcement activities would be charged similar fees, in contrast to the current system.
2. 91 Furthermore, the abolition of the out of court remedy distress for rent for domestic premises will provide the debtor with protection of the court before enforcement action is taken.
2. 92 The improved equity (fairness) should outweigh any additional costs of increased fees. Evidence presented above highlights a number of adverse consequences as a result of the current system and the lack of clarity in fee structure and activities charged are part of this. Anecdotal evidence suggests that at times debtors may feel pressures to take out short-term loans to pay off their debt, which could result in a more serious debt problem. It is anticipated debtors' negative experiences should be reduced by the reforms.
2. 93 To the extent that debtors are individuals rather than businesses their increased costs would not enter the OIOO equation.

HM Courts & Tribunals Service

2. 94 Net impacts on HM Courts & Tribunals Service are expected to be zero as the service operates on a full cost recovery basis. Any increase in operating costs should therefore be met by increased court fee income.

Other stakeholders

2. 95 The third sector and debt advice agencies would benefit from simplification and clarification of the law to provide more standardised advice across all types of debt. They would also incur familiarisation costs. Overall, this package is expected to raise a **Zero Net Cost to other stakeholders**.

Wider economic and social impacts

2. 96 It is possible that overall economic efficiency might be higher if an improved quality service offering better protections for consumers is provided at no increase in overall costs.

Overall One In One Out position

2. 97 In the table below, we consider potential financial implications on the following groups: the enforcement agent industry; the third sector; and debtors and creditors as businesses. We evaluate potential financial impacts on these groups in light of the evidence currently available. In some cases it is only possible to include qualitative analysis, as discussed throughout this IA so far.

Table 3: One In One Out Impacts

IMPACT IDENTIFIED	IN / OUT	POTENTIAL MAGNITUDE
1. Impact on enforcement agent industry		
<p><u>Law</u></p> <p>There would be both costs and benefits to the enforcement industry from the changes associated with simplification and clarification of the law. Benefit would arise from efficiencies associated with streamlining operations and training new staff. The potential cost is associated with firms having to implement and adapt to new processes required within the new streamlined law. Some of this would be offset as firms may currently be required to update contracts and processes regularly. Overall gross costs are not anticipated to rise, and in any case net costs should remain the same as fee reforms aim to maintain current profitability levels.</p>	Zero net cost	As discussed above, potential costs associated with this element of the package have not been raised by industry bodies so far. The benefits however, have been noted. As such, the IN should not outweigh the OUT given evidence received so far.
<p><u>Fees</u></p> <p>The proposed fee changes are expected to ensure that overall profitability remains the same. Given that certification should increase costs, fees should rise. Enforcement agents (businesses) would gain as a result, and debtors (individuals) would lose out.</p> <p>There would be additional efficiency gains from simplification of the fee structure and implementing a unified procedure for billing multiple types of debt.</p> <p>There would be some implementation costs, mainly related to IT and changing in invoicing.</p>	OUT	The fees element of the package is intended keep existing profitability and therefore make up for any additional burdens.
<p><u>Certification</u></p> <p>This element of the package will form the most significant additional cost to the enforcement agent industry. Under option a) the cost would be expected to be small, at around £0.75m per annum in the high scenario. Under option b) costs could be up to around £2m per annum for the whole industry. These are illustrative estimates.</p> <p>These are overall gross costs. Net costs should remain zero as fees should be adjusted to maintain current levels of profitability.</p>	IN	Some indicative scenarios are provided in the costs section. It can be seen that a relatively modest profitability increase from the fees would be sufficient to offset these additional costs.
<p>Debtors as business</p> <p>Debtors, as businesses, would meet the costs of any additional costs to enforcement agents through changes in fees. These costs would take the form of transfers between businesses.</p> <p>Debtors, as businesses, would benefit from improved accountability and clearer information around fees and procedures, which could result in lower volume of unnecessary enforcement action and over-charging.</p> <p>Relations with enforcement agents would be expected to improve, and a more equal and considerate system would be in place. For example, dealing with enforcement agents that behave more</p>	Zero net Cost	The scale of the impacts is unclear. The additional monetary costs are unclear, and in some cases, fees could even be reduced. The costs however are expected to be offset by additional economic benefits. This is because of the wide range of benefits associated with improved information,

<p>professionally, within a system that provides some protection.</p> <p>Overall, the costs of additional fees are expected to be outweighed by benefits to enforcement agents. There would be wider benefits for debtors from working with less aggressive bailiffs. The overall package is therefore expected to generate a zero net cost for debtors.</p>		<p>accountability, and professionalism of enforcement agents.</p>
<p>Creditors as business</p> <p>Some creditors, as businesses may incur additional costs or benefits associated with the method of debt enforcement. For example changes in notice periods may the speed by which a debt is enforced. These impacts are expected to offset each other and would have minimal monetary impacts.</p> <p>Creditors, as businesses would benefit from simplification and clarity of rules. These would raise efficiency benefits through clarity around enforcement work, which could result in lower legal challenges. Further efficiency benefits would arise through simpler contractual agreements that could also cover wider types of debt enforcement. Enforcement agents would benefit from a wider choice of professional enforcement agents to choose, Simplification of law and fees would generate a benefit to creditors.</p> <p>Finally, creditors enforcing High Court debt would be required to pay £15 more per case if this was not successfully enforced. Overall this package is expected to raise a zero net cost for creditors.</p>	<p>Zero net Cost</p>	<p>The scale of the impacts is unclear. However, any additional monetary costs are expected to be minimal, and additional savings are expected to offset additional costs.</p>
<p>Third sector, debt advisers and legal profession</p> <p>There may be additional costs associated with becoming familiar with the new regulations. However, there would also be benefits from clearer rules and more simple processes through standardised advice across all types of debt.</p> <p>The overall, costs and benefits are expected to offset each other, with a zero net cost to stakeholders.</p>	<p>Zero net Cost</p>	<p>The scale of impacts is unclear at this stage, however there are no expected additional monetary costs or benefits.</p>

Micro exemption waiver

2. 98 An application for exemption from the moratorium on new domestic regulations for micro business and startups was submitted on 5 July 2011 and has been approved in principle.
2. 99 The majority of enforcement agent businesses are small and medium and many fall within the micro business category. Many are already subject to various enforcement regulations or voluntary codes. One key objective of the measures is to replace the current array of provisions with a clearer and simplified regime and another to ensure that all operators in the sector conduct themselves in the right way, such as to provide all debtors with more protection against aggressive enforcement agents. In order to achieve this, the reforms would need to apply to all businesses and micro business would not be exempt. The overall financial position of businesses affected by these reforms is expected to be neutral and the provisions have been limited to those necessary for debtor protection.

2. 100 There are benefits and costs for enforcement business in complying with the law and future fee structure. To exempt micro business would result in failure to address unacceptable behaviour and allow enforcement agents working in these businesses to continue being aggressive and over zealous in their actions. An exemption may also encourage small and medium businesses to divide and become micro businesses to avoid regulation. The proposed certification process has concentrated on the suitability and training of the individual enforcement agent rather than unnecessarily burdening the business.
2. 101 An exemption from Micro Business moratorium will be necessary and final clearance will be sought before implementation.

Option 1: Summary of key assumptions

2. 102 The following key assumptions apply to Option 1:
- This IA assumes the fee structure and levels proposed in the report “Enforcement Fee Structure Review” by Alex Dehayen. However MoJ is seeking views on these during consultation period and may be subject to revisions following the responses to the consultation. We have referred to the results contained in the “Enforcement Fee Structure Review” throughout this analysis.
 - The fees as set out in Annexes 2, 3 and 4 were calculated through a set of assumptions made. For example the level of acceptable profit and the relevant fee stages. A list of these assumptions can be found in Annex 1 of the “*Enforcement Fee Structure Review*”. Before any final fees decisions are to be made, each one of these assumptions would have to be reviewed and agreed.
 - The assessments for enforcement agents is based upon views put forward by the industry representatives, information obtained from the Plimsoll Report (April 2011) and sample of firms on which the report “*Enforcement Fee Structure Review*” is based. There is a risk that this assessment is not based on a sample of firms that is wider enough to represent the entire industry. While this IA is based on the information available at this stage, MoJ is seeking to improve this information during the consultation period.
 - The analysis is based on a relatively small sample of firms – only 20 in total (16 general enforcement agent firms and 5 firms dealing with High Court debt) although not all firms provided the relevant financial information for the fee analysis.
 - It is assumed there would be no adverse behavioural impacts, for example for simplification the rates of collection remain at the current levels, and only the process or efficiency by which these are collected changes. Furthermore, it is assumed that the volume of enforcement action through enforcement agents does not change
 - It is assumed that training courses are readily available and that the costs of certification would not change.
 - It is assumed that the new provisions will be applied and implemented effectively across private and public sector enforcement bodies, in contrast to existing voluntary codes.

2. Enforcement, Sanction and Monitoring

3.1 Compliance with Part 3 of the TCE Act would be the responsibility of creditors, debtors and enforcement agents. However, Schedule 12 to the TCE Act contains remedial actions for:

- The debtor where an enforcement agent breaches a provision of the Schedule;
- The creditor where a debtor interferes with controlled goods; and
- Prescribes that a person is guilty of an offence if they intentionally obstruct a person lawfully acting as an enforcement agent or if they intentionally interfere with controlled goods.

3. Specific Impact Tests

1) Statutory equality duties

4.1 An Equalities IA is annexed and signed off by the relevant policy Director

2) Economic impacts

i) Competition

4.2 There are a number of potential competition impacts and views on these would be welcome over the consultation period. Replacing voluntary codes which are not being applied to all operators in the sector with legislative provisions which will apply to all might promote fairer competition amongst current operators. On the other hand new regulatory requirements to enter the sector might act as a form of entry barrier and have an adverse impact on competition. Simplifying current procedures and removing restrictions applying to different enforcement processes and activities might support improved competition amongst existing operators. Replacing a variety of processes and procedures with a simplified procedure might limit choice and the dimensions of competition. The continued existence of a costs structure means that price competition will remain restricted.

ii) Small firms

4.3 Many enforcement agents are small firms and it would not be feasible for them to be exempt from the proposals as the objective of the reforms is then unlikely to be met. Competition concerns might also be generated by partial application of the reforms. As explained above in the micro business exemption section the package of proposals includes reforms to the costs structure and charging rates which aim to ensure that overall profitability in the enforcement agent sector remains broadly the same as now.

3) Environmental impacts

4.4 There are no environmental implications associated with the proposals.

i) Greenhouse gas assessment

4.5 There are no greenhouse gas implications associated with the proposals.

ii) Wider environmental issues

4.6 There are no wider environmental implications associated with the proposals.

4) Social impacts

i) Health and well-being

4.7 The improved safeguards and fairness associated with the proposals as well as the simplification and improved clarification may have possible health impacts for debtors, for example reduced levels of stress, anxiety and uncertainty.

ii) Human rights

4.8 The Ministry of Justice considers that the proposal engages a number of rights but that the interference with such rights is justified and proportionate. A creditor is entitled to the effective recovery of money lawfully due to them. A debtor is entitled to no greater intrusion on their property or privacy than is needed to achieve that. The proposal involves striking a balance between these sometimes competing rights.

iii) Justice system

4.9 The justice impacts are outlined in the main body of the IA.

iv) Rural proofing

4.10 There are no rural proofing implications associated with the proposals.

5) Sustainable Development

4.11 There are no sustainable development implications associated with the proposals.

6) Exemption from Micro Businesses moratorium

4.12 An application for exemption from the moratorium on new domestic regulations for micro business and startups was submitted on 5 July 2011 and has been approved in principle.

4.13 The majority of enforcement agent businesses are small and medium and many fall within the micro business category. Many are already subject to various enforcement regulations or voluntary codes. One key objective of the measures is to replace the current array of provisions with a clearer and simplified regime and another to ensure that all operators in the sector conduct themselves in the right way, such as to provide all debtors with more protection against aggressive enforcement agents. In order to achieve this, the reforms would need to apply to all businesses and micro business would not be exempt. The overall financial position of businesses affected by these reforms is expected to be neutral and the provisions have been limited to those necessary for debtor protection.

4.14 There are benefits and costs for enforcement business in complying with the law and future fee structure. To exempt micro business would result in failure to address unacceptable behaviour and allow enforcement agents working in these businesses to continue being aggressive and over zealous in their actions. An exemption may also encourage small and medium businesses to divide and become micro businesses to avoid regulation. The proposed certification process has concentrated on the suitability and training of the individual enforcement agent rather than unnecessarily burdening the business.

4.15 An exemption from Micro Business moratorium will be necessary and final clearance will be sought before implementation.

Annexes

Annex 1: Post Implementation Review (PIR) Plan

Basis of the review: The basis of the review is the stated commitment here in this IA to review the reforms three years after implementation

Review objective It is intended as a proportionate check to ensure the reforms have had their intended effect, particularly concerning vulnerable debtors. In particular, we will want to ensure that debtors have been afforded reasonable protection, but not disproportionate to the rights of the creditor. The impacts on enforcement agents, on debt recovery effectiveness and on the justice system also need to be considered.

Review approach and rationale: The approach to the review will be to seek views from all our stakeholders on the impact of the Regulations. We will need to understand from them the impact the reforms have had from an operational perspective. We will also need to consider the impact for creditors, debtors, enforcement agents and the judicial system, as well as views from debt advice organisations.

Baseline: The baseline for the review is the current position. Currently, the law relating to enforcement agents' powers and the seizure and sale of goods is contained in numerous statutes, secondary legislation and common law and different enforcement powers are conferred according to the type of debt concerned.

Success criteria: The main success criteria will be the degree of complaints about inappropriate/aggressive behaviour on the part of enforcement agents. Other criteria include the effectiveness of enforcement agent activity, and the change in overall compliance burdens placed on the enforcement agent sector.

Monitoring information arrangements: Debtor, Creditor and Enforcement Agent feedback will be monitored through correspondence received and Parliamentary Questions. Enforcement Industry, Advice Sector and Cross Government Working Groups and Courts will be asked to partake in snapshot and wider formal surveys. Assessment of the competence of the enforcement agent and sufficiency of the training provided will be monitored through complaints made to the court under the certification process.

Reasons for not planning a review:

Annex 2: MoJ Proposed Fee Structure for purposes of this consultation paper

MoJ Proposed Fees for non-High Court Enforcement			
Fee Stage	Fixed Fee	Percentage Fees	
		£0 - £1,000	>£1,000
Administration	£75.00	0%	0%
Enforcement	£230.00	0%	7.5%
Sale	£105.00	0%	7.5%

Fee Structure Features	
Stage Triggers	
Administration	Warrant received by EAC.
Enforcement	First attendance by EA to debtor's premises/ "door step".
Sale	Debtor's goods sold.
Creditor Guaranteed Fee	None.

MoJ Proposed Fees for High Court Enforcement			
Fee Stage	Fixed Fee	Percentage Fees	
		£0 - £1,000	>£1,000
Administration	£75.00	0%	0%
Enforcement 1	£185.00	0%	7.5%
Enforcement 2	£480.00	0%	0%
Sale	£510.00	0%	7.5%

Fee Structure Features	
Stage Triggers	
Administration	Writ received by HCEO.
Enforcement 1	First attendance by HCEO/ EA to debtor's premises/ "door step".
Enforcement 2	HCEO/ EA is required to reattend debtor's premises due to debtor's failure to comply with notice of seizure or with repayment arrangements previously made.
Sale	Debtor's goods sold.
Creditor Guaranteed Fee	£75.00. To be paid upon completion of Writ with formal notice of abortive return.

Fee Structure Common Features	
Percentage Fees	The appropriate percentage shown in the table above is charged on the amount of the debt <i>above</i> the threshold shown.
Order of Payment	When the EA/ HCEO recovers less than the full amount due, the repayment of original debt to the Creditor, and payment of Enforcement Fees, is to be on a pro-rata basis . The proportion of debt repaid, and Enforcement Fees paid, will both be equal to the proportion of the total amount collected to the total amount owed (original debt + fees).
Multiple Warrants/ Writs	MoJ has not yet specified the calculation of fees for multiple Warrants/ Writs against a single debtor. The Consultation Paper will seek views and MoJ will use these to inform a decision.
Exceptional Costs	The Fee Structure may be supported by an "Exceptional Costs Procedure". MoJ will ask for views in the Consultation Paper, and subsequently determine the need for, and if necessary the specification of, the procedure to be applied.
VAT	MoJ is currently investigating the possibility of creating a uniform VAT treatment for all debt types.
Inflation	The fixed fee levels in the Fee Structure should be updated annually by indexing to RPI. Percentage fee levels should remain unchanged. Percentage Fee thresholds should be updated periodically by indexing to RPI.

Annex 3: Fees Comparison for general enforcement

Scenario	Size of debt (£)	£ Fixed Fees Charged (plus number of additional charges for reasonable costs shown in brackets)							Proposed Fees for non-High Court Enforcement
		Commercial Rent	Council Tax	CSA	HMCS	NNDR	Road Traffic		
A	No successful debtor contact/ unsuccessful enforcement	Any	0.00	0.00	0.00	0.00	0.00	0.00	0.00
B1	Debtor repays in full before EA visit	100	0.00	0.00	10.00	75.00	0.00	11.20	75.00
B2	Debtor repays by instalments before EA visit	100	0.00	0.00	10.00	75.00	0.00	11.20	75.00
B3	Debtor pays in full or by instalments after first EA visit	100	0.00 (1)	24.50	10.00 (1)	275.00	24.50	11.20	305.00
B4	Debtor repays following levy on goods	100	45.65 (3)	79.00 (2)	25.50 (3)	275.00	79.00	47.70	305.00
B5	Debtor repays when EA attends to remove goods	100	45.65 (3)	79.00 (3)	25.50 (3)	275.00	79.00	47.70	305.00
B6	Debtor's goods are removed and sold to repay debt	100	60.65 (6)	89.00 (6)	35.50 (6)	440.00 (4)	89.00 (4)	62.70 (3)	410.00
C1	Debtor repays in full before EA visit	500	0.00	0.00	10.00	75.00	0.00	11.20	75.00
C2	Debtor repays by instalments before EA visit	500	0.00	0.00	10.00	75.00	0.00	11.20	75.00
C3	Debtor pays in full or by instalments after first EA visit	500	0.00 (1)	24.50	10.00 (1)	275.00	24.50	11.20	305.00
C4	Debtor repays following levy on goods	500	70.15 (3)	95.00 (2)	41.50 (3)	275.00	95.00	92.20	305.00
C5	Debtor repays when EA attends to remove goods	500	70.15 (3)	95.00 (3)	41.50 (3)	275.00	95.00	92.20	305.00
C6	Debtor's goods are removed and sold to repay debt	500	145.15 (6)	145.00 (6)	91.50 (6)	500.00 (4)	145.00 (4)	167.20 (3)	410.00
D1	Debtor repays in full before EA visit	5,000	0.00	0.00	10.00	75.00	0.00	11.20	75.00
D2	Debtor repays by instalments before EA visit	5,000	0.00	0.00	10.00	75.00	0.00	11.20	75.00
D3	Debtor pays in full or by instalments after EA visit	5,000	0.00 (1)	24.50	10.00 (1)	275.00	24.50	11.20	505.00
D4	Debtor repays following levy on goods	5,000	140.65 (3)	162.50 (2)	109.00 (3)	275.00	162.50	339.70	505.00
D5	Debtor repays when EA attends to remove goods	5,000	140.65 (3)	162.50 (3)	109.00 (3)	275.00	162.50	339.70	505.00
D6	Debtor's goods are removed and sold to repay debt	5,000	215.65 (6)	212.50 (6)	169.00 (6)	1,175.00 (4)	212.50 (4)	414.70 (3)	810.00

Numbers in brackets represent the number of fees within the Fee Structure where “reasonable costs” may be charged.

Whilst calculating the fees due under the various scenarios and Fee Structures the following assumptions have been made:

- Existing Fee Structures for Stamp Duty Land Tax and Social Security are vague regarding how many visit fees may be charged. It has been assumed that multiple visit fees may be charged.
- For all cases including levying and/or attendance to remove it is assumed that there have been three visits made to the premises.
- Following all levies it has been assumed that “Walking possession” is taken of goods, and not “Close possession”. EACs reported that “Close possession” occurs extremely infrequently. In all cases the period of walking possession is assumed to be 30 days.
- All sales are assumed to take place at the auctioneer’s premises, and the auctioneer’s commission fee is assumed to be 10% of the sales price achieved, which in turn is assumed to be equal to the amount of debt outstanding.

NB fee comparison depends on size of debt

Annex 4: Fees Comparison for High Court enforcement

Scenario	Size of debt (£)	£ Fixed Fees Charged (plus number of additional charges for reasonable costs shown in brackets)	
		Writs of FiFa	Proposed Fees for High Court Enforcement
A <i>No successful debtor contact/ unsuccessful enforcement</i>	Any	60.00	75.00
B1 <i>Debtor repays in full before EA visit</i>	600	83.50 (1)	75.00
B2 <i>Debtor repays by instalments before EA visit</i>	600	83.50 (1)	260.00
B3 <i>Debtor pays in full or by instalments after first EA visit</i>	600	83.50 (2)	260.00
B4 <i>Debtor repays following levy on goods</i>	600	93.00 (4)	260.00
B5 <i>Debtor repays when EA attends to remove goods</i>	600	93.00 (4)	740.00
B6 <i>Debtor's goods are removed and sold to repay debt</i>	600	170.50 (6)	1,250.00
C1 <i>Debtor repays in full before EA visit</i>	5,000	193.50 (1)	75.00
C2 <i>Debtor repays by instalments before EA visit</i>	5,000	193.50 (1)	560.00
C3 <i>Debtor pays in full or by instalments after EA visit</i>	5,000	193.50 (2)	560.00
C4 <i>Debtor repays following levy on goods</i>	5,000	203.00 (4)	560.00
C5 <i>Debtor repays when EA attends to remove goods</i>	5,000	203.00 (4)	1,040.00
C6 <i>Debtor's goods are removed and sold to repay debt</i>	5,000	268.00 (6)	1,850.00
D1 <i>Debtor repays in full before EA visit</i>	50,000	1,318.50 (1)	75.00
D2 <i>Debtor repays by instalments before EA visit</i>	50,000	1,318.50 (1)	3,935.00
D3 <i>Debtor pays in full or by instalments after EA visit</i>	50,000	1,318.50 (2)	3,935.00
D4 <i>Debtor repays following levy on goods</i>	50,000	1,328.00 (4)	3,935.00
D5 <i>Debtor repays when EA attends to remove goods</i>	50,000	1,328.00 (4)	4,415.00
D6 <i>Debtor's goods are removed and sold to repay debt</i>	50,000	1,393.00 (6)	8,600.00

Notes

- Numbers in brackets represent the number of fees within the Fee Structure where “reasonable costs” may be charged.
- Whilst calculating the fees due under the various scenarios and Fee Structures the following assumptions have been made:
- For all cases including levying and/or attendance to remove it is assumed that there have been three visits made to the premises.
 - Following all levies it has been assumed that “Walking possession” is taken of goods, and not “Close possession”. HCEOs reported that “Close possession” occurs extremely infrequently. In all cases the period of walking possession is assumed to be 30 days.
 - All sales are assumed to take place at the auctioneer’s premises, and the auctioneer’s commission fee is assumed to be 10% of the sales price achieved, which in turn is assumed to be equal to the amount of debt outstanding.

NB fee comparison depends on size of debt

Annex 5: Questionnaire for Enforcement Agent Industry

A. Background information

Full name	
Company name / organisation	
Job title / position	
Date	
Contact Details (including email address)	
Please let us know if you would like us to acknowledge your response to the above address or an alternative address	
Please let us know whether you would be happy to be contacted for further information.	

B. Notes

1. To help inform the “Transforming Bailiff Action” Consultation we would be grateful if you could answer the following questions as far as possible.
Please complete either an electronic or hard copy of the questionnaire. Responses may be emailed to EnforcementReform.TCE@justice.gsi.gov.uk or posted to ‘Enforcement Reform – Tribunals, Courts and Enforcement Act. Ministry of Justice. 1st Floor post point 1.40. 102 Petty France. London SW1H 9AJ’. Please continue on separate sheets if you require more space.
2. We do not intend to publish or share any data you provide, however, we may be asked to disclose information under the Freedom of Information Act (FOIA), so cannot guarantee confidentiality. For more details please see box below. If you would like your information to be kept confidential, please indicate this here and outline the reasons – these will be considered should the information be requested.

Freedom of Information Act

Under the Freedom of Information Act we might be asked to release the data that you have provided to us under a Freedom of Information request. Any individual has the right to request for all recorded information which is held by a public authority under the Freedom of Information Act. The Freedom of Information Act contains various exemptions and exclusions from the right of access to information that ensure a proper balance is achieved between the right to know, the right to personal privacy, the delivery of effective government, and other important public interests.

When a public authority considers whether the information should be released, it will consult with any third parties who may have sent or supplied the information or have a close interest in it before releasing the information.

Under the Freedom Of Information Act, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. If we receive a request for disclosure of the information we will take full account of your explanation for confidentiality, but we cannot give assurance that confidentiality can be maintained in all circumstances.

If you want the information that you provide to be treated as confidential please set out clearly why you regard the information you have provided as confidential.

C. About your business

Number of agents:

1. How many enforcement agents does your business directly employ?
2. How many agents work for you on a contract basis?
3. Are you a: Sole trader Landlord Enforcement firm Other (please specify)

Areas of work:

4. We are interested in the volume of work across different areas of debt recovery and about fees in different areas.

Please provide details in the table below. Please use figures from the last financial year (2010/11) if possible, otherwise indicate the year or time period. If you are unable to break figures down by debt type, please give average figures in the 'average' row at the bottom.

	Do you work in this area of debt? (Y/N)	Approx. proportion of cases (as part of overall workload)	Average value of debt per case, currently	Proportion of cases where debt is fully or partially recovered currently	Average value (or proportion) of debt recovered per case currently	Average fees per case currently (in addition to debt recovered)	Average expected fee per case (across those where fee recovered) in future
Commercial rent							
Council Tax							
Child Support Agency							
Court fines and penalties							
Non-domestic rates							
Road Traffic Act penalties							
Writs of Fi Fa							
Other (please specify)							
Average							
Total							

5. What was your annual turnover (revenue) for the last financial year (£)? Please provide a figure, or a range, and clearly specify the time period to which the data relates.

6. What were your annual operating costs for the last financial year (£)? Please provide a figure or range, and clearly specify the time period to which the data relates.

7. If you would be willing to share financial statements with us, please indicate this here (Y/N)

D. Views on the impact of the proposals

We are interested in understanding the impacts of each of the proposed changes in the law on your firm.

Clarifying the law

8. Do you think your firm would see any benefits from the proposed simplification of the law, such as from streamlining processes? Please give details.
9. Do you think your firm would see any costs from the proposed simplification of the law, such as from streamlining processes? Please give details.

Training and certification

10. What proportion of your enforcement agents (both directly employed and those you contract with) are certified?
0-20% 20-40% 40-60% 60-80% 80-100%
11. What proportion of your enforcement agents (both directly employed and those you contract with) have undergone training?
0-20% 20-40% 40-60% 60-80% 80-100%
12. What do you anticipate the cost of training to be to per enforcement agent, assuming that training would be required for certification? Please consider the cost relative to what you currently spend on training.
£0-£100 £100-£500 £500-£1,000 £1,000+
13. Assuming that the new certification process includes training, do you envisage that such a certification process would reduce the volume of complaints seen? Please explain.
14. Assuming that the new certification process includes training, do you envisage that such a will reduce the cost of dealing with complaints? Please explain.
15. How much time do you currently spend processing complaints per week (approximate)?
0-5 hours / week 5-10 hrs / week 10+ hours / week

New fee structure

16. What is the expected impact on profitability of the new fee structure to your firm, assuming the same is work carried out as currently, and considering the structure and fee levels proposed in the consultation document?
Large increase Small increase No change Small decrease Large decrease

17. Please explain how you reached this conclusion

Overall impact of combined proposals

18. What do you think the overall impact of the proposed reforms would be on your firm in terms of the efficiency and operations of your firm? Please explain.

19. What do you think the overall financial impact of the proposed reforms would be on your firm, in terms of profitability? Please explain

20. What do you think the overall financial impact of the proposed reforms would be on your firm, in terms of quality of service? Please explain