Ministry of Justice

Lord Bellamy KC
Parliamentary Under-Secretary
of State for Justice

Bob Neill MP
Chair, Justice Committee
House of Commons
London
SW1A 0AA

MoJ Ref: TN107273

14 July 2023

Dear Bob,

WRITTEN MINISTERIAL STATEMENT
REVIEW OF ENFORCEMENT AGENT FEES 2023

I am writing to let you know that the government plans to publish a Written Ministerial Statement on 17 July 2023, to inform Parliament about the publication of our review of the fees that enforcement agents and High Court Enforcement Officers can recover from judgment debtors when using the procedures in the Taking Control of Goods Regulations 2013 and the Taking Control of Goods (Fees) Regulations 2014 in England and Wales. Please note that the details in the statement, that I have outlined below, are embargoed until its publication on 17 July.

The ability of creditors to enforce the payment of debts and fines is a fundamental part of the justice system which supports economic growth and underpins the rule of law. The enforcement industry collects debts owed to private individuals, businesses and local authorities, the last of which are in turn used to fund public services. If effective enforcement methods were not available, creditors would be more cautious in their lending and the authority of the courts, and public trust in their effectiveness, would be questioned. To ensure the enforcement system remains effective it is essential that the enforcement industry is sustainable.

The fees that enforcement agents and High Court Enforcement Officers can recover are set out in the Taking Control of Goods (Fees) Regulations 2014. They were designed to ensure a fair and transparent costs structure that provides appropriate remuneration for enforcement work undertaken, without allowing the sector to make excessive profits to be paid for by debtors. The Regulations were also designed to incentivise early recovery without an enforcement visit being necessary, thereby reducing costs to all parties.

I wrote to you in December last year to inform you that we would be conducting a review of the fees structure. The review looked at whether the fees should be uplifted from the level set in 2014; whether more could be done to encourage payment without an enforcement visit becoming necessary; whether reform was needed of the High Court fee scale; and whether the costs of enforcement should continue to be borne by judgment debtors. We considered evidence provided by the enforcement industry, debt advisors, creditors and other interested parties.

We intend to make the following changes:

Uplifting the fixed fees that enforcement agents and High Court Enforcement Officers can recover from judgment debtors by 5%. This will be the first uplift to the fees since 2014. We consider it is necessary to do so to ensure that enforcement firms are appropriately remunerated for the work they do in order to ensure the sustainability of the sector.

Uplifting by 24% the thresholds above which enforcement agents and High Court Enforcement Officers can recover a percentage fee and rounding the result to the nearest £100. This will ensure that inflationary increases are accounted for so that only consumers and businesses with higher value debts requiring greater amounts of work to enforce have to pay this additional fee.

We also intend to consult on a package of measures aimed at incentivising earlier and cheaper settlement of debt. Proposals include extending the minimum period of notice that must be given before making an enforcement visit from 7 to 28 days; defining in Regulations the tasks that are to be undertaken before a visit is made; and amending the statutory Notice of Enforcement to signpost debtors to advice and encourage early engagement with enforcement agents.

We will also consult on amending the Regulations that apply to High Court enforcement to prevent a higher fee being applied to low value debts, and to clarify when cases can progress to the next enforcement stage. We also intend to consult on proposals to amend the Taking Control of Goods: National Standards to prohibit creditors from seeking to recover a percentage of the enforcement agent or High Court Enforcement Officer fees when tendering for enforcement contracts. This will ensure enforcement agents do not recover less than they should for each stage of enforcement and prevent debtors being unnecessarily moved to more expensive stages of enforcement and higher costs.

This package of reforms aims to ensure the sustainability of the enforcement sector, whilst tightening up the rules that enforcement agents and High Court Enforcement Officers must follow to ensure that people in debt are given more opportunities to settle the debt at the earliest and cheapest stage possible. These reforms will complement the work that the government is already doing to make sure that people facing enforcement action are treated fairly, such as supporting the establishment of the Enforcement Conduct Board to provide independent oversight of the sector.

Kind regards,

Christopher Bellamy

LORD BELLAMY KC

Draft Written Ministerial Statement

Review of the Taking Control of Goods (Fees) Regulations 2014

The Under-Secretary of State for Justice, my noble Friend Lord Bellamy KC, has made the following written statement:

The government has today published the outcome of its review of the fees that can be recovered from judgment debtors by enforcement agents and High Court Enforcement Officers – commonly known as bailiffs - when using the procedures in the Taking Control of Goods Regulations 2013 and the Taking Control of Goods (Fees) Regulations 2014 in England and Wales.

The ability of creditors to enforce the payment of debts and fines is a fundamental part of the justice system which supports economic growth and underpins the rule of law. The enforcement industry collects debts owed to private individual, businesses and local authorities, the last of which are in turn used to fund public services. If effective enforcement methods were not available, creditors would be more cautious in their lending and the authority of the courts, and public trust in their effectiveness, would be questioned. To ensure the enforcement system remains effective it is essential that the enforcement industry is sustainable.

The fees that enforcement agents and High Court Enforcement Officers can recover are set out in the Taking Control of Goods (Fees) Regulations 2014. They were designed to ensure a fair and transparent costs structure that provides appropriate remuneration for enforcement work undertaken, without allowing the sector to make excessive profits to be paid for by debtors. The Regulations were also designed to incentivise early recovery without an enforcement visit being necessary, thereby reducing costs to all parties.

The review looked at whether the fees should be uplifted from the level set in 2014; whether more could be done to encourage payment without an enforcement visit becoming necessary; whether reform was needed of the High Court fee scale; and whether the costs of enforcement should continue to be borne by judgment debtors.

We intend to make the following changes:

Uplifting the fixed fees that enforcement agents and High Court Enforcement Officers can recover from judgment debtors by 5%. This will be the first uplift to the fees since 2014. We consider it is necessary to do so to ensure that enforcement firms are appropriately remunerated for the work they do in order to ensure the sustainability of the sector.

Uplifting by 24% the thresholds above which enforcement agents and High Court Enforcement Officers can recover a percentage fee and rounding the result to the nearest £100. This will ensure that inflationary increases are accounted for so that only consumers and businesses with higher value debts requiring greater amounts of work to enforce have to pay this additional fee.

We also intend to consult on a package of measures aimed at incentivising earlier and cheaper settlement of debt. Proposals include extending the minimum period of notice that must be given before making an enforcement visit from 7 to 28 days; defining in Regulations the tasks that are to be undertaken before a visit is made; and amending the statutory Notice of Enforcement to signpost debtors to advice and encourage early engagement with enforcement agents. We will also consult on amending the Regulations that apply to High Court enforcement to prevent a higher fee being applied to low value debts, and to clarify when cases can progress to the next enforcement stage. We also intend to consult on proposals to amend the *Taking Control of Goods: National Standards* to prohibit creditors from seeking to recover a percentage of the enforcement agent or High Court Enforcement Officer fees when tendering for enforcement contracts. This will ensure enforcement agents do not recover less than they should for each stage of enforcement and prevent debtors being unnecessarily moved to more expensive stages of enforcement and higher costs.

This package of reforms aims to ensure the sustainability of the enforcement sector, whilst tightening up the rules that enforcement agents and High Court Enforcement Officers must follow to ensure that people in debt are given more opportunities to settle the debt at the earliest and cheapest stage possible. These reforms will complement the work that the government is already doing to make sure that people facing enforcement action are treated fairly, such as supporting the establishment of the Enforcement Conduct Board to provide independent oversight of the sector.

Following consultation, we propose introducing legislation to implement all of these measures at the same time.

Our review benefitted from a wealth of data and feedback from the enforcement sector and other interested parties including debt advice providers local authorities, court users and other interested parties and the Government would like to thank them for their important contributions.

A copy of the Government Response to the Review will be online at www.gov.uk.
(DN: address to be updated)