



Complaints procedure

A step-by-step procedure to making a complaint about high court enforcement officers (HCEOs)

This document explains the procedures that we, the High Court Enforcement Officers Association Limited, will normally follow when handling complaints we receive about an HCEO. However, we do reserve the right to vary the procedure in any individual case to meet its individual circumstances.

Making a complaint

- 1 You can make a complaint if you are affected by the HCEO's behaviour, or if you have experienced or witnessed the HCEO's behaviour. We will consider complaints from:
 - judgment creditors (people who are owed money under a court decision);
 - judgment debtors (people who owe money under a court decision);
 - other people affected by the HCEO's behaviour; and
 - an HCEO about another HCEO.

You can make a complaint on behalf of someone else, as long as they have given you permission to do so. In exceptional circumstances, a member of your family or someone closely connected to you may make a complaint, without having to get your permission to do so (for example, if you were not able to give permission because you are under age or too ill to manage your own affairs).

We may also make a complaint against an HCEO.

- 2 HCEOs must operate a complaints procedure.
- 3 You should first make your complaint to the relevant HCEO. Most HCEOs are employed by a company providing enforcement services. You can get details of the address for all HCEOs from our secretary (please see point 6).
- 4 Once you have exhausted their complaints procedure with the company, if you are still not happy with the result and feel that you have good reason to take the matter further, you may ask us to deal with the complaint.
- 5 You must make any complaints to us in writing, and send them to our Complaints Officer/Secretary at the address below.
- 6 You can contact our Complaints Officer/Secretary by writing to:



**The Complaints Officer/Secretary
High Court Enforcement Officers Association
Drake House,
Gadbrook Park,
Northwich,
Cheshire,
CW9 7RA
Email: complaints@hceo.org.uk**

If you are not able to make a written complaint to our Complaints Officer/Secretary (for example, if you have a disability), you may phone our Complaints Officer/Secretary on 0844 824 4575 and they will make a written record of your complaint.

- 7 Any complaints you make to us must:
 - say what type of complaint you are making; and
 - include a copy of the HCEO's written response to your complaint (if this applies).
- 8 You should also mention in the complaint any laws, common-law responsibilities, rules or codes of conduct which you think the HCEO has broken.
- 9 Our Complaints Officer/Secretary will acknowledge that they have received your written complaint within seven working days, and pass it to our Complaints Officer to deal with. Our Complaints Officer is Christopher Badger.

If you are making a complaint about our Complaints Officer or a member of his trading organisation, we will choose a qualified and independent deputy from the Association Board to handle the complaint.

Assessing your complaint

- 10 The Complaints Officer will, within 28 days of receiving your complaint, assess whether we are able to deal with the complaint and tell you whether or not we will investigate it further. If we are not able to deal with your complaint, the Complaints Officer will inform you in writing, telling you why.
- 11 As part of this complaint assessment, the Complaints Officer will probably ask for information, either at a meeting, or by a telephone conference, with you or the HCEO involved. Where he considers it appropriate, the Complaints Officer may try to seek an informal resolution of your complaint.
- 12 The Complaints Officer will collect all the information available about the complaint and decide whether the complaint should be investigated. He may decide that the complaint:
 - should not go ahead; or
 - falls within a category which our complaints procedure does not include.We will not go ahead with any of the following:



- a Disagreements about an amount claimed on the writ (a formal written order made by an organisation with powers to make a legal judgment – usually a court). You take this complaint to the judgment creditor or the court involved.
- b Disagreements about the fees we charge. We already have a legal process for dealing with disagreements about fees, and you must take the matter to a court in an assessment hearing under Civil Procedure Rules Part 84.16. As this is a technical application, you should obtain independent advice from a solicitor, Citizens Advice or the Community Legal Services Board, to make sure you make the application in the correct format.
- c Complaints about whether a writ is legal. You should take these matters to the court involved.
- d Disputes about the law, rather than the behaviour of an HCEO. You should take these matters to court. Whilst we will not look at the amount of fees charged, we will consider whether the appropriate stages have been reached to trigger those fees.
- e Cases where legal action against the HCEO has already been made or started, or where the case would be more appropriately dealt with through legal action. We will not get involved in these types of cases until the court case is over.
- f Cases falling within paragraph 4 of part 2 of the High Court Enforcement Officers Regulations 2004, or a matter that is within Article 10.12 of the Association's Articles of Association. If this is the case, we will refer the matter to the Lord Chancellor (see paragraphs 29 and 30 below).

- 13 If the Complaints Officer rejects your complaint under one of the headings above (except clause 12f) and you disagree with their decision, you may take your complaint to our Complaints Board. You must lodge this appeal with the Complaints Officer in writing.

If the Complaints Officer decides we shall investigate your complaint, he will pass it to the Complaints Board.

The Complaints Board will be made up of a legally qualified independent advisor and two members of our Board of Directors (but not the Complaints Officer or anyone else who has already been involved in looking at the complaint). If there is no member of the Board of Directors available, a full member of the Association, unconnected with the complaint, may be co-opted to the Complaints Board.

Investigating your complaint

- 14 The Complaints Board will investigate your complaint in the manner it thinks fit. This will normally be in private and be restricted to a consideration of the evidence contained in the documents presented, although, exceptionally, it may decide to hold a hearing with parties present, if the members of the Complaints Board consider it desirable. In which case, you and the HCEO will



be invited to attend the hearing which will be held in private in a location convenient to you.

- 15 The Complaints Board may ask for further information from both you and the HCEO and give directions to that effect. All relevant information received will be shared with both you and the HCEO and you and the HCEO will have an opportunity to comment on it before a decision is made.
- 16 During the investigation, the Complaints Board will be able to use any relevant laws (as amended or replaced from time to time), rules, codes of conduct and common law, including:
 - a the Courts Act 2003;
 - b the Tribunals Courts & Enforcement Act 2007 and its Regulations
 - c the High Court Enforcement Officers Regulations 2004;
 - d our Code of Conduct and any issued Best Practice guidance;
 - e Civil Procedure Rules;
 - f National Standards & the Articles of Association; and
 - g ICO and College of Policing Guidelines on use of body-worn video, surveillance and television cameras, relating to data protection.
- 17 The Complaints Board will prepare a report, which will include:
 - a what the complaint was about;
 - b the issues you and the HCEO put forward;
 - c any laws, rules, or codes of conduct which have not been met,
 - d the Board's decision and recommendations with reasons.
- 18 The Complaints Board will consider the complaint and make a decision. They may decide to:
 - a dismiss the complaint;
 - b uphold the complaint;
 - c award costs against the HCEO for additional hearings of the Complaints Board caused by their failure to comply with the Board's Directions.
- 19 If the complaint is upheld, the Complaints Board may decide to:
 - a give instructions about the HCEO's and/or their agent's behaviour, which they must follow in the future;
 - b direct the HCEO to pay up to £15,000 in penalties &/or costs;
 - c recommend to us that we take away the membership of the HCEO and take the case (and report from the Complaints Board) to the Lord Chancellor. We will make recommendations about whether the HCEO should continue to be one of our members, or whether they should be an authorised HCEO; and/or
 - d award compensation to you if they think that you have been unfairly treated in any way by the HCEO.



- 20 The Chairman of the Complaints Board (the Chairman) will send you a copy of the Complaints Board's report within 21 working days. You can check the report to make sure the information is correct, and you have 21 working days to respond. If you do not respond within 21 working days, we will assume that you agree that the information in the report is correct. The Complaints Board will consider amending the report if they think this is necessary. It is up to the Complaints Board to make the final decision about any amendments. The Chairman will send you the final version of the report.
- 21 If the Complaints Board have made recommendations, it may set deadlines for these recommendations to be introduced, and may monitor whether or not the recommendations are being put into practice.
- 22 **If you are unhappy with the Complaints Board's decision**
- a You and the HCEO have 21 days, from the date of the letter from the Chairman (which includes the report about the Complaints Board's decision), to tell the Chairman in writing if you want to appeal against the decision to the Appeals Board.
- b You must put forward a case where you can argue that there is a problem with the decision – for example, if:
- there is a mistake in the information used to make the decision;
 - the decision is unlawful (that is, the Complaints Board has acted outside its powers or applied the law wrongly);
 - the Complaints Board have not followed our procedures, so the process was not fair; or
 - no reasonable person could have reached the decision.
- 23 A legally qualified independent advisor, who was not involved in making the original decision, will decide whether or not to allow your appeal to go forward. He will normally make his decision using the information for appeal put forward by the person making the appeal and the response by the HCEO. He will give you and the HCEO reasons for his decision.
- 24 The Appeals Board will set a date for it to consider the appeal. The Appeals Board will decide whether it is necessary to hold a hearing with parties present. In which case, you and the HCEO will be invited to attend the hearing which will be held in private in a location convenient to you.
- 25 The Appeals Board will be made up of our President, a legally qualified independent advisor, and one member of our Board of Directors (but not the Complaints Officer or anyone else who has been involved in the complaint process so far).
- 26 The Appeals Board will normally only reconsider the parts of the decision under appeal, based on the reasons put forward by the person who is making the appeal. However, there may be exceptional circumstances where they may re-consider other parts of the decision. The decision of the Appeals Board is final.



- 27 The Appeals Board may:
- a confirm the decision of the Complaints Board; or
 - b change the decision of the Complaints Board.

Withdrawing a complaint

- 28 You may withdraw the complaint at any time by sending us written notice.

Cases where we consider that our relationship with the HCEO should be ended

- 29 If the Complaints Board recommends that we end the HCEO's membership, and the Association's Board agrees, we pass the complaint directly to the Lord Chancellor in line with Regulation 12 of HCEO Regulations 2004, and give him a copy of the Complaints Board's decision. The Lord Chancellor will follow the Ministry of Justice's complaints procedure in line with Regulation 12(3) of HCEO Regulations 2004. The Lord Chancellor will give us his decision and confirm whether or not we should end the HCEO's membership.
- 30 The Lord Chancellor may at any time end the HCEO's authorisation if:
- a it would be in the public interest to do so; or if
 - b any of the other matters set out in Regulation 12 of the HCEO Regulations 2004 apply

General note

- 31 This complaints procedure does not prevent you or the HCEO from taking your case to court. It also does not prevent you or the HCEO from taking your case to other regulatory organisations at any time, but we will not investigate a complaint while it is being looked at by someone else. You may use decisions or recommendations from our Complaints Board or Appeals Board as evidence in any action that follows.

Case fees payable by HCEOs subject to a complaint

- 32 A case fee is potentially chargeable for all cases accepted by the Association as within its complaints procedure jurisdiction and where under clause 13 either:
- you as the complainant appeal to the Complaints Board against a decision of the Complaints Officer; or
 - the Complaints Officer refers a complaint to the Complaints Board
- 33 A case fee is payable by an HCEO for every potentially chargeable complaint when it is closed unless:
- a The complaint was:
 - abandoned or withdrawn;
 - settled resolved or determined in favour of the HCEO;

AND



- b The Complaints Board is satisfied that the HCEO took all reasonable steps, under his/her complaints procedures, to try to resolve the complaint including making concessions and offers where appropriate and has otherwise fully engaged in the procedures of the Complaints Officer and Complaints Board.
- 34 The case fee for all chargeable complaints shall be £250 or such other sum as the board of directors of the Association shall from time to time resolve as the fee applicable to chargeable complaints.
- 35 For the avoidance of doubt the requirement upon an HCEO to pay a case fee shall be in addition to (and not be in whole or partial substitution for) the powers of the Complaints Board under clause 19 but the Complaints Board may in its absolute discretion decide to what extent if at all the liability to pay a case fee should be taken into account in assessing any penalties and/or costs under clause 19b.
- 36 The provisions of clauses 32 to 35 shall apply to cases allowed by the independent legal adviser to go forward to the Appeals Board under clause 23 so that it shall be entitled to exercise the powers of the Complaints Board in relation to an appeal before the Appeals Board but so that not more than one case fee is payable in any one case.
- 37 There shall be no liability for a case fee for complaints resolved finally by the Complaints Officer before either of the stages referred to in clause 32 and no additional case fee shall be payable on cases allowed to go forward to the Appeals Board under clause 23.
- 38 There is no case fee or other charge to complainants.

Approved by Ordinary Resolution 18th May 2017. (AJW 30.v.17)