

**Applications for appointment as an enforcement officer for the purpose of enforcing High Court writs of fieri facias, possession and delivery orders in a designated area.**

**Guidance notes for completing your application.**

Application for appointment as an enforcement officer is to be made in writing to the Lord Chancellor or his appointed delegate ('the authorising authority'), in the format outlined in these guidance notes. It should be set out in 5 distinct sections as detailed below.

- Personal information.
- Addressing the criteria for appointment.
- Areas you wish to be assigned to.
- Further information.
- Statement and signature.

These guidance notes are intended to help applicants to provide the information that the authorising authority will require to enable him to decide whether you are fit, proper and competent to hold such a post. You are reminded that the authorising authority has the right to request any further information that may be required in helping him to make that decision.

**Personal information**

This section should contain the following items of brief, factual information:

- Full name.
- Date of birth.
- Business address.
- Business telephone number.
- Business fax number.
- Business DX numbers (if appropriate).
- Business e-mail address (if appropriate).
- Employment status (e.g. self-employed, employee, partner, director etc).
- Details of membership of relevant professional association (e.g. the High Court Enforcement Officers Association (HCEOA)).

Provision of the personal information details fulfils the requirements of section 5(2)(a) of the High Court Enforcement Officers Regulations 2004 ("the regulations"), and the details of professional association membership fulfils the requirements of section 5(3)(b)(iv) of the regulations. It will also enable the department to fulfil its obligation under section 14 of the regulations to provide directories containing the details of all current enforcement officers.

All of this information is fairly straightforward, factual information. Those applicants who do not have a DX number or e-mail address will not be disqualified, although in the case of a lack of e-mail facilities, this will require a full explanation later in the application as to how the applicant intends to address, for example, issues relating to priority and insolvency.

## **Addressing the criteria for appointment**

The Department for Constitutional Affairs has previously published a draft version of the criteria that will be considered when appointing applicants to the role of enforcement officer. (*High Court Enforcement – The Enforcement Review: Writs of Fieri Facias and Possession* published in July 2003). The final versions of the criteria are outlined below (*in Italics*). These are very closely based on the originally published draft. It is suggested that applicants lay out this section of their application using the 12 criteria titles (in **bold** type) as sub-headings. Applicants will need to show that they meet the standards required to fulfil these criteria, with supporting evidence as necessary.

- **Qualifications for the job:** *The applicant must have successfully completed all the relevant training required, and be committed to a programme of continuing professional development, both for themselves and any employees they may have.*

This section fulfils requirements under sections 5(3)(b)(vi & vii), 8(a) and 8(b) of the regulations. It also fulfils requirements under items 2 and 8 of the definition of a full member of the HCEOA, and item 4 of the HCEOA annual return form.

This section refers not only to academic and professional qualifications, but also to relevant experience. It should also include a commitment to a programme of continuing professional development, both for themselves but also for any employees they may have.

- **Trading address:** *The applicant must have a trading address and telephone number for business purposes. This office must be based within a postal district to which they are assigned, and be staffed to deal with personal and telephone enquiries between 0900 and 1700 Monday to Friday inclusive. Outside of these hours an answer phone service should exist that provides details for contacting an officer in an emergency.*

This section fulfils requirements under section 5(2)(a) of the regulations, and item 3 of the definition of a full member of the HCEOA. It will also enable the department to fulfil its obligation under section 14 of the regulations to provide directories containing the details of all current enforcement officers.

The department and the HCEOA both consider that the stated requirements are the minimum level acceptable to provide adequate customer service, and applicants must give a written commitment to providing at least this level of service. Applicants should therefore provide details of their business trading hours, and arrangements they have in place to be contactable in an emergency outside these hours. The department reserves the right to make random spot checks to ensure that these levels of customer service are being adhered to.

- **Insurance cover:** *The applicant must have adequate insurance cover. This must include, as a minimum, Professional Indemnity Insurance, Public Liability Insurance, Employers Liability Insurance (if the applicant is an employer) and*

*Goods In Transit Insurance (if the applicant will be conducting their own removals).*

This section fulfils requirements under section 5(3)(b)(i) and 8(c) of the regulations, item 4 of the definition of a full member of the HCEOA, and item 2 of the HCEOA annual return form.

The criteria have stated the minimum levels of insurance cover required, and the regulations insist that your application should be accompanied by details of the relevant insurance policies held. Please note that Public Liability Insurance has been added to the list originally contained in the consultation paper. You will not be required initially to send us copies of the entirety of the policies – the basic details of the policies will suffice. (The authorising authority does, however, have the power to request any further information, and may request full copies of such policies, under section 5(5) of the regulations, should he see fit).

- **Banking arrangements:** *The applicant must have a separate client's bank account, where all clients' money is held, and for which an audit certificate is held.*

This section fulfils requirements under sections 5(3)(b)(v) and 8(d) of the regulations, item 6 of the definition of a full member of the HCEOA, and item 3 of the HCEOA annual return form.

The criteria have stated that the applicant must have a separate client's bank account, where all clients' money collected is held and paid from. Regulations insist that your application be accompanied by details of this account.

- **Prioritisation of writs:** *The applicant must have in place adequate arrangements for dealing with issues surrounding priority of writs and insolvency.*

This section fulfils requirements under section 5(3)(b)(vii) of the regulations and item 7 of the definition of a full member of the HCEOA.

It will be considered sufficient for an applicant to confirm that they have an open account in credit with "nicesheriffs" to deal with these issues for them to be considered as meeting this criteria. Those who do not have such an account, or do not have the electronic means to access this system, must give full details of how they intend to adequately address issues of priority and insolvency.

- **Professional conduct:** *The applicant must give a commitment to abiding by minimum standards of behaviour and professional conduct, both for themselves and their employees.*

This section fulfils requirements under section 12 of the regulations, item 9 of the definition of a full member of the HCEOA, and item 5 of the HCEOA annual return form.

The currently accepted minimum standards for behaviour and professional conduct are contained in the *National Standards for Enforcement Agents*

(published by this department in April 2002, and endorsed by the HCEOA prior to publication). As a minimum requirement applicants will need to confirm that they agree to abide by the standards of professional conduct outlined in *National Standards*. Applicants may also wish to cover under this heading a commitment to certain levels of customer service. They may wish to cover, for example, such issues as commitments to respond to official and customer correspondence within certain timescales and deadlines.

- **Financial propriety:** *The applicant must provide a written statement to the effect that they are not an undischarged bankrupt.*

The requirements under the heading of financial propriety have been toughened up quite considerably since the original publication of the criteria for appointment in July 2003. Departmental officials felt that the originally published criteria were rather lacking in this particular area. The area of financial propriety is one we take very seriously indeed. We believe those within the industry feel the same, and certainly the judiciary are most keen to retain the probity and high standards that are associated with High Court enforcement. It has therefore been decided to model the requirements more in line with those contained in the *Approval of Enforcement Agencies Regulations 2000*. (SI 2000/3279 - copies of these are available upon request or on the HMSO website – the relevant sections are paragraph 5 and paragraph 8).

This section now needs to fulfil the requirements outlined in sections 4(2)(c-f), 5(2)(d), 5(2)(e)(i-vi), 5(3)(b)(x) and 8(e) i. It also fulfils the requirements of item 10 of the definition of a full member of the HCEOA, and item 6 of the HCEOA annual return form.

It is hoped (and anticipated) that for most (hopefully all) applicants this section will merely be a case of applicants confirming that none of the items listed apply or have applied to them.

Section 5(4) of the regulations also requires copies of audited or certified accounts to be provided as evidence of financial propriety. It is envisaged that it will be sufficient to send in copies for the accounts of businesses that operate in civil enforcement and related fields only, so long as applicants comply with section 5(3)(b)(x) of the regulations regarding the provision of details for all businesses with which they are associated. The authorising authority has the power to request any further information, such as full copies of such accounts, under section 5(5) of the regulations should he see fit.

- **Performance statistics:** *The applicant must provide performance statistics to the department in the approved format and in line with agreed deadlines.*

This section fulfils requirements under sections 8(e)(ii) and 12(2)(d) of the regulations, and item 11 of the definition of a full member of the HCEOA.

The applicant must agree to continue providing performance statistics to the department (via their professional association) in the approved format and in line

with agreed deadlines. (In practice this will be done via “nicesheriffs”). The applicant’s previous record in this area will be taken into account when considering their application for appointment, and failure or refusal to provide this information in the future will be regarded as serious professional misconduct.

- **Licensing:** *The applicant must (where appropriate) hold the current relevant licences under the Consumer Credit Act and the Data Protection Act.*

This section fulfils requirements under sections 5(3)(b)(ii & iii) of the regulations and item 12 of the definition of a full member of the HCEOA.

The regulations state that the applicant must, where appropriate, provide details of licences currently held under the Consumer Credit Act and the Data Protection Act. It is not envisaged that you will need to send us copies of the entirety of the licences – the basic details of the licences will suffice. (The authorising authority has the power to request any further information, such as full copies of such licences, under section 5(5) of the regulations should he see fit).

- **Diversity:** *The applicant must adhere to an acceptable diversity policy, not only in terms of employment practises but also in terms of how they deal with their clients and customers.*

This section fulfils requirements under section 5(3)(b)(ix) of the regulations. It also fulfils the requirements of the HCEOA’s equality and diversity statement. The HCEOA became a public authority as from April 2001 under the new section 19b of the Race Relations Act 1976 (as amended). This makes it unlawful for the HCEOA or its members to discriminate in carrying out any of their functions.

Applicants who are currently fully paid up members of the HCEOA will satisfy this requirement merely by stating that they are members of the HCEOA. This is by virtue of the fact that by joining the HCEOA they have signed up to agreeing to abide by their equality and diversity statement. They are the only body whose current policy in this area meets departmental requirements. They are the only body currently listed in schedule 2 of the regulations (Professional bodies recognised by the Lord Chancellor). Membership of such a professional body is required under section 5(3)(b)(iv) of the regulations.

- **Disciplinary procedure:** *The applicant must be subject to the terms and conditions of an approved complaints and disciplinary procedure.*

This section ties in with section 12 of the regulations.

Applicants who are currently fully paid up members of the HCEOA will satisfy this requirement merely by stating that they are members of the HCEOA. This is by virtue of the fact that by joining the HCEOA they have signed up to agreeing to abide by their complaints procedure. The HCEOA is the only body whose current policy in this area meets departmental requirements. It is also the only body currently listed in schedule 2 of the regulations (Professional bodies recognised by the Lord Chancellor). Membership of such a professional body is required under section 5(3)(b)(iv) of the regulations.

- **Criminal record:** *The applicant must provide a written statement that they have no criminal conviction that might undermine public confidence in the propriety and integrity of High Court enforcement.*

This section fulfils requirements under sections 4(2)(a&b) and 5(2)(b&c) of the regulations, and item 7 of the HCEOA annual return form.

As with the section on “financial propriety”, the requirements of this section have been strengthened since the criteria were first published. This is to ensure that no applicant will be appointed if they have a record of criminal convictions that might undermine public confidence in the propriety and integrity of High Court enforcement. Certain convictions, such as for a minor motoring offence, for example, need not disqualify an applicant. However, the regulations make it quite clear that convictions for financial dishonesty or crimes of violence will be taken into account.

### **Areas you wish to be assigned to**

Applicants will need to indicate which postal areas they wish to be assigned to as enforcement officers. They can do this merely by providing a list of the postal districts to which they wish to be assigned. This fulfils requirements under section 5(3)(a) of the regulations. The districts and postal areas are set out in Schedule 1 of the regulations.

### **Further information**

It is intended that in this section of the application, the applicant provide further details about how they intend to deal with certain aspects of their work should they be appointed. This fulfils requirements under section 5(3)(b)(viii) of the regulations regarding the applicant’s “business plan”. Some suggested issues that the applicant may wish to address are detailed below.

Do the areas you wish to be assigned to roughly correspond with your current area of jurisdiction under the existing High Court enforcement regime? If the area you are applying to cover is significantly larger than that you are presently responsible for, please provide details of how you plan to deal with the increased geographical area and workload you will now be responsible for under the new regime. (Applicants are reminded that the responsibility and liability for the enforcement of writs addressed to them under the new regime is theirs and theirs alone. If enforcement of a writ is placed in the hands of an employee or any other person acting on their behalf, and a complaint arises as a result of the conduct of that person, it is the applicant who will be personally liable and runs the risk of being subject to any legal action, and may lead to action being taken by the authorising authority, which could lead to change or termination of their appointment.

What arrangements do you have in place for dealing with the removal and storage of large scale or valuable items over which you have taken legal control?

What arrangements do you have in place for dealing with heavy plant or industrial machinery over which you have taken legal control?

What arrangements do you have in place for dealing with large-scale evictions and repossessions?

Section 7 of the regulations states that once assigned to a district or a number of districts, the enforcement officer must undertake enforcement action for all writs of execution received which are to be executed at addresses which fall within his designated district. How do you plan to address problems that may arise out of a sudden and unforeseen increase in workload, or with any writs that, for whatever reason, you are simply unable to deal with?

Please feel free to add any further information that you feel may be relevant and that you feel may be useful in supporting your application.

Also please note that under regulations, the authorising authority has the power to request the applicant provides any further information he may require upon which he can base his decision as to whether to appoint or not.

### **Statement and signature**

The application is to be concluded by the following statement:

“I hereby certify that the information contained in this application is to the best of my knowledge true and factual, and I hereby apply for appointment as an enforcement officer, with assignment to the postal areas indicated.

“I further certify that I will inform the Lord Chancellor or his appointed delegate in writing of any changes to information or documentation that I have provided with this application; and that I will give the Lord Chancellor 28 days notice in writing of my resignation, or application to change districts to which I am assigned”.

This statement is to be signed and dated by the applicant. This fulfils requirements under section 5(1)(b) of the regulations.