



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 (We), 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, including the relaxation of time limits in appropriate cases.

Making a complaint

- 1 You (You) can make a complaint if You are affected by, or have experienced or witnessed the behaviour of the HCEO or any enforcement agent acting on their behalf. 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, in writing, 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).

If your complaint refers wholly to the conduct of an enforcement agent, then it would be more appropriate for You to complain to the County Court at which they are certificated, using the complaint form EAC2. You can check their details on the register maintained by the Ministry of Justice:
<https://certificatedbailiffs.justice.gov.uk>

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 8).
- 4 HCEOs must complete the internal investigation of your complaint within 8 weeks of the date of receipt of the complaint, sent in writing, by email or other methods by which the HCEO accepts complaints. If this period is not complied with, without reasonable explanation, You may treat the internal procedure as having been exhausted.



- 5 Once You have exhausted the HCEO's complaints procedure, 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.
- 6 Your complaint must be made either within 12 months from the date of the act or omission complained of or within 3 months of the internal process being exhausted, whichever is the later date. If it exceeds this time limit, it will be rejected by the Complaints Officer.
- 7 You must make any complaints to us in writing, and send them to our Complaints Officer/Secretary at the address below.
- 8 You can contact our Complaints Officer/Secretary by writing to:

**The Complaints Officer/Secretary
High Court Enforcement Officers Association
Suite S31, Northwich Business Centre, Meadow Street, Northwich, Cheshire,
CW9 5BF**

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.

- 9 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).
- 10 You should also mention in the complaint any laws, common-law responsibilities, rules or codes of conduct which you think the HCEO has broken.
- 11 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 will ask for your specific consent to a copy of your complaint with and our other communications with You being sent to the HCEO. If you fail to give consent the Complaints Officer will be unable to proceed (as to do so would be a breach of GDPR requirements on confidentiality) and will, as a result, close the file.

Our Complaints Officer is Martin Leyshon

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



Assessing your complaint

- 12 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.
- 13 As part of this complaint assessment, the Complaints Officer may ask for information, either at a meeting or by a telephone conference, with You or the HCEO involved. Where it is considered appropriate, the Complaints Officer may try to seek an informal resolution of your complaint.
- 14 The Complaints Officer will decide whether the complaint should be formally investigated. The Complaints Officer may decide that the complaint:
 - is out of time, under Paragraph 6;
 - 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 should take this complaint to the judgment creditor or the court involved.
 - b Disagreements about the fees the HCEO has charged. There already is a legal process for dealing with disagreements about fees, and You must take the matter to a court for 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 correctly. 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.
 - 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, or any enforcement agent acting on their behalf. You should take these matters to court.
 - e Cases where legal action against the HCEO or in relation to matters the subject of complaint has already been taken, is pending or would be more appropriate.
The Complaints Officer or the Complaints Board will only deal with such cases if they think it appropriate having regard to the outcome of the legal action once the legal 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 also paragraphs 31 and 32 below).



- 15 If the Complaints Officer rejects your complaint under one of the headings above (except clause 14f) 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, within 21 working days from the date of notification of the decision of the Complaints Officer.

If the Complaints Officer decides that your complaint should be investigated, it will be passed to the Complaints Board.

The Complaints Board will be made up of a legally qualified independent advisor (LQIA) 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

- 16 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.
- 17 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.
- 18 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 issued Best Practice guidance;
 - e Civil Procedure Rules;
 - f National Standards and our 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.
- 19 The Complaints Board will prepare an initial report, which will include:
- a what the complaint was about;
 - b reference to the relevant issues and evidence that 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, together with their reasons.
- 20 The Chair of the Complaints Board (the Chair) will send a copy of the Complaints Board's initial report, when available. You and the HCEO can check the initial report to make sure the information is correct; each has 21 working days to respond, by identifying anything it is suggested is factually incorrect. If You and/or the HCEO do not respond within 21 working days, We will assume that it is agreed that the information within the initial report is correct. The Complaints Board will consider amending the initial report if they think this is necessary. It is up to the Complaints Board to make the final decision about any amendments. The Chair will send You and the HCEO the final version of the report as the Complaints Board's final decision.
- 21 The Complaints Board will do one of the following:
 - a dismiss the complaint;
 - b uphold the complaint, in whole or in part;
 - c award costs against the HCEO for additional hearings of the Complaints Board caused by their failure to comply with the Board's Directions.
- 22 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 and/or costs;
 - c recommend to the Association that We take away the membership of the HCEO and refer the case (and the 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 the HCEO should be authorised and/or
 - d award compensation to You, if it thinks that You have been unfairly treated in any way by the HCEO.
- 23 If the Complaints Board has 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.
- 24 **If you are unhappy with the Complaints Board's decision**
 - a You and the HCEO have 21 working days, from the date of the letter from the Chair (which includes the report about the Complaints Board's final decision), to tell the Chair in writing if You want to appeal against the decision to the Appeals Board.
 - b You or the HCEO must put forward a case where either of you can argue that there is a problem with the decision, for example, if:
 - there is a factual mistake in the information used to make the final decision;



- the final 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.
- 25 A legally qualified independent advisor (LQIA) who was not involved in making the original decision, will decide whether or not to allow your appeal to go forward. The LQIA will normally make the decision using the information for appeal put forward by the person making the appeal and the response by You or the HCEO. The LQIA will give reasons for the decision.
- 26 If the LQIA decides to allow the appeal to proceed, the Complaints Officer will appoint the Appeals Board. 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 as convenient to You as may be possible. Pending the hearing, there will be a stay on any payments ordered by the Complaints Board.
- 27 The Appeals Board will be made up of the current Chair of the Association Board, a third LQIA 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). If there is no Chair and/or a member of the Board of Directors available, another Officer or a full member of our Association, unconnected with the complaint, may be co-opted to the Appeals Board to fill any vacancy.
- 28 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.
- 29 The Appeals Board may:
- a confirm the decision of the Complaints Board; or
 - b change the decision of the Complaints Board.

Withdrawing a complaint

- 30 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

- 31 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 provide 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 the decision and confirm whether or not We should end the HCEO's membership.

- 32 The Lord Chancellor may at any time terminate 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

- 33 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, including the Police, at any time, but We will not investigate a complaint while it is being looked at, or is reasonably anticipated to be 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

- 34 An initial case fee ("initial case fee") will be chargeable for all cases where a complaint comes under formal consideration by the Complaints Officer. This is triggered where the HCEO has completed their internal investigation and the complainant is unhappy with the outcome and requests the Complaints Officer to investigate.
- 35 A second case fee ("second case fee") is potentially chargeable for all cases accepted by our Association as within its complaints procedure jurisdiction and where under clause 15 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 in line with clause 15.
- 36 The initial and second case fees are 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 or (in a case not referred under clause 15 by You or the Complaints Officer to the Complaints Board) the Complaints Officer is satisfied that the HCEO took all reasonable steps, under their internal complaints procedure, 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.



- 37 The initial case fee and the second case fee for all chargeable complaints shall be £300.00 and £700.00 respectively or such other sum as the board of directors of our Association shall from time to time resolve as the fees applicable.
- 38 For the avoidance of doubt the requirement upon an HCEO to pay the two case fees shall be in addition to (and not be in whole or partial substitution for) the powers of the Complaints Board under clause 22, but the Complaints Board may, in its absolute discretion, decide to what extent, if at all, the liability to pay the two case fees should be taken into account in assessing any penalties and/or costs under clause 22b.
- 39 The provisions of clauses 34 to 38 shall apply to cases allowed by the LQIA to go forward to the Appeals Board under clause 25 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 initial case fee and one second case fee are payable in any one case.
- 40 There shall be no liability for a second case fee for complaints resolved finally by the Complaints Officer before either of the stages referred to in clause 35 and no additional case fee shall be payable on cases allowed to go forward to Appeals Board under clause 25.
- 41 There is no case fee or other charge to complainants.

Approved by Ordinary Resolution: 19th May 2022

ML/AJW/PT 19.05.22