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Case No: QB-2019-001822

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/02/2020

Before :

SENIOR MASTER FONTAINE

IN THE MATTER OF THE HIGH COURT ENFORCEMENT REGULATIONS 2004
and

IN THE MATTER OF CLAIRE LOUISE SANDBROOK

**Alison Padfield QC and Chris Royle (instructed by DWF Law LLP) for the High Court
Enforcement Officer**

Hearing dates: 29 October 2019

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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SENIOR MASTER FONTAINE

Senior Master Fontaine :

1. References to documents to which I refer in this judgment are to the bundle of documents filed for the hearing and are referred to in the following format [tab/page].
2. A hearing was convened of my own initiative following the judgment of Master Davison in Case No. EN165/17 *Rooftops South West Limited & Ors v Ash Interiors (UK) Ltd & Ors* [2018] EWHC 2798 (QB) [1/1] (“the *Rooftops* judgment”). That judgment should be referred to for the factual background to this matter. Mrs Claire Louise Sandbrook (“Mrs Sandbrook”) is the Chief Executive Officer of the Shergroup group of companies (“Shergroup”), High Court enforcement officer and a solicitor. For the reasons set out at paragraph 47 of the *Rooftops* judgment, Master Davison referred to me the question of whether the authorisation of Mrs Sandbrook to act as an enforcement officer, or her assignment to one or more districts, should be terminated under regulation 12 of The High Court Enforcement Officers Regulations 2004 (“the 2004 Regulations”).
3. On 8 February 2019 I made an order [2/16] in respect of the referral by Master Davison. In that order, I referred to powers delegated by the Lord Chancellor and stated that I would consider whether to recommend to the Lord Chancellor termination of Mrs Sandbrook’s authorisation to act as an enforcement officer, or termination of the assignment of Mrs Sandbrook to one or more of the districts to which she is assigned, pursuant to regulation 12 of the 2004 Regulations. In that order I directed that a copy of the order be served on all the parties to the *Rooftops* proceedings and also enforcement agents involved in the events leading to the *Rooftops* judgment, namely Mr Derek Wesson, Mr Gareth Short, Mr Mitchell John Rees Starr, and the High Court Enforcement Officers Association. I directed that any of those persons could apply on notice, but none of those persons named nor any other interested person has intervened. Consequently I received written submissions and heard oral submissions only from leading counsel instructed by Mrs Sandbrook.
4. Regulation 12(1) of the 2004 Regulations [7/177] provides that the Lord Chancellor may at any time terminate the authorisation of an individual to act as an enforcement officer or the assignment of an enforcement officer to any one or more of the districts to which he is assigned, and that he may do so on any of the grounds in regulation 12(2). My jurisdiction to consider the matters before me derives from the delegation of that power to me by the Lord Chancellor.
5. The grounds in regulation 12(2) are that:
 - i) it would be in the public interest to do so (reg 12(2)(a));
 - ii) any of the information provided in the application for authorisation or documentation supplied under regulation 5 is found to be incomplete or true (reg 12(2)(b));
 - iii) the enforcement officer or any person acting on his behalf who assists with his work as an enforcement officer has behaved in a manner which the Lord

Chancellor reasonably considers to be unprofessional or unacceptable (reg 12(2)(c));

- iv) the enforcement officer has failed to satisfy one or more of the conditions of regulation 8 (reg 12(2)(d)).
6. Regulation 12(3) provides that where practicable, the Lord Chancellor when considering whether to terminate the authorisation or assignment of an enforcement officer shall firstly notify the enforcement officer of the reasons and provide the enforcement officer with a reasonable opportunity to:
- (a) make representations about the Lord Chancellor's reasons for proposing to terminate his authorisation or assignment: and
 - (b) remedy the circumstances giving rise to the Lord Chancellor's proposal to terminate his authorisation or assignment.
7. That opportunity was taken up by Mrs Sandbrook, and her evidence is set out in her witness statement dated 12 April 2019.

Reasons for the referral

8. The reasons for the referral are set out by Master Davison at paragraph 47 of the *Rooftops* judgment, namely:
- i) The misunderstanding, by Direct Collection Bailiffs Ltd ('DCBL') and Mrs Sandbrook, of the true legal position, which he described as '*lamentable*' (paragraph 45) and '*astonishing and concerning*' (paragraph 47).
 - ii) The multiple breaches of procedure and absence of proper records by certificated enforcement agents Gareth Short and Mitchell Starr of DCBL who were enforcing a writ in Mrs Sandbrook's name.
 - iii) The lack of recognition and insight by the persons concerned, and DCBL's '*lackadaisical and dismissive attitude*' to the proceedings.
 - iv) Mrs Sandbrook's residence in Florida and how this might affect her oversight of those enforcing writs in her name.
9. Master Davison suggested at paragraph 47 of the *Rooftops* judgment that, in addition to considering whether Mrs Sandbrook's authorisation should be terminated, I might also wish to consider the position of the enforcement agents, Mr Short and Mr Starr, and of their manager Derek Wesson. I have concluded that this is not a matter within my jurisdiction, for the following reasons.
10. Paragraph 2(a) of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 ('the 2007 Act') provides that "*enforcement agent*" means an individual authorised under s 63(2) of the 2007 Act to act as an enforcement agent. Section 64 of the 2007 Act provides that a certificate may be issued under that section by a judge of the county court, and that the Lord Chancellor must make regulations about certificates under that section. The Regulations made by the Lord Chancellor under s 64 are the Certification of Enforcement Agents Regulations 2014 ('the 2014 Regulations').

11. The 2014 Regulations include provisions as to how complaints about and cancellation of certificates issued to enforcement agents are dealt with. If a complaint is made in writing to the County Court, the court may hold a hearing and decide to cancel an enforcement agent's certification: see regulations 9 and 10. Accordingly, any issue of complaint or cancellation of the certificates of either of Mr Short or Mr Starr (it appears that Mr Wesson is not a certificated enforcement agent) must be dealt with in the County Court under the 2014 Regulations.
12. I accept submissions on behalf of Mrs Sandbrook that the referral does not involve the grounds set out in regulation 12(2) (b) or (d), (although the factual position in regard to those regulations is addressed by Mrs Sandbrook in her witness statement at paras 127 & 128 [5/43]). Accordingly this judgment considers only the grounds set out in regulation 12 (2) (a) and (c).

Summary of submissions on behalf of Mrs Sandbrook

13. These are made by reference to each of the issues mentioned by Master Davison set out above in relation to Mrs Sandbrook.

DCBL and Mrs Sandbrook's misunderstanding of the true legal position in the *Rooftops* case

14. In support of her submission that she is aware of the true legal position in relation to enforcement, Mrs Sandbrook has set out details of her career and experience in her witness statement (paras 8 to 19) [5/22] which I summarise as follows. She qualified as a solicitor in 1989 (para 10) [5/22], she was appointed undersheriff of Surrey in 1998 and was also the deputy undersheriff for Greater London (para 11) [5/22]. She was appointed to, and served on, the Lord Chancellor's Advisory Group on enforcement service delivery in 2001 (para 13) [5/22]. The Advisory Group produced the white paper *Effective Enforcement* in May 2003, which ultimately led to the 2004 Regulations (para 1) [5/22].
15. In 2002, Mrs Sandbrook was appointed Secretary to the Association of the High Sheriffs of England & Wales, and she subsequently worked with others to create what has now become the High Court Enforcement Officers Association ('the Association') (para 14) [5/23]. In 2008, she became Chairwoman of the Association (para 16) [5/23]. She has also written or co-written a number of texts on enforcement, including *The Execution of a Sheriff's Warrant*, the Halsbury's Laws titles on Sheriffs and Interpleader, *Enforcement of a Judgment* (Sweet & Maxwell) and *Debt Recovery Through the Courts* (Sweet & Maxwell) (para 18) [5/23].
16. Section 63 of the 2007 Act provides that an individual may act as an enforcement agent only if he acts under a certificate under s 64 of the 2007 Act, is exempt, or acts in the presence or direction of a person who is certificated or exempt. There is no exemption for enforcement officers. It follows that, although an enforcement officer is commanded by the sovereign to execute a writ of control, unless they are separately certificated as an enforcement agent under s 64 of the 2007 Act and the Certification of Enforcement Agents Regulations 2014, an enforcement officer cannot personally enforce the writ. The enforcement must be carried out by a certificated enforcement agent. Paragraph 2(b) provides that only an enforcement agent may take control of goods and sell them under an enforcement power, and paragraph 2(c) provides that an

enforcement agent, if he/she is not the person on whom an enforcement power is conferred, may act under the power only if authorised by that person.

17. Mrs Sandbrook explains in her witness statement that Shergroup did not employ certificated enforcement agents but used independent contractors to carry out enforcement under the Taking Control of Goods Regulations 2013. At paras 42 to 53 [5/28] she sets out the steps she has taken to satisfy herself that the enforcement agents used by her firm would act lawfully and appropriately in accordance with the National Standards which I summarise as follows.
18. Shergroup entered into an agreement with DCBL, the firm for which Messrs Wesson, Short and Starr worked, in late 2014. Prior to entering into that agreement she met Mr Gary Robinson, the CEO of DCBL, and visited DCBL's offices on a number of occasions and gathered and reviewed relevant information. This included the training records of DCBL's enforcement agents, details of the continuing professional development provided by DCBL, DCBL's case management processes, its Quality Policy Manual, complaints procedures and its accounting and insurance arrangements. DCBL had held ISO 9001 accreditation (an international standard for quality management systems) since 2009. Mrs Sandbrook was familiar with the audits required to obtain such accreditation, and also with the 'MyEthos' case management system used by DCBL, a bespoke case management system for the enforcement industry, which she considered to be fit for purpose. The information gathered and reviewed showed that each enforcement agent was properly trained and certificated. Each had their own individual and complete personnel file and DCBL had a review procedure in place. Weekly case complaint reviews were carried out, and the results were considered at monthly team meetings and quarterly management review meetings. This information was then analysed by DCBL so that they could identify any trends.
19. Mrs Sandbrook also considered DCBL's complaints procedure and concluded that it was thorough and robust (para 52) [5/29]. She reviewed sample paperwork and was satisfied that DCBL's paperwork and record-keeping were appropriate.
20. When negotiating the terms of the contract between Shergroup and DCBL Mrs Sandbrook imposed contractual requirements in respect of writs enforced by DCBL in her name. She did this by means of two agreements: a sub-contractors' agreement which applied in respect of writs generated by Shergroup [5/69], and a consultancy agreement which applied in respect of writs generated by DCBL [5/76] (Paras 54 to 56) [5/30-31].

The multiple breaches of procedure and absence of proper records by certificated enforcement agents Gareth Short and Mitchell Starr of DCBL who were enforcing a writ in Mrs Sandbrook's name.

21. Having satisfied herself that DCBL's enforcement agents would be certificated, and that DCBL and their agents would act lawfully and appropriately in accordance with the National Standards, and having imposed appropriate contractual obligations on DCBL, Mrs Sandbrook monitored DCBL's performance by:
 - i) reviewing the enforcement by DCBL of each Shergroup writ on an ongoing basis (para 58) [5/31];

- ii) dealing personally with any complaints against DCBL which had been referred to the Association (paras 60 to 64) [5/32]];
 - iii) holding periodical meetings with Mr Robinson of DCBL at which she met staff, reviewed the record keeping and processes which she had initially inspected, and provided any additional support or guidance required (para 65.1) [5/33]];
 - iv) frequent contact with Mr Robinson and others at DCBL by telephone and by email (para 65.2 to 3) [5/33]].
22. It is submitted on behalf Mrs Sandbrook that she accordingly:
- i) carried out an appropriate due diligence process before entering into a relationship with DBCL;
 - ii) put in place an appropriate contractual framework for that relationship designed to ensure that, when enforcing writs on her behalf, DCBL used only qualified and experienced staff, including only certificated enforcement agents, that staff undertook continuing professional development training, and that DCBL complied with their legal obligations and with the guidance in the form of the National Standards;
 - iii) adopted appropriate means of monitoring the enforcement by DCBL of writs issued in her name.
23. The court is also reminded that these were safeguards additional to those imposed by statute which those enforcing a writ of control had to comply with in order to obtain certification as an enforcement agent. Regulation 3 of the 2014 Regulations provides that a certificate may be issued under s 64 of the 2007 Act only: (a) on application by the person to whom the certificate is to be issued; and (b) if the judge is satisfied of various matters, of which the following are relevant for present purposes: (i) that the applicant is a fit and proper person to hold a certificate, and (ii) that the applicant possesses sufficient knowledge of the law and procedure relating to powers of enforcement by taking control of goods to be competent to exercise those powers. The applicant must also provide security by way of bond in the sum of £10,000 (regs 3(b)(iv) and 6(1)). In terms of procedure, CPR 84.18 provides that an applicant for issue of a certificate under s 64 of the 2007 Act must attend for examination at a hearing appointed for the purpose.
24. It is submitted that as Mr Short and Mr Starr were certificated enforcement agents they had obtained the mandatory Level 2 Taking Control Of Goods qualification required for certification and had also attended regular additional training, including Level 2 refresher training; (paragraphs 79 to 83) [5/35].
25. Mrs Sandbrook acknowledges the breaches of procedure found in the *Rooftops* judgment. But it is submitted on her behalf that, before she was alerted to what had happened in the *Rooftops* case:
- i) she had taken appropriate steps to ensure, and was satisfied that, DCBL had proper processes in place to ensure that such breaches would not occur;

- ii) nothing had happened to alert her to there being a risk that Mr Short and Mr Starr would act as they did in the *Rooftops* case (para 96) [5/38].

The lack of recognition and insight by the persons concerned, and DCBL's '*lackadaisical and dismissive attitude*' to the proceedings

- 26. Mrs Sandbrook was not involved in the *Rooftops* case until after the hearing on 26 July 2018. She explains in her witness statement at paragraph 100 [5/39] that she believed that from 2016 she and Mr Robinson of DCBL had established a practice of referring the most difficult complaints and civil claims to Bevan Brittan, a national firm of solicitors with experience in enforcement matters, and to Chris Royle, a barrister specialising in that area of law. However that did not happen in the *Rooftops* case, and the claim was defended by DCBL's in-house solicitor, Yasmin Mia: para 109, [5/40]. As Master Davison's findings demonstrate, DCBL's defence of the claim was so flawed, both legally and evidentially, that it formed one of the factors giving rise to this referral.
- 27. Mrs Sandbrook explains the process for dealing with her incoming mail (para 99) [5/39]. She has identified some correspondence which she did receive but has been unable to establish why she did not receive others (paras 101 to 105) [5/39]; paras. (108 to 119) [5/40]]. The common thread running through her approach to the correspondence which she did receive was that she believed that DCBL would be instructing Bevan Brittan and Mr Royle in any litigation involving writs issued in her name, and that she could therefore expect them to defend the litigation appropriately, including by involving her if and to the extent necessary. This is borne out by the action which she took when she was alerted, following the hearing on 26 July 2018, to what had happened in the *Rooftops* case. She immediately instructed Bevan Brittan and Mr Royle, who then served written submissions on behalf of both DCBL and the Enforcement Officer (para 123) [5/42]] and appeared at the hearing on 30 August 2018. Master Davison gave judgment and further directions at that hearing. Mrs Sandbrook decided not to apply for permission to appeal against Master Davison's judgment, or to contest the proceedings further, and instead ensured that the Claimants were paid damages and a sum on account of costs (para 123, [5/42], as corrected by a letter from DWF Law LLP on behalf of Mrs Sandbrook dated 25 November 2019, received after the hearing).
- 28. It is accepted that Master Davison's concern in respect of what appeared to him to be the lack of recognition and insight of DCBL and Mrs Sandbrook, and by DCBL's '*lackadaisical and dismissive attitude*' to the proceedings was understandable. Mrs Sandbrook shares Master Davison's concern about DCBL's approach to the proceedings. But she says that was not involved in the defence of the claim by DCBL, and their lack of recognition and insight, and their lackadaisical and dismissive attitude to the proceedings, cannot fairly be laid at her door.
- 29. Nonetheless, having investigated what happened to the litigation in the *Rooftops* case, Mrs Sandbrook has reflected on her own actions and has reached the following conclusions (paras 120 to 122) [5/42]):
 - i) she should have taken steps to protect her position and, importantly, to respect the court's processes;

- ii) she should have appreciated the significance of being named as a party and should have responded to the Particulars of Claim by ensuring either that a Defence was filed on her behalf, or that a joint Defence was filed on behalf of her and DCBL;
 - iii) she should have followed up on correspondence about the *Rooftops* case which she received and forwarded to Mr Robinson;
 - iv) she should have asked Ms Mia exactly what was being done and asked her to confirm that Bevan Brittan and Mr Royle were being instructed, rather than relying on assurances that everything was in hand;
 - v) she should have attended the hearing before Master Davison on 26 July 2018.
30. Mrs Sandbrook accepts that it must have appeared to Master Davison she had ignored the proceedings, but she believed (wrongly) that Bevan Brittan and Mr Royle had been instructed. She meant no discourtesy in failing to appear and apologises to the court.

Mrs Sandbrook's residence in Florida and how this might affect her oversight of those enforcing writs in her name

31. The due diligence, contractual arrangements and monitoring of DCBL which Mrs Sandbrook put in place are summarised above.
32. As set out above, unless they are themselves certificated, or exempt from certification, as an enforcement agent, a High Court enforcement officer must authorise a certificated enforcement agent to enforce writs of control issued in their name. Master Davison implicitly recognised this by referring to 'oversight' of DCBL by the Enforcement Officer.
33. In terms of day-to-day oversight, Mrs Sandbrook uses agents as independent contractors rather than by employing enforcement agents under contracts of service, as she considers that there are a number of benefits to this arrangement (paras 30 to 31) [5/26].
34. It is correct that Mrs Sandbrook has been primarily resident in Florida, while also spending about three months a year in England and Wales (para 28) [5/25]. There is no requirement in the 2004 Regulations that an enforcement officer be resident in England or Wales; in fact, the Enforcement Officer is not the only High Court enforcement officer resident outside England and Wales: para 126 [5/43]]. In any event this was not the reason for her failure to engage with the *Rooftops* case or attend the hearing on 26 July 2018. She was in London for most of the summer 2018 and could have been involved in case management and in the hearing.
35. Mrs Sandbrook is supported by a team who are experienced in all aspects of enforcement, and all of whom but one are based in London (paras 22 to 23) [5/24]. Much of her day to day work involves supervising that team by telephone, email and Skype (paras 23 and 28) [5/24-25]. When DCBL were enforcing writs issued in her name, she was always available to provide guidance if required (paras 84 and 85) [5/36].

36. Writs of control issued in Mrs Sandbrook's name are enforced by certificated enforcement agents, and she attends in person only if the goods being seized are of particularly high value or there is a significant chance that complexities will arise (for example, writs involving aircraft) (para 27) [5/25]]. This is unrelated to her residence in Florida: the position would be the same wherever she lived.
37. Accordingly, Mrs Sandbrook's geographical location has no impact on the way in which writs of control issued in her name are enforced and does not affect her ability to exercise appropriate oversight.

Whether the actions of either Mr Short or Mr Starr as certificated enforcement agents as instructed by Mrs Sandbrook, would fall within regulation 12 (2)(c)

38. On behalf of Mrs Sandbrook it is submitted that as a matter of construction of reg 12(2)(c), certificated enforcement agents enforcing a writ issued in the name of an enforcement officer are not '*any person acting on his behalf who assists with his work as an enforcement officer*'.
39. First, it is submitted that these words refer back to the application procedure for authorisation to act as an enforcement officer in reg 5. This requires that that application include details and information giving evidence of, amongst other matters, '*the applicant's business plan including any person whom the applicant is preparing to engage to act on his behalf to assist with his work as an enforcement officer*'. It is said that it cannot have been the intention of the 2004 Regulations that a person applying for authorisation as an enforcement officer should submit in advance the names of certificated enforcement agents who might be authorised by the enforcement officer to enforce his or her writs.
40. Secondly, the statutory framework distinguishes between the functions of enforcement officers and the functions of enforcement agents, and authorisation as an enforcement officer and certification as an enforcement agent are dealt with separately. The 2004 Regulations [7/173] are concerned with the authorisation of enforcement officers and the 2014 Regulations [9/215] with the certification of enforcement agents. Regulations 5 and 12(2)(c) of the 2004 Regulations refer to a person assisting with '*work as an enforcement officer*', and there is no basis for construing the words '*act[ing] on his behalf to assist with his work as an enforcement officer*' as including the separate functions of an enforcement agent. The inclusion of these words in regs 5 and 12(2)(c) ensures that an enforcement officer is and remains accountable for the conduct of anyone to whom he delegates his or her own responsibilities within the scope of the 2004 Regulations.
41. Thirdly, there is a separate mechanism for addressing concerns that an enforcement agent is not a fit person to hold a certificate: the complaints procedure under regs 9 and 10 of the 2014 Regulations.
42. Fourthly, there is no requirement in the 2014 Regulations that the behaviour of a certificated enforcement agent should not be '*unprofessional or unacceptable*': these concepts appear only in the 2004 Regulations in relation to enforcement officers or those assisting in their work as an enforcement officer.

43. Fifthly, it would be unfair on an enforcement officer if the conduct of a certificated enforcement agent were to give rise to grounds for termination of his or her authorisation or assignment to one or more districts unless the enforcement officer had authorised or condoned that conduct: for example, by being aware that the certificated enforcement agent was breaching the National Standards when enforcing writs issued in the enforcement officer's name, and continuing to allow the enforcement agent to enforce those writs without taking appropriate steps to curb the breaches. If the enforcement officer had authorised or condoned the conduct, the proper ground for considering whether to terminate their authorisation or assignment would be the public interest under reg 12(2)(a). There is no need for reg 12(2)(c) to apply in this situation.

Discussion

Regulation 12 (2) (a)

Whether it would be in the public interest to terminate the authorisation of Mrs Sandbrook to act as an enforcement officer or terminate the assignment of her to any one or more of the districts to which she is assigned

44. Most of the criticisms made by Master Davison in paragraphs 46 and 47 of the *Rooftops* judgment relate to the actions of Mr Short and Mr Starr. As set out above, I have no jurisdiction to impose any sanctions on certificated enforcement agents. At paragraph 47 Master Davison also refers to Mrs Sandbrook's oversight of DCBL. Mrs Sandbrook has given a full and detailed account of her engagement of DCBL, and of the methods employed to satisfy herself that DCBL was an appropriately constituted, supervised and properly authorised firm to whom Shergroup could delegate the enforcement responsibilities which needed to be carried out by certificated enforcement agents. I have concluded that in that respect there are no criticisms that can be made of her, and there was no reason for her to anticipate that DCBL would behave in the manner they did in the *Rooftops* case. There was also no reason for her to accompany DCBL enforcement agents when they carried out the enforcement as she had properly delegated the task to them. Mrs Sandbrook has given evidence that since that case Shergroup's relationship with DCBL has ended.
45. Mrs Sandbrook has accepted that she failed to engage appropriately initially with the proceedings in which she was named as a defendant. In my judgment she ought to have given instructions direct to Bevan Brittan to act on her behalf when she received the letter of claim, and to ensure that Bevan Brittan reported to her in relation to those proceedings. If she had done that directly, rather than leaving it to DCBL, she could no doubt have ensured that Bevan Brittan dealt with the proceedings in an appropriate manner, not in the entirely unsatisfactory way in which DCBL in-house legal team dealt with the proceedings, as described in the *Rooftops* judgment.
46. With regard to Mrs Sandbrook's residence in Florida, she is correct that there is nothing in the relevant legislation which prevents an enforcement officer being resident outside the jurisdiction. Mrs Sandbrook's evidence is that she was in London for most of the summer 2018 and that she could therefore have been involved in the both the case management and the final hearing in the Rooftop proceedings had she engaged with them. So to that extent her residence in Florida is not relevant to the issue in which I have found, and she accepts, that there was a lack of oversight,

namely engagement in the proceedings against DCBL and herself. Accordingly, any views I have about her residence in Florida are *obiter*. It is correct that there is no specific bar in the relevant legislation to a High Court enforcement officer being permanently resident outside the jurisdiction. It is also the case that many businessmen and women manage businesses in this jurisdiction from a base outside the jurisdiction using digital technology. However, in my view it is difficult to see how an enforcement officer could make themselves available in person at short notice, as must presumably be required from time to time in many enforcement situations, when they are permanently based outside the jurisdiction. It may therefore be more appropriate to ensure that the enforcement officer named on a writ of control or possession is based within the jurisdiction.

47. Nevertheless, given:

- i) Mrs Sandbrook's experience and professional background, and
- ii) the only failings identified related to engagement with the legal proceedings and not to the acts of enforcement carried out in her name; and
- iii) that she has already identified these failings and taken steps to address these,

I have concluded that it would not be in the public interest to recommend to the Lord Chancellor that either of the sanctions in regulation 12(1) of the 2004 regulations should be imposed.

Regulation 12 (2) (c)

Whether Mrs Sandbrook or any person acting on her behalf who assists with her work as an Enforcement Officer has behaved in a manner which the Lord Chancellor reasonably considers to be unprofessional or unacceptable

48. It follows from my decision in relation to regulation 12 (2) (a) that for the same reasons I do not consider that Mrs Sandbrook's behaviour has been unprofessional or unacceptable to the extent that I consider I should recommend to the Lord Chancellor that the sanction in regulation 12(1) of the 2004 regulations be imposed. It remains therefore to consider whether "*any person acting on her behalf who assists with her work as an enforcement officer*" has acted in a way which falls within regulation 12(2)(a).

49. I accept submissions on behalf of Mrs Sandbrook that it would be unfair to an enforcement officer if the conduct of a certificated enforcement agent were to give rise to grounds for termination of his or her authorisation or assignment to districts unless the enforcement officer had authorised or condoned that conduct. I do not consider that the aim of the regulation would be to impose such a draconian sanction in circumstances where there is either no fault on the part of the enforcement officer, or where any fault is not such that this would be a reasonable and proportionate response, and where there exists an appropriate mechanism for dealing with the wrongful actions or default of the certificated enforcement agent. Accordingly, as a matter of construction I do not consider that it can have been intended for the wording in regulation 12(2) (c) to apply to certificated enforcement agents employed or engaged by enforcement officers unless there had been an unprofessional or

unacceptable lack of oversight by the enforcement officer, and was primarily intended to apply to employees or independent contractors who assist in some other capacity than either certificated enforcement agents or enforcement officers, for example in an administrative function or as an in house legal advisor.

50. I expressly make no finding in relation to the submission that it cannot have been the intention of the 2004 Regulations that a person applying for authorisation as an enforcement officer should submit in advance the names of certificated enforcement agents who might be authorised by the enforcement officer to enforce his or her writs. It may or may not have been the intention of the 2014 Regulations but that is not an issue that I need to determine.
51. Accordingly, I have concluded that there are no grounds under regulation 12(2)(c) to recommend to the Lord Chancellor that the sanction in regulation 12(1) of the 2004 regulations should be imposed.