

Taking Control of Goods

Andrew Wilson asks if the Call for Evidence is the third-year review?

THE reforms to taking control of goods under the Tribunals Courts & Enforcement Act 2007 only came into effect on 6 April 2014, and similarly the first-year review of Enforcement Agents Reforms was only published in April 2018, rather than in 2015 or 2016 as might have been expected.

At the time of its publication, those in the enforcement world were put on notice of a Call for Evidence, which looks as though it will be a third-year review but based on submissions of those in the industry and other interested parties, rather than on original research carried out by the Ministry of Justice (MoJ).

The first-year review broadly gave the reforms a clean bill of health and did not find any 'unintended consequences' from the changes needing immediate attention. However, it also found 'that debt advisers and debtors still perceived some enforcement agents to be acting aggressively and in some cases not acting within the regulations'.

The Advice Sector produced its own third-year review (*Taking Control bailiffreform.org/storage/app/media/Taking%20Control%20report%20March%202017.pdf*) in March 2017 citing

13 case studies illustrating continuing problems reported to them and suggesting seven reforms, including, in particular, the creation of an independent regulator for the civil enforcement industry.

The Call for Evidence, which looks as though it will be launched in September, will be looking at how the 2014 reforms continue to work in practice. In particular, it will be looking at the new fee structure and assess whether it is having an impact on the behaviour of enforcement agents or debtors, and will analyse the evidence gathered to see whether any regulatory amendments or other changes may be necessary.

How does this fit in with the HM Courts & Tribunals Service (HMCTS) Reform Programme that has turned its attention to civil enforcement this year? Presumably the conclusion of the Call for Evidence from the MoJ will feed into the suggestions from the HMCTS for any changes in enforcement.

Not surprisingly, the High Court Enforcement Officers Association (HCEOA) and its colleagues in the Civil Enforcement Association (CIVEA) are gathering suitable evidence for submission, with case studies which can be verified by more detailed evidence, if requested, in readiness for the Call. We believe that the reforms are working, although by signposting debtors to the various agencies within the Advice Sector (set out in each of the new prescribed forms), the numbers of enquiries received by them have increased considerably.

The position of the HCEOA and CIVEA is clear (see *Redefining the Boundaries*, page 49, May publication). The reforms are an improvement, and opening up the restrictions on enforcing CCJs would be an easily achievable regulatory change that would benefit court users.

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