

At the conclusion of my February Judicial Statistics article, I pointed out it was impossible to tell if Richard Thomas and Dr Mark Walport's proposed independent review on the use and sharing of personal information would have any direct relevance to the courts. Their 183 page Review (the Review) published on 11th July answers that question. It has no direct relevance, other than providing a clear signal that nothing wildly proactive can be expected anytime soon.

In three key paragraphs explaining their Context to the review, the authors state:

• **Paragraph 1.4** - "Well run businesses in a competitive environment know how important it is to earn and retain the confidence of their customers and staff by respecting the information they hold. The public sector has generally lagged behind, both in the technology it deploys and the priority it gives to establishing strong safeguards".

• **Paragraph 1.10** - "The tenor of the Government's argument has focused closely on the benefits of data sharing, paying perhaps too little attention to the potential hazards associated with ambitious programmes of data sharing".

• **Paragraph 1.11** - "Moreover there has been growing concern – rightly or wrongly – that the Government's default position is to endorse the sharing of personal information for a given programme before considering whether it is necessary to do so."

The Review fails to make a distinction between the Government's lamentable lack of skill and resource (they amount to much the same thing) in dealing with information- leading to their failure

to control it – and the necessity/desirability of its provision. At Paragraph 2.8, the Paper states *"There is no simple answer to the question of when it might be appropriate to share personal information for enforcement and protection purposes."*

On the contrary, the position is very simple in the case of civil court proceedings. Accurate details are essential before a claimant can commence proceedings, and enforce a judgment effectively. Many within the court system and the advice sector naively imagine that the claimant should simply arrive at court armed with all the necessary information, but life isn't like that. Certainly at judgment stage the position is unequivocal: the defendant has had the opportunity to defend, and the court system must inform itself about the defendant's situation from Government and other key sources, both to maintain its credibility and reputation, and to provide the claimant with the simple justice for which he has paid.

I accept there is presently a substantial risk of abuse in Government providing information prior to issue, but this can be overcome in due course in the way already envisaged in Part 4 of the Tribunals Courts & Enforcement Act (the Act): that is by advising the claimant of their chances of success, and utilising the information on the claimant's behalf, without passing it to the claimant. This is potentially less effective than the claimant having the information, but massively better than it being made unavailable altogether because of possible risks.

The Paper defines proportionality as *"the application of objective judgement as to whether the benefits outweigh the risks, using what some may call the reasonableness test."* Frankly the test amounts to the science of the absolute obvious, and could equally

be applied to whether I should go for a swim today, or any other question! There is no 'proportionality' in the Government getting its information correct. That test arises when decisions are made about what to do with that correct information.

In 2008, following a decade of unprecedented IT expansion, there can be no excuse for Government sitting and watching claimants struggle with poor, expensive, second hand and out of date information, when it has the ability to provide a true and accurate picture at reasonable cost. Instead of the plethora of high flown, technical and legalistic recommendations in the Review, the primary recommendation for civil justice – and I guess for most of the other areas discussed, although I am not pretending I can speak for them – should have been to pinpoint the disgraceful lack of Government investment in the mechanics of information, and to suggest ways in which it could and should hold and share information safely and economically both internally across its departments, and externally.

Once that practical result is achieved, everything else can follow, ideally by discussion amongst those directly involved, dealing with each element in its own backyard, rather than - like the Review- attempting to cover all bases simultaneously from a stratospheric height. Annex D of the Review provides a fitting comment on the unsatisfactory nature of the present debate. Having lovingly tabulated every attendee at the 8 workshops arranged to discuss information, and provided substantial summaries of their contributions, the Review fails to reveal who said what!

Jeremy Sutcliffe

House Lawyer for Yorkshire and Clydesdale Banks and Vice President of CCUA

Enforcement news

The President's View "A busy period ahead ..."

This is the first edition of Enforcement News since I had the honour to be elected as President, I am well aware of the hard work and commitment this role entails and I hope to continue to promote ethical and professional conduct amongst our members. I would like to thank my predecessor Paul Sharpe for the great job he did, during 2 extremely challenging years, I certainly have some big boots to fill.



Already 6 months in to my Presidency; the time seems to have flown by. I was just beginning to sit back and think this job is a "doddle", oh how naive of me! Nobody told me that I would have to stand up in front of an audience to speak about a subject that has been 'done to death', - 'Civil Enforcement, where are we going?' how can I make this interesting. Fish out of water comes to mind – public speaking, not my strongest attribute, in fact not an attribute of mine at all. As if the topic itself is not bad enough, I'm sharing the stage with probably the only person, who knows "where we are going", Daniel Flury, Deputy Director of Enforcement, MOJ. Let's hope he can enlighten you.

Then to add insult to injury, war and peace lands on my desk, in the form of a RFI from the MOJ, along with an invitation to a meeting to discuss their proposals for a new fee regime. Great! Well at least the MOJ is seeking our involvement and contribution on what is, in effect, our future.

Along with our Past President and Executive Director, I attended a lengthy, but productive meeting, with the Enforcement Team of HMCS. We discussed the RFI, which at first glance, is rather scary, but, if one appreciates what they are trying to achieve, it is understandably so. They were very receptive to our ideas, suggestions and queries and as a result agreed to amend it. They also agreed that the original was possibly too onerous and arduous, particularly for members, who may have less resource to complete it, and they have now included a 'smaller companies' RFI. They are also to provide a 'Frequently Asked Questions' document covering all key points that we are likely to raise.

We were given cast iron assurances that all responses will be treated as "commercial-in-confidence". Concerns over the Freedom of Information Act were raised with the HMCS; in particular what would happen if a request for these details was received. Their belief is that such information is exempted from the provisions of the Act and will provide written confirmation of this belief as soon as they have it. We made it clear that confidentiality of the information provided must be guaranteed.

I appreciate that completing this form will be a daunting task but it is a huge opportunity to let the MOJ know just how much work we actually do, and how much of that work we are expected to do for free. This is our one and only chance to have our say. So please make sure you provide as much information as you can, so that we can all be adequately and fairly rewarded for the job we do.

I would also like to make a plea to all Local Authorities in respect of the TCE Act – when the consultation comes out please get involved. From talking with many of you I am aware that you have concerns about the Up-Front Fee, if you don't want it, say so, and say why. These regulations are not just about Enforcement Agents, they will have a huge impact on your Authority and your collection rates so get involved and make a difference. If only a few Authorities object to the fee and the majority remain silent, will the MoJ consider that most agree with the fee?

Finally on a lighter note, I had the pleasure of attending the IRRV Annual Reception at Lord's Cricket Ground, which was a spectacular event and very enjoyable, it also happened to fall on one of the few days in July when we did not have rain – there are some perks to this job after all.

I hope to see you all at the IRRV Conference.

Regards

Julie Green Jones
President of the
Enforcement Services Association



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ENFORCEMENT NEWS

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New Data Sharing Rules will put more people into Debt

The government's latest review of data sharing and specifically the use of the electoral roll will ironically put more people into debt, and dramatically increase incidences of 'mis-traces' – where consumers are wrongly identified as owing money that they don't.

We initially gave the data sharing review a cautious welcome and were happy to look at the work undertaken by Information Commissioner Richard Thomas and Dr Mark Walport. It had become obvious that even if the legislation surrounding the sharing of data is not all it should be, then the data-sharing culture of some large, including Governmental, organisations certainly isn't.

What has happened, however, is that with this new report, the Government is once again in danger of making progress on one issue at the expense of another, with that 'other' being its expressed commitment to reduce over-indebtedness.

The Data Sharing Review, in recommending the abolition of the edited electoral roll, does however present the Government with an opportunity to make good an anomaly and make progress with its fight against over-indebtedness.

It has always been considered an anomaly by the debt collection industry that the use of the full electoral roll for collecting debts was not a 'permitted use' under the original legislation – The Representation of the People Act 2000. It was, and is, anomalous that the full register is

available for the granting of credit, (this is obviously essential), but not for the process of recovering sums borrowed. It is thus the case that this legislation has always helped people into debt but not out of it!

It is quite wrong to continue to bracket debt collection with direct marketing and it will have serious consequences if the above recommendation of the Data Sharing Review was to be implemented without recognising this and rectifying the above anomaly.

The member companies of the Credit Services Association, the trade association of the debt collection industry, instructed over 8 million 'traces' last year, and that is a conservative estimate. These are instructions to locate people who have either moved without informing their creditors or who simply return creditors' correspondence as 'gone away'.

This is almost epidemic and inevitably leads to some mistakes and the wrong people being chased for debts they do not owe. At least with access to the edited electoral roll (that actually only comprises 60% of the full roll) it gave collectors one route to checking whether someone who claims NOT to owe a debt is actually telling the truth with regard to their residential status and history. This situation will be seriously exacerbated if the edited electoral roll is simply abolished and not replaced.

The Government needs to take a serious look at the issue of a National Address Register. The UK is the only EU country apart from Greece without any form of such, and/or place greater obligations on those who avail themselves of credit with the vast protection of the Consumer Credit Act, but then abuse that protection.

Dr Roger Lucas
The Credit Services Association

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British Parking Association Established 1959 Credit Services Association

When Whyte & Co began trading back in 1980 the concept of court appearances, other than to obtain a Bailiff Certificate, seemed a foreign affair.

With the advent of Road Traffic enforcement and with perhaps a sense of the "no win no fee" attitude towards court action the threat of court proceedings are now all too often thrown in the bailiffs face.

Indeed commercially it is far more sensible to settle than suffer the cost of defence.

Even through the days of community charge, a contentious collection to say the least, this firm had perhaps only one court issue to attend – which it won.

Today the statistics are somewhat higher.

This increase is as a direct reaction from a disgruntled element of the

populace that see such remedy as a route to a quick buck, regardless of how valid their claim may be and not through any bad practice or wrong doing on the part of the enforcement agent.

Last year a bailiff attending premises to enforce a Road Traffic parking warrant found the vehicle in question and having failed to raise the debtor from the premises, levied and immobilised it prior to removal. (The debtor had previously sped off in the vehicle on an earlier occasion to avoid distress).

Shortly the debtor emerged, a doctor by trade, and told the bailiff, most un-hippocratically, to remove the clamp or he would remove the bailiff's head!

The bailiff, failing to oblige, watched the debtor drive away in a second vehicle.

The seized vehicle was removed, the debtor advised of impending sale.

Following no response the vehicle sold at public auction, the proceeds paid the debt and costs and a refund of the surplus was returned to the debtor.

There then followed an application through the county court for damages claiming unlawful seizure, inappropriate sale etc.

This claim was levelled at both this firm and our client.

After filing a defence (a time consuming process) the matter was scheduled for a full day's trial which this firm and our client had to attend.

On the day, and after some hours of leaving through the details, the court decided, quite rightly, that the matter was not an issue for a

local county court and in addition no wrong doing could be seen in respect of bailiff or council action. The matter was dismissed.

This sounds a happy ending, from the bailiff perspective at least. However it fails to take account of the lost time, effort and expense such actions cost.

Proving your actions were just is a moral satisfaction, alas not a financial one.

In another example a debtor filed a Form 4 complaint (a process which allows challenge to a bailiff's fitness to hold a certificate) against two bailiffs who had deigned to stick a notification of intended seizure through his letter box. Again time spent responding to the court enquiry which thankfully was rejected by the court before any hearing was necessary still took time and resources.

Some Form 4 applications are not so readily dismissed, particularly in respect of Road Traffic enforcement, an emotive situation which quite often sees the disgruntled debtor, angry at being made to pay, seeking remedy by whatever means possible. This can involve a day in court and threatens the bailiff's livelihood should the decision go against him/her.

I am not against such process; in fact it's the right of every citizen to have redress when wronged but surely only in situations that are legitimate and not frivolous.

Perhaps an application fee on filing a Form 4 complaint would encourage many debtors to consider their actions before making spurious claims. The fee need not be onerous but would help weed out the opportunists.

As for court action in general unless there can be some redress against those that flaunt the system civil enforcement agents will continue to find themselves threatened with frivolous litigation.

Paul Whyte
Partner Whyte & Co

Consultation – A Government Pastime

I am convinced that there is a conspiracy to deny me a few weeks peace and quiet every summer. This year is no different and HM Government has been busy destroying forests in an effort to produce more consultation papers.

Needless to say the Ministry of Justice has been at the forefront of this exercise (more on that shortly) but it has not been alone.

The Department of Transport published a consultation paper in July seeking views on a series of draft Statutory Instruments needed for the implementation of the graduated fixed penalty and financial deposit schemes provided for in the Road Safety Act 2006. The proposed SIs will deal with a number of issues in respect of the enforcement of vehicle-related offences and, in particular, situations where the offender may be difficult to trace either in the UK or elsewhere. In brief, the proposed powers can be summarised as follows:

- To issue fixed penalties to non-UK resident and UK resident offenders, regardless of whether the offence is endorsable;
- To request a financial penalty deposit from any offender who does not have a satisfactory address where they can be found in the UK. The deposit can be in respect of a fixed penalty or as a form of surety for a fine where an offence is to be prosecuted in court;
- To introduce regulations that enable enforcement agencies to immobilise prohibited vehicles (including immobilising a vehicle belonging to a driver who has not yet made, or has refused to make, a requested financial penalty deposit payment).

These are interesting proposals which, if found to work, could be extended to other areas of enforcement.

As I said at the beginning, the Ministry of Justice has not been idle and has begun work on two streams of consultation in respect of the

regulation of enforcement agents.

It will come as no surprise to anyone that the MoJ's favoured body for regulating (or should that be licensing) enforcement agents is the Security Industry Authority (SIA). The SIA has been charged with producing a scoping document and business case to demonstrate to the MoJ how it would regulate enforcement agents. A consultant has been appointed to gather the necessary information.

It is the SIA's intention that the licensing (there's that word again) of enforcement agents will relate to their functions rather than their job titles. The consequence of this is that it may be necessary for some of the 'back room' staff within bailiff firms to obtain a licence. The SIA is considering a two-tier licensing arrangement. The first tier or 'front line' licence would be for those directly working as enforcement agents whilst the second tier or 'non front line' licence would be for managers and those working in the offices and who have direct contact with the public. Bearing in mind that this is the system used throughout much of the security industry it is likely that the SIA will be keen to introduce similar licensing here.

You will I am sure recall from the consultation paper on the regulation of enforcement agents the long list of tasks which the SIA will not perform if it becomes the licensing authority. This begs the question as to exactly what effect, if any, the SIA will have in dealing with the issues faced by the enforcement profession. It has been suggested (not just by me!) that the choice of the SIA is simply because it is the cheapest option; not necessarily the best. Nothing so far has changed my mind on that. Furthermore, the SIA licensing system is not expected to come into operation until 2011 at the earliest; at least a year after the next General Election. On that basis it cannot be said with any confidence either that a) the target date will be met or that b) it will even exist.

The MoJ has also finally started work on the enhanced certification process as provided for in the Tribunals Courts and Enforcement Act 2007. This is arguably a half-way house before the SIA licensing regime kicks in (but see above). Its first task is to look at creating a new fee structure for the enforcement profession which will provide clarity and simplicity thus enabling all of us to fully understand the charges (that's the theory). Needless to say they have also employed a consultant whose task is to gather as much information as possible about the work carried out by enforcement agents, the tasks involved in performing that work and the charges made/ remuneration received for doing it. At the time of writing this article MoJ is busily preparing detailed questionnaires to be sent to enforcement agents. These will be detailed documents and the department hopes that as many agents as possible will complete and return them to the consultant.

The enforcement profession has a history of not completing questionnaires (I speak from experience!) but this is one occasion when it should take some time to do so. As well as providing information about current operations this is the one opportunity for individual enforcement agents to let the government know exactly what they think about the profession and how they see it progressing in the future. I wish to make a personal plea to all enforcement agents reading this article that, when the questionnaires arrive, you complete and return them to the department as soon as possible. This is your opportunity to let government know what you believe the future of the profession holds. Please do not waste it; you won't get another chance.

Vernon Phillips
Executive Director ESA

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“Why Spoil the Ship for a Halfpenny worth of Tar?”

This old English expression appears as valid today as it was when, no doubt, some old naval sea dog invented it many centuries ago. I regret I do not know its provenance.

If you are going to do a job, then for goodness sake do it properly; don't cut corners for the sake of a few pounds sterling.

I would like to share with you two particular examples in recent months where in one case Government has already decided to 'build houses in Cheap Street' and the other they would dearly like to but there may be a short window of hesitation at the moment because opinions are very mixed. Let me explain.

The Security Industry Authority (SIA) are to be the new licensing authority for the Bailiff world- oh dear, oh dear, oh dear. Let us remind ourselves of the facts. Way back in the late 1990s Government initiated a Civil Justice

Review in which the regulation of County Court bailiffs in England & Wales was proposed. The Bailiff sector itself managed to persuade Government that this should be expanded to certificated bailiffs also. A Consultation Paper preceded a White Paper entitled "Effective Enforcement" which appeared in 2003. The Government proposals laid out in this White Paper were generally accepted by the industry and bailiff sector as a progressive way forward to bringing bailiff law into the 21st century and there were high hopes in that sector that at last Government was doing something about the present chaos.

The Department for Constitutional Affairs (now the Ministry of Justice) drafted the Tribunals, Courts & Enforcement Bill and this was kept under strict raps- the reason being that Government had decided NOT to do anything about bailiff law!

Then the Whistleblower programme was shown on Television, exposing two particular bailiff firms and their methods of levying on goods for debt. Wow! Government was visibly shaken. They then demanded that the civil servants include in the Bill matters to do with bailiff regulation- the deadline was very tight. The weaker suggestions in the White Paper were rushed into the Bill to satisfy the public outcry. If I may say so the very worst way of making law. The Tribunals Courts & Enforcement Act received Royal Assent in July 2007 and now we are faced with the introduction of the various sections of this Act including their version of the 'regulation' of bailiffs.

They have already selected their regulator- the Security Industry Authority (the regulator for bouncers and clammers) - but that is exactly what the SIA is not going to be. A licensing authority, yes, but not a regulator. They will issue licences and it appears that unless criminal law is broken, they really will not concern themselves too much with how the bailiffs then perform their tasks. They will not deal with complaints or any such complex matters. The SIA are sadly known for only two things- gross inefficiency and inability to cope!

Why does Government not listen to the fury that has been coming at them from all quarters - oh because it is cheaper to use the SIA and of course they promise to improve its efficiency. One does wonder sometimes who these people are that believe such political twaddle.

Of course it is the SIA that are planning on introducing registration of all tracing and investigation officers!

What an opportunity is going to be missed if they proceed as they have planned. Mark you I get the strong feeling that it is all a matter of playing for political time as a General Election will be on us before anything moves very much further and it will all collapse like the proverbial pack of cards- how convenient!

The second issue relates to bankruptcy. Her Majesty's Courts Service has persuaded The Insolvency Service to consult with the industry over the proposal to remove the Court procedure from a debtor's petition for bankruptcy. At present in England & Wales, for a debtor to petition for his/her bankruptcy the first stage is to apply to the County Court for a Hearing. This normally is arranged very quickly and the debtor has to appear in front of the District Judge or senior Court official. This Hearing, although short in length, causes serious concern to many bankrupts and it is said prevents many debtors from seeking bankruptcy.

In Scotland the court procedure has only recently been removed from the bankruptcy procedure under the Bankruptcy & Diligence etc (Scotland) Act 2007. It is far too soon to establish any trends.

The reason for these proposals is simply that the Courts Service does not have the resource to continue with

such Hearings and wishes to save money. How we have all heard this before.

I doubt whether many in the industry would disagree that by far the majority of people making themselves bankrupt are highly stressed and in serious financial difficulties and probably bankruptcy is the best option for them. However there is a minority, which is slowly growing, of those who could care little about debt and their obligations and simply seek an easy way out- bankruptcy. What worries me is that the easier you make access to bankruptcy, the more you are going to encourage the 'won't pays'. This is dangerous. As an Official Receiver said to me recently "If you remove the court procedure from bankruptcy, there will be an avalanche. Bankruptcy is not an easy option and should never be made so. I personally believe that a small amount of stigma in bankruptcy is a good thing. It makes people think twice.

It seems to me that quality in so many areas of business life is diminishing in quantity for all the wrong reasons. I believe we should fight to maintain quality. Interestingly

the Insolvency Service, who I understand are not generally in favour of removing the Court procedures have received a very mixed response to their Consultation so it is not a foregone conclusion - Good.

(This article first appeared in The Score in June 08)

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• **Turkey.** Bailiff with five homes - Up to ten percent of collections was in bribes!

In Bakrköy's Collection Management Office, 24 individuals, working in collections are now being sued for receiving bribes. Collection Officers had actually made notes on certain lawyers who were unwilling to offer bribes. The officers in question were generally up to ten percent of the collection amount as a bribe in order to expedite the process. Even for more minute processes, bribes of 50 YTL were being offered to clerks in collections.

The complaint was made by fellow collection officers who highlighted the fact that the officers in question were living a lifestyle high above their means and owned assets far surpassing their earnings. Until the

case is concluded, suspects have been banished to different regions in Turkey. One individual in the indictment owns five homes, yet still rents all on an official salary of 1,700 YTL.

• **Israel.** Moshe Gal, Director-General of the Courts Administration, reported that the total number of files in the stockpile of the judicial system had dropped by 3.3 percent compared to the same time last year, or 5% compared with the end of 2007. A large part of that, however, had to do with a change in the Bailiff's Law, whereby creditors may now apply directly to the Bailiff's Office without first complaining to the courts on lawsuits of up to NIS 50,000 if they are backed by a contract or explicit promise on the part of the debtor to pay the money.

• **THE PORTUGUESE** tax authorities have appointed teams of bailiffs to visit tax defaulters and list their goods and valuables.

The measure, to be carried out throughout August, is the first centralised, most concerted information collection drive into the assets of individuals owing taxes ever carried out in Portugal. The teams of valuation inspectors have been given sweeping new powers by the Direcção-Geral dos Impostos (DGCI) to take down details of the value of tax payers' properties, cars, furniture and other assets should debtors be unable or show unwillingness to come to an arrangement to pay off outstanding tax

debts. If tax defaulters do not have any assets, as in the case of limited companies, then the valuers have the powers to list and seize the assets of company owners and directors instead.

The new powers, made possible by new advanced cross-referencing computer systems, were signed by the Director-General of Taxes, Azevedo Pereira at the end of July and then sent via e-mail to all District Directors and Directors of individual tax offices throughout the country. The tax authorities have divided defaulting taxpayers into five categories depending on their circumstances and at which phase of the process they have reached.

A) *Taxpayers with one process against them that have failed or been unable to pay off the debt.*

B) *Taxpayers with considerable outstanding taxes whereby the first attempt to claw back the money has not been met with success.*

C) *Taxpayers owing considerable outstanding taxes who have not been threatened with appropriation of goods.*

D) *Taxpayers with old outstanding debts (more than one process) that run the risk of appropriation.*

E) *Taxpayers that have suffered appropriation but still have debts outstanding.*

The tax authorities have also launched a vast operation to claw back IRS (Income Tax), IRC (Corporation Tax) and IVA (Value Added Tax) illegally retained by 50,000 companies and not handed over to the state. Operation Resgate Fiscal (Fiscal Rescue) has identified and is notifying 24,000 companies which it considers guilty of 'criminal behaviour' that it must pay its taxes and fines within a month or face the consequences.

Valuation teams are to be then sent out to value assets and serve court notices on those refusing or unable to pay - in the worst cases those found guilty can expect a three-year prison sentence. In 2007, according to the DGCI, 2,731 IRC taxpayers were indicted for tax evasion and fiscal crimes of which 2,084 were found guilty with 1,510 fined. Of these, 407 were given suspended prison sentences and 10 were jailed.

• **Israel.** A progressive reform to the operation of the Bailiff's Office is coming up against opposition from the Finance Ministry's budget division. The treasury's opposition to the reform, which was formulated in the Knesset Constitution, Law and Justice Committee, demands major modifications to both the bill's prohibition on arrest of debtors and the obligation to provide alternative housing to anyone evicted from his apartment. The position of the ministry was announced by deputy budget directors Sharon Gambashu and Rotem Peleg in a letter to committee chair Menahem Ben-Sasson (Kadima).

The opposition of the budget division adds a member to the bitter front established by the Israel Bar Association and the banks that is already waging war against the reform. Originally, the reform in the Bailiff's Office was part of the 2007 Budget Arrangements Law. Now, it has been decided to separate the reform from that bill, and to refer it back to Ben-Sasson's committee, which will prepare it for its second and third readings.

The main means of debt collection at present is arrest warrants. The number of such warrants issued by the Bailiff's Office doubled between 2000 and 2007, from some 100,000 to about 200,000. At the same time, only 650 warrants were actually carried out last year. In other words, the warrants could be

said to serve as a method of intimidation that forces debtors to pay up.

The Knesset committee has proposed a three-year experiment, during which the arrest warrants would be canceled entirely. Instead, the Bailiff's Office would be provided with tools to improve its debt-collection ability, such as access to information about the debtor's financial situation. The treasury's Gambashu and Peleg expressed a fear that a three-year experiment was liable to undermine debt-collection ability and suggested limiting it to only one year.

In response Ben-Sasson commented that, "my position is that arrest is not for purposes of intimidation." In either event, the reform in the arrest warrants is to take effect only a year after passage of the reform, during which the effectiveness of the new collection methods granted to the Bailiff's Office, and intended as a substitute for the arrest warrants, would be examined. Ben-Sasson also indicated his willingness to have the legislation stipulate that a

cancellation of the arrests would come into effect only after an additional vote by the Knesset constitution committee. This will be held after it becomes clear whether the new methods really do improve collection ability and constitute a substitute for the arrest warrants.

A second major aspect of the reform is the committee's decision to provide alternative housing for a period of at least a year and a half to any resident who is evicted from his home. Gambashu and Peleg write that, according to the assessment of the supervisor of banks, application of the rule retroactively, in other words, to borrowers who have already taken the loans, will cost the banks NIS 1.1 billion. They express a fear that it will constitute a serious blow to the banks, and particularly to small ones, and are opposed "to any retroactive application of the amended legislation."

Gambashu and Peleg also want to restrict the period of alternative housing to half a year, for new borrowers as well. Instead they propose an arrangement whereby the Ministry of Construction and

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Housing, in a fast-track process, will recognize anyone who has been evicted from his apartment as homeless and provide him with assistance. The deputy directors warn that the banks will inevitably collect the cost of the alternative housing from the high-risk population, which will make it difficult for weak populations in particular to take out a mortgage. Ben-Sasson is willing to consider applying the alternative housing arrangement only to those taking out new mortgages, if in exchange the state commits itself to the track requiring fast recognition of any evictee as a homeless person, and to providing significant assistance.

- **Vancouver.** PORT MOODY - Charges are pending against a man who led several police agencies and the Coast Guard on a boat chase

through Burrard Inlet. It seems he wasn't ready to surrender his black and white boat to bailiffs who came to collect the craft at Reed Point Marina in Port Moody at around eight Friday evening. The operator took off towards Vancouver, smashing into other boats in the marina that got in his way.

A Vancouver Police boat, along with a coast guard vessel, waited in a harbour to cut the wayward boat off. The Air One Chopper caught sight of the boat and the chase was over. The man and his female passenger surrendered to police.

- **Estonia.** Former bailiff caused damages for nearly EEK 2 million - Maarika worked as a bailiff during the years 2001-2003. According to the senior prosecutor at Viru Circuit Prosecutor's Office Kalmer Kase, Maarika misused her official position and caused damages that reach nearly EEK 2 million. Aripaev.ee writes that as a bailiff Maarika's competence included proceeding the fulfilling of enforcement instruments, according to the law of that time also organising value transactions, as well as transferring recovered money from debtors to the deposit account of the bailiff, and forwarding it to the claimant in court, Viru Circuit Prosecutor's Office announced.

During criminal procedure, it was discovered that in the case of 1495 enforcement files Maarika hadn't noted down the recovered money from debtors or money received from

the sale of assets (for the total value of EEK 1,848,904.44) and in the case of 49 enforcement files didn't return the surplus money to the debtors (for the total value of EEK 32,180.05). During the pre-trial investigation, it was confirmed that the illegal behaviour of Maarika caused damages for EEK 1,881,084.49. According to the law, Maarika's behaviour is considered as misuse of official position and if the court finds her guilty the punishment is either monetary punishment or up to 5 years sentence in prison. The hearing will take place in Viru County Court in Kohtla-Järve Court House. The criminal proceeding was heard by Security Police Board.

- **New Zealand.** A rare vintage Bentley car is among property seized by Northland court staff targeting fine dodgers. Northland district collections manager Craig Crawford said \$25.8 million was owed in fines in Northland. Of that, about \$11 million was classed as outstanding or overdue, the Northern Advocate reported.

Big-screen televisions, laptops and stereos been taken with property owners having seven days to pay their overdue fines or risk having the goods auctioned off. During the raids court bailiffs and police also found cannabis and young children left alone at home.

- **Azerbaijan.** Khanlar Zeynalov has been appointed new Chief of Azerbaijani Justice Ministry General Department of Bailiffs, APA reports.

Zaynalov was Sabael District Police Chief. Colonel Zeynalov was dismissed because of retirement age. Faig Gurbanov, Head of the Department on Human Rights and Public Relations of Justice Ministry told APA that Zeynalov has been appointed to the new post under order of Justice Minister Fikrat Mammadov and he has been

ranked Chief Counsellor in Justice. Huseyn Alikhanov, who is Deputy Chief of Penitentiary Service, was former Chief of Azerbaijani Justice Ministry General Department of Bailiffs. Sabael District new Police Chief has not been appointed yet.

- **Ghana.** Mr. Justice Stephen Allan Brobbey, Justice of the Supreme Court and Chairman, Board of Trustees, Judicial Training Institute (JTI) on Saturday charged bailiffs to be conversant with country's laws in order not act wrongly. He also urged them not to compromise on their integrity and truth in the discharge of their functions.

Mr. Justice Brobbey was speaking at a training programme and certification of new private Process Server companies in Accra. The day's seminar organized by the Judicial Service was to enable servers put across their concerns as well as prepare them for the task ahead. The process to privatize and license new court process servers started in 2005 with five companies and by early 2008 twelve more have been added to increase the number to 17 companies. Mr. Justice Brobbey said even though there were many good bailiffs in the country the few bad ones who were damaging the image of the Judicial Service (JS) have to be removed from the system. He cited instances where bailiffs because are not conversant with the law had gone on to enforce a wrong court orders. He also cited for example that no court could order the arrest of a person or imprison somebody merely for owing. Mr. Justice J.A. Akamba, Justice of the Court of Appeal and Acting Director of JTI took the managers of private process servers and the bailiffs through how to assess legal matters and terminology, Latin words and phrases.

He said the seminar would help the participants exchange ideas and

ensure efficiency in the justice delivery system. Mr. Justice Marful-Sau, Justice of the Court of Appeal and President of the Commercial Court said the process servers were very important in the judicial system and without them the courts could not function properly. He said process servers act as the link between the litigants and through whom the courts were able to serve the various parties in litigation. He said in situations where process servers should default in carrying out their duties it would adversely affect the judicial process.

- **Port Louis, Mauritius** - The government of Mauritius has decided to liberalize the profession of court bailiffs to promote a fair and equitable judicial system that is in line with the global trend that encourages the use of independent court bailiffs. *"The liberalization of this profession will reduce the cost of implementation of court decisions and other court instruments,"* a government official said at the end of a cabinet meeting held on Friday in Port Louis. *"The government is of the opinion that opening up the profession to competition will enable the population to enjoy better services,"* the official added.

The court bailiff is expected to be present throughout the court session to maintain discipline, announce the opening of the proceedings and administer oaths to witnesses. Other

functions of the bailiff include executing court orders, serving summons and other notices or court injunctions, divorce petitions, orders on child custody and orders preceding the seizure of fixed assets.

- **MOSCOW,** June 17 - Bailiffs have arrested a country house belonging to Sergei Mavrodi notorious for gross financial fraud in Russia in the 1990s as a founder of the "MMM" Fund that cheated many investors. The house in question is a two storeyed wooden building with a total floor space of 112 square meters and a plot of land in the settlement of Zarechje in the Tver region northwest of Moscow, the Federal Bailiff Service told Tass on Tuesday. The house is situated seventy meters from the picturesque Seliger Lake, which

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considerably increases the cost of Mavrodi's countryside premises. No valuable property has been found in the house itself, the Bailiff Service said. Bailiffs continue search for Mavrodi's property to raise funds claimed in more than 800 bailiff suites filed against Mavrodi who owes an overall sum of around 300 million roubles. The money raised from sale of Mavrodi's property will be used to pay the sum claimed by the plaintiffs.

On June 10 the bailiffs arrested Mavrodi's private library at his friends' apartment in Komsomolsky Prospekt in Moscow. The library

numbers around 1,400 books that will be put under the hammer. In the beginning of this year a total of 700,000 dollars confiscated from Mavrodi were released from under arrest and turned over to the Bailiff Service. At a recent press conference Sergei Mavrodi declared that he has no property to repay his debt to the investors of the former MMM Fund who claimed their money through courts. The notorious MMM fund was the biggest financial pyramid of the early 1990s ever known in Russian history. A total of 10, 454 cheated investors were recognized official victims, while the overall number of investors to the MMM fund was about ten million.

- **Basseterre, St. Kitts** - HONORABLE Dennis Merchant, Attorney General and Minister of Justice and Legal Affairs on Monday, June 16th recommended to Parliamentary representatives that two additional bailiffs be hired for the Magistrate's Department. The Attorney General stated that "there is a significant backlog in the number of warrants to be executed" and as such, advised that the number of bailiff positions be increased from four to six.

A warrant is described as "a document issued by a magistrate authorizing an officer to make an arrest, seize property, make a search, or carry a judgment into execution" while the definition of a bailiff is "an officer of the court who is employed to execute writs and processes and make arrests etc.". According to a Post Cabinet briefing "this measure is viewed as being complementary to ongoing efforts to improve order in society". The release also stated that "Cabinet wholeheartedly supported the recommendation".

- **Hong Kong's** government apologised to tourists who were kicked out of a hotel that was taken

over by a city bank due to an unpaid loan. Dozens of bewildered visitors from across Asia and Europe were ordered to leave the hotel after Bank of East Asia (BEA) took possession of the property on Wednesday. "We sincerely apologise for any inconvenience and unhappiness caused to the tourists," Au King-chi, Hong Kong commissioner for tourism, told reporters. "We should have set up a counter at the hotel two or three hours after the incident took place to provide information to tourists on the prices and availability of hotel rooms nearby and arrange for transfer." The guests were evicted following a prolonged battle between BEA and Labour Buildings, the company that runs the hotel, over an unpaid HK\$80 million (A\$10.8 million) loan. Labour Buildings, a former investment arm of the Taiwan's Kuomintang political party, said it had been originally granted the loan to curry favour with the party 10 years ago, the South China Morning Post reported. The company issued a statement condemning BEA, saying the bank's actions were harmful to the tourism industry of the south Chinese city. "Under no circumstances can the Bank of East Asia and the bailiffs drive hotel guests away. The bank's right to possession does not mean it can cold-bloodedly drive away hotel guests," it said. The hotel would offer refund to guests who had already paid for their bookings, the statement added. A spokeswoman for Bank of East Asia said it had no comment to make.

"How could something like this happen in Hong Kong?" said a woman from mainland China who identified herself as Li, according to the Post. She only discovered the problem when she arrived in Hong Kong on Wednesday evening with her three teenage daughters and was told she could not stay in the Tatami Hampton Hotel, situated in the bustling Mongkok area of the

city. A notice posted in the hotel lobby said that it had been taken over by lawyers representing the bank and the bailiff pursuing a court order, the report said. TV images showed the doors to the hotel bolted closed.

- Relations between Britain and Russia today hit another low after the British Council in **Moscow** said it had received a punitive and "incorrect" tax bill from the Russian authorities. Tax officials sent the demand in May, the organisation said, and also threatened to send bailiffs to seize books, furniture and computers from the council's Moscow office unless it was paid in full. The demand was the latest in a series of hostile moves against the cultural organisation by Russia.

It followed the closure of the council's regional offices in St Petersburg and Yekaterinburg in January and the intimidation by the FSB - Russia's post-KGB spy agency - of local staff. The Kremlin admitted that its campaign against the UK government-funded body was directly linked to the row between Moscow and London over the murder of the Russian dissident Alexander Litvinenko in November 2006.

- The **Russian** government has filed a lawsuit in France against Swiss company Noga and its **French bailiff**, claiming significant damages to Russia's reputation from a seizure of state assets, Russia's Finance Ministry said Tuesday. The ministry did not disclose the amount of damages sought by the government. Accounts belonging to the Central Bank of Russia, state-owned news agency RIA Novosti, the State Research and Production Space-Rocket Center TsSKB-Progress were frozen in France in January 2008 under a Noga lawsuit that claimed the Russian government owed a multimillion-

dollar debt. French authorities have since unfrozen the accounts. Noga alleges that the Russian government owes it a debt of about U.S. \$68 million for oil-for-food deals concluded in the early 1990s. Noga has since tried unsuccessfully to reclaim the sum by seizing Russian assets abroad.

- A government initiative to share the burden of executing civil court orders with the private sector was met with hesitation at the **Vietnamese** National Assembly's last two sessions. The government expects the initiative, which is part of a bill on civil court order execution, to help reduce the pressure on its overloaded agencies that now execute court orders, but lawmakers asked that the initiative wait for better conditions and a more detailed plan. The initiative proposes using bailiffs similar to those in the French legal system, who are not government employees and do not have police powers, but who execute court orders such as fine collection and summons.

But legislators at meetings over the last two days said the issue was too new for immediate action, though they agreed that it would be inevitable in the long term. Representative Tran Van Tan said the country "did not have enough experience" and should therefore "be prudent" and "wait for the right conditions." Since 1993, the Justice Ministry's Civil Court

Verdict Execution Department has been in charge of executing court decisions, such as seizures and evictions. But despite its 8,000-strong payroll, the department has been unable to meet the demands placed on it. Over 310,000 court orders, or 48 percent, were left unexecuted last year, according to ministry figures. The application of public-private partnerships (PPPs), in which the private sector could provide some bailiff services, would improve the execution of court orders and ease the government's workload, the ministry said.

Minister Ha Hung Cuong said the bailiff system was not new and had in fact been applied in the country before 1975. Most NA members agreed that PPPs would be necessary and that they accorded with the reform strategies of the administrative and judiciary

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branches. However, to what extent the initiative would be implemented should be considered carefully, said representatives. As a cautionary tale, representative Le Thi Hoa Ri reminded everyone of when the government had allowed private debt negotiation and collection companies. "Thugs and mobsters immediately jumped in and made illegal arrests," Ri said. NA member Nguyen Ba Thuyen said careless application of such an initiative could "cause social chaos." Most members suggested that the bill only adopt PPPs for court order execution "in general" and let the government decide what services private entities could provide. The government should work out a transition plan with a clear roadmap and careful consideration of resources, particularly funds and

personnel, said NA members. The NA should also issue a resolution allowing the government to implement its initiative on a trial basis, said representatives. The unicameral house is scheduled to vote on this bill at its year-end session in October. Talking with the media Friday, Justice Minister Ha Hung Cuong said Ho Chi Minh City had volunteered to implement the pilot program if the government approved it.

- Debtors will not be allowed to use phones and cars.

The Federal Court Bailiff Service, **Russia** plans to impose tougher sanctions for persistent debtors, who will not be allowed to rent houses, drive cars or use cellular phones. Lawyers say this measure is illegal. Bailiffs may currently stop debtors, who are subject to a court order for debt recovery, from leaving the country. According to Artur Parfenchikov, deputy head of the bailiff service, the law on the penitentiary system, which came into force on February 1, 2008, also does not allow debtors to buy tickets to other cities in Russia, use cellular phones, lease housing and drive cars.

Alexander Yermolenko, chief legal adviser at the Corporate Practice Group of FBK-Legal, said Article 64 of the law says bailiffs may "take other measures necessary to execute the enforcing court sentences." In other words, the law does not include an exact list of measures bailiffs may take. "We are not going to take such measures indiscriminately. Our task is to encourage debtors to comply with court orders," said the bailiff service's press department. If debtors have no funds in their bank accounts, do not own real estate and have no money, bailiffs may restrict the use of their property rights. "Nobody is going to seize debtors' cell phones or cars, but we

may confiscate their right to use cellular phones," a service spokesman said. Pavel Sadovsky, an associate at Magister & Partners, a CIS-based international law firm, said: "Under the law, bailiffs must not only arrest debtors' property, but they can value and put it up for auction." But how can they annul a contract signed between the debtor and a mobile operator?

Alexander Kulikov, a lawyer at the Yukov, Khrenov and Partners law firm, said a ban on the right to buy package tours in Russia has nothing to do with the confiscation of property on behalf of the plaintiff. Court bailiffs cannot do this, he said. Nelli Agarysheva, a lawyer at the Moscow-based law firm Lev Kamenkov and Colleagues, said: "These limitations infringe on human rights and contradict the Constitution."

- Thousands of bereaved families have received letters from **Sweden's** official bailiff demanding payment for their dead relatives' debts and threatening punishment if payment was not forthcoming. Those who received the letters included young children. "My 12-year old son was very upset when he opened the letter and saw what they had written. He misses his dad very much," said a Karlstad woman to local newspaper Nya Wermlands-Tidningen. The woman was divorced from the boy's father when he died three years ago. The bailiff nonetheless threatens in the letter to seize assets from estate, in other words the boy, if he does not pay his father's debts. "The estate was wound up a long time ago, and no child can inherit his father's debts. The whole thing is incomprehensible," she said.

The Swedish Enforcement Administration (Kronofogdemyndigheten), confirmed on Friday that a number of the letters - of which there were

calculated to be more than 15,000 - were sent out by mistake. The intention was to send the letters to estates with current debts, where there was a chance that they might be entitled to tax rebates. Now all estates with registered tax debts got the letter. "We haven't technically done anything wrong, but it is most inappropriate to send out letters like this. It undoubtedly stirs up emotions and I apologise profoundly," said the administration's Sven Kihlgren.

- A total of 427,800 distraints were ordered by court in the **Czech Republic** last year, nearly 40 percent more than in 2006 and the biggest growth in absolute figures since 2001 when distraints were introduced. The main reason are unpaid loans, Chamber of Bailiffs president Juraj Podkonicky said at a press conference Thursday. This was the first year when unpaid loans from banks and other financial institutions became an important reason for the growth in the number of new distraints, he said. The cause of most distraints are still claims of creditors such as health insurance companies, public transport companies, energy distributors, water utilities and telecoms operators. The Czech TV is a new phenomenon among creditors. Owing to unpaid licence fees, 12,000 distraints were ordered last year, he added. The volume of loans and mortgage loans and the ratio between the paid interest and available income grew at the same pace, Raiffeisenbank analyst Ales Michl noted. The distraints concern mainly lower-income households by which banks should be very careful when granting them a loan.

"It should not be just a blind chase for distributing money and getting margin. We still see a growth around 40 percent on the year, and with such dynamics, low-income households are a risk factor," he added. Podkonicky expects the

number of distraints to grow further in the future. "People often occur in a spiral when they take up a loan to pay a previous loan," he noted. Roughly 70 - 75 percent of distraints were against individuals. The claims are mostly worth several hundreds of thousands of crowns at most, while millions worth claims are rather an exception. The number of completed distraints grew by 14,000 to over 125,000 in 2007. The growth was two thirds slower than in 2006.

- Hamburg - Germany's federal government bank KfW obtained a court order in **South Africa** to seize a cargo of Chinese weapons bound for **Zimbabwe**, but the ship carrying them slipped out of port before the order could be served, a German website reported Monday. Spiegel Online quoted KfW spokesman Michael Helbig saying that a court in Durban had issued an order seizing the cargo. The legal move came too late, as the vessel left South Africa on Friday, before a bailiff could go on board to confiscate more than 70 tons of weapons and ammunition ordered by Zimbabwean President Robert Mugabe. Spiegel said that KfW was not aiming to keep the cargo but to exercise its legal rights to enforce repayment of a loan to Zimbabwe's state-owned Iron & Steel Company, which had been guaranteed by the Zimbabwean government. KfW is Berlin's banking

arm. 'At the time, we were told the nature of the cargo was not precisely known,' said Helbig.

Since Iron and Steel had not paid its debts, the Zimbabwean government is liable to repay, KfW maintains. Helbig said it obtained an arbitrator's ruling in 2006 allowing it to seize Zimbabwean government assets outside Zimbabwe. The ship was believed to be on its way Monday to Luanda, Angola. Human rights and labour groups campaigned to stop the cargo being moved through South Africa to Zimbabwe.

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The IRRV as a NVQ/SVQ Awarding Body will use this status to deliver a Vocational Related Qualification (VRQ) at level 2 and a National Vocational Qualification (NVQ) at level 3. The two qualifications will be distinctively different, with the VRQ taking three

months and the NVQ twelve months to two years.

The VRQ, subject to the licensing authorities agreement, will be the gateway to obtaining a licence, it would consist of two elements, firstly an assessment of knowledge, based on a syllabus developed by the ESA and IRRV and secondly a test of competence, assessed via observation and a diary. The NVQ would be a conventional vocational qualification, with the VRQ providing credit towards an individual achieving their NVQ.

As the Awarding Body the IRRV need to develop the initial standards and a dialogue has been opened with three appropriate sector bodies. Once new regulations are received the IRRV will develop an electronic learning product and the ESA will assist in the development of the assessment process.

As more information becomes available, we will keep members informed.

Mike Shang
Editor

If it ain't broke ...

I can say with confidence that the phrase 'debt protocol' will provoke an involuntary shudder from all regular users of default court proceedings. This is not because they would be unable to meet any reasonable standard which would be required of them but because, although its introduction is regarded as the Holy Grail by some, it actually adds little or no value, while providing a useful fixed obstacle for creditors to trip over, for the benefit of those seeking to avoid payment.

Not that the new Civil Justice Council (CJC) consultation paper actually uses the phrase: rather the catchy title is General Pre-action Protocol and Practice Direction on Pre-Action Protocols (the Paper). However, the vast majority of all CC claims are debt based, and if one excludes the cases already subject to the nine present protocols (together with mortgage arrears, the tenth protocol now proposed by CJC), little else remains. It is described as a joint CJC and HMCS initiative, but HMCS appears to be keeping its head down, as the Paper isn't mentioned on its website!

The vast majority of all County Court claims are undefended, and the Protocol (any protocol) is simply a waste of paper for those. Even where there are defences, the claimant will have done everything possible - both legally and morally - to sort the case, before commencing proceedings. Court fees are expensive and the majority are never re-paid by debtors.

It undoubtedly makes sense to get all your ducks in a row before launching certain technical litigation, but the surprisingly frank admission in the Paper (P6) about the "growing concern that had been expressed in various quarters about the proliferation of pre-action protocols, many of which are identical in substance in many

respects but different in style" suggests that protocols have already reached their natural limits.

This is surely the antithesis of Lord Woolf's conception of protocols - he was seeking clarity and simplicity - and to a certain extent this seems to have been achieved, due to 'a number of working groups of interested parties' (Page 5), although it was perhaps naïve to imagine these specialist areas could (or should) be combined in a single protocol.

For once there is no suggestion that a general protocol is required to combat creditor abuse, but I am underwhelmed with the alternative justification, which is for the requirements "to be set out more clearly and accessibly for the benefit, in particular, of unrepresented potential litigants". Candidly even the most objectively deserving protocols smack of washing the dishes before putting them in the dishwasher, and the present system doesn't need constant updating, since district judges can deal with each case on its own merits, including occasional ignorance of procedure or liberty-taking by the parties.

Those who believe they have simplified the language with litigants in person in mind are kidding themselves, and would better have better spent their time decimating the

length of the leaden draft. Besides, stating blithely in the Protocol (Para 6.1) that 'The courts take the view that starting a court claim is a step of last resort.....' gives entirely the wrong message to debtors, even if there is a dispute. The courts are entirely financed by users, and are a resource both for default proceedings and the settlement of disputes.

I hope you responded to the Paper (deadline 19th May) so that this cup may pass from us for the third and final time.

Jeremy Sutcliffe
House Lawyer for Yorkshire and Clydesdale Banks and Vice President of CCUA

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With one month to go before the glittering inaugural Civil Enforcement Awards, CEN exclusively reveals the shortlists

"Is the civil enforcement sector the only industry," asked Keith Banbury, chief executive of the British Parking Association, "that receives criticism for being too efficient?" It is an interesting question, and one that goes some way to explaining why the BPA launched the Civil Enforcement Awards, the inaugural event of which takes place at the Marriot London Hotel on 24 October.

As the parking industry moved further into the civil enforcement sector, particularly with the advent of decriminalised parking enforcement, so the BPA moved more into the sector. And the organisation realised pretty quickly that though it was an industry doing essential work, it was one whose work went unrecognised – and often criticised in the wider media.

"It was a problem with perception we had seen before in the parking industry," said Banbury. "And, as we had done with parking attendants, we wanted to redress the balance." And so the idea of introducing an annual awards ceremony, recognising excellence within the sector and generating more positive news items, was born.

The fruition of the year-long work will be seen at the ceremony in October and, it seems, the job of putting the shortlists together has been as difficult as organising the Awards' evening itself.

"We were absolutely bowled over by the amount of entries we received," explained Kelvin Reynolds, Director of Technical Services at the BPA, who along with Lord Lucas has been overseeing the judging process. "We've had entries from small local authorities with tiny budgets to large

corporations with big budgets.

"But the thing all the entries had in common was their excellence – it really has been a tough job whittling the entries down to a shortlist in each category."

That has now been done and though the winning entries in each of the ten categories is remaining a closely guarded secret until they're announced on stage on 24 October, the shortlist of potential winners can be revealed here (all in alphabetical order within the respective categories).

"Is the civil enforcement sector the only industry that receives criticism for being too efficient?"

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INNOVATION AWARD

Criteria

Entries for the Innovation Award needed to show what makes their product or service innovative or unique. What problem does the product or service solve? What

objective is it designed to achieve? What technical merit does the innovation have? Is it practical and does it offer good value for money? The judges were also interested in how the product or service improves the civil enforcement industry.

And the nominations are...

Barbour Logic

Response Master is an unique innovation that's new to the civil enforcement sector. It's a highly specialised expert system used by staff to answer drivers' letters about Penalty Charge Notices (PCNs). Response Master brings improvements in quality of letters to drivers; efficiency; and legal compliance.

Dartford Borough Council Public Safety Unit

For its crime and disorder monitoring using GIS and the NLPG.

Kent Councils

Kent Councils have implemented policies for the enforcement and cancellation of penalty charge notices, increasing transparency and openness and meeting the aspirations of the Traffic Management Act. They cover enforcement staff observation times, statutory grounds that representations may be made, mitigating circumstances and the acceptance or rejection of representations.

NCP Services

The introduction of the innovative Head Cam has proven to be extremely beneficial in providing protection for the CEO as well as providing robust evidence in support of the issue of PCNs.

TRAINING AWARD

Criteria

This award will recognise good training practice in the industry and encourage new ideas. Training, in this case, is not limited to formal courses. Rather, it embraces a whole range of initiatives that enable people to develop. The judges will be looking to understand the context in which the training initiative took place, the challenges

faced before the learning was undertaken, how the training was designed, as well as the benefits of the training.

And the nominations are...

Apcoa

For its Learning and Development Department's activities.

TfL

For its disability awareness training.

INITIATIVE OF THE YEAR

Criteria

This award is open both to public and private sector bodies who can demonstrate that they have undertaken activities which have led to improvements in organisational and/or service improvement in the public sector. It is also intended to encourage new ideas.

And the nominations are...

East Sussex County Council et al

An innovative approach by East Sussex County Council Parking Management Services, Alfia Ltd and Crimestoppers in resolving the repeated attacks by fireworks and commercial explosives on the Council's pay and display machines in Lewes.

London Borough of Wandsworth

For its Partnership Enforcement Operations, a project set up to investigate the problem of persistent evaders. It has since become a multi-agency community focussed programme supported by the Metropolitan Police, Safer Neighbourhoods, DVLA, Public Carriage Office and councils duly appointed bailiffs.

London Borough of Westminster and NCP Services

Westminster City Council together with NCP Service were growing increasingly concerned about the level of abuse the CEOs were receiving and how the public actually perceived the

role of the CEO. They decided to take positive action to remedy this.

London Borough of Westminster and JBW

Operation Safer Streets set out to reduce crime and the fear of crime for residents and visitors to the City of Westminster whilst deterring anti-social behaviour by identifying and denying use of the road to those with no insurance, tax, driving licence and those stolen or unroadworthy vehicles.

CAMPAIGN OF THE YEAR

Criteria

This award is to recognise an innovative and effective marketing or communication campaign within the civil enforcement industry. Any channel of communication is eligible, including flyers, posters, websites, adverts and events.

And the nominations are...

Lancashire County Council Parkwise

Winter 2007 brought together three separate communications departments from Lancashire County Council to work on a joint campaign entitled "Winter Road Remedy". The success of the campaign saw a 45% reduction in PCNs issued at the height of the campaign period.

Northamptonshire County Council

Northamptonshire County Council's "Don't get a ticket!" campaign was launched when the County Council took over parking enforcement in four additional districts and boroughs in Northamptonshire.

Northfield Shopping Centre

Northfield Shopping Centre car park was experiencing a decrease in vehicle numbers and revenue. As a result the

centre implemented a competition to win a VIP car park space for a year to help increase vehicle numbers as well as generate PR.

TfL

For its wide-ranging, cross-border London Low Emission Zone Public information campaign.

SERVICE TO THE COMMUNITY

Criteria

This award is for an enforcement scheme that has made a real difference to the community and is open to a public, private or partnership scheme.

And the nominations are...

Durham County Council and NCP Services

When considering the current public perception of parking enforcement regimes it is refreshing to recognise that Durham County Council have specific Customer Focused Objectives which require NCP Services to work closely with the local authority to achieve high customer satisfaction.



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TfL

London-wide Removal Service (LWRS) is the key to tackling the problem of illegally parked vehicles on TfL's red route network. This solution – with 21 tow trucks – was required to keep London's traffic flowing in a safe manner.

Tunbridge Wells Borough Council

For its Community Safety Accreditation for Civil Enforcement Officers.

TEAM OF THE YEAR

Criteria

This award will be given to the team, be it public or private sector, newly-formed or established, that best shows people working together to deliver excellence in civil enforcement.

And the nominations are...

Marston Group

The CSA team in Hove have ensured that the recovery of unpaid child maintenance arrears has increased from £200,000 in 2002 to £7.1m in 2007/08

Denbighshire County Council

This entry demonstrates how a relatively new team can produce positive results in a contentious area of work whilst still having regard to the Council's Customer Care policies.

Liverpool Direct Limited

For the development of a Corporate Debt Solution for Liverpool City Council deployed by Liverpool Direct Limited. The Corporate Debt Team has the responsibility for the collection of all debts owed to the City Council.

INDIVIDUAL OF THE YEAR

Criteria

The Individual of the Year award recognises an individual performance that has provided, or is providing, a significant difference to the handling of the enforcement process for the benefit of the environment and the public.

And the nominations are...

Paula Burns

Paula Burns has been working in parking for seven years and is responsible for the operation of a highly successful parking enforcement contract on behalf of Durham County Council. This contract is regularly receiving commendations and through Paula's efforts the scope of the original contract has significantly increased.

Helen Crozier

Helen's approach to enforcement has always been customer driven, and this was recognised last year when the team she works with were awarded a Charter Mark, making Oxfordshire County Council the first parking authority outside of London to be bestowed with the award.

Tracey Fortune

Tracey has been working in parking for 17 years on the same Westminster City Contract and has seen the changes in parking enforcement from before the introduction of DPE. Tracey was involved as a PA in the first DPE trials carried out in Westminster and was one of the OBPA's who were deployed on the first day of removal action in 1994.

Graeme Smith

Graeme Smith carries out on-street surveys that have been invaluable in contributing to the success of securing the award of local authority parking enforcement contracts. Graeme's ability to carry out reviews, devising deployment plans and providing essential information and advice is considered unique.

Roger Woodward

For his work on the Parking Enforcement Partnership between East Sussex County Council and South Africa.

ENVIRONMENTAL AWARD

Criteria

The Environmental Award recognises good practice and implementation that have helped to reduce the environmental impact within an organisation, as well as developing alternatives to normal practice in any area.

And the nominations are...

Bournemouth Borough Council

Increased demand for street cleaning to protect a top UK resort's reputation prompted a pioneering enforcement programme to tackle the rise in litter, graffiti and other environmental offences.

Calderdale MBC

Calderdale Council offers discounted parking charges for those who help cut carbon emissions, congestion and free up parking spaces by car sharing to work. Available to all, it is the first scheme of its kind in the country and helps the Council reach Local Transport Plan targets on modal shift.



TfL

The London Low Emission Zone Public Information campaign.

NB: The Gold Award shortlist will be confirmed shortly.

PANEL Alarm belles

Being hosted by Sky News presenter Dermot Murnaghan, former stalwart of BBC's Breakfast News, the evening will have a further touch of glamour in the shape of Siren.

The dynamic female string quartet featuring four of London's top string players, all graduates of the Royal Academy and Royal College of Music, are in huge demand.

Recently returned from touring with Simply Red and headlining their electric crossover show for the Sheiks in Dubai, the girls are as talented as they are gorgeous.

Members of Siren have played with Elton John, Pussy Cat Dolls, Rod Stewart, Ill Divo, Dame Shirley Bassey and Michael Buble, amongst others, in concert halls of over 20 cities throughout the world.

Simon Burgess

Book your place now!

Call Jan on **01444 447308** or email jan.w@britishparking.co.uk

Enforcement and debt management organisation JBW challenges the low profile nature of partnerships with the public sector.

The last decade has seen considerable shifts in the way local and government agencies meet their service needs. Well publicised difficulties with traditional contracting-out to private companies and organisations led to numerous local authorities bringing as much as possible back in-house, however in many cases, the pressure on limited resources proved to be untenable. As a consequence, a middle way was sought, with partnership working emerging as an attractive solution, and one that has been increasingly

adopted and applied. According to an IRRV Benefits Committee of Inquiry report, *"such partnerships, whatever their specific form, offer a way of achieving a private sector involvement likely to prove far more constructive and successful than the wholesale contracting out of services experienced since the mid 1990s"*.

As a result of this successful approach, local and central government have been publicising partnership working with their contractors for some time, described in the same IRRV report as *"based on teamwork between supplier and client, openness and trust, exploring new ideas and sharing the risks and rewards of providing quality services"*.

ENFORCEMENT AGENCIES UNDER WRAPS

Despite the fact that many professional enforcement organisations more than meet these requirements - and have in fact successfully established partnerships of this kind with a number of local and central authorities - it is extremely rare that they are made publicly known.

To some extent keeping enforcement agency partnerships under wraps is

understandable. Prior to the introduction of the Community Charge in England and Wales in 1991, private bailiff activity attracted little public attention, with anyone receiving a bailiff visit generally considered to have been the author of their own misfortune. The huge increase in bailiff work generated by the Community Charge changed perceptions dramatically, with public antagonism towards the tax mostly directed towards the bailiffs tasked with enforcing it. To compound matters, the introduction of decriminalised parking penalties saw another surge in private bailiff work, with bailiffs yet again the visible target for public dissatisfaction - this time with parking policies.

With the media bent on adding fuel to the fire with wholesale and on-going castigation of the enforcement industry, it is little wonder that many local authorities are uneasy about publicising partnerships. That said, this uneasiness ignores both the hugely positive changes that the industry has brought about in the last few years and the benefits that putting these partnerships in the public eye can bring.

CAPITALISING ON A HIGHER PROFILE

The exceptional advancements that the industry has initiated - most notably in the last few years - have not gone completely unrecognised, with a growing number of clients appreciating the huge upsurge in professional, highly principled services and the benefits they bring. We have seen the introduction of company uniforms, company branded vehicles, approved

training schools, hand-held computer technology and specialist debt management systems and centres. Mobile chip and pin, special road side enforcement operations and static and roaming automatic number plate recognition systems have also been introduced as well as customer information packs, detailed risk assessments, pay by phone, pay by text, on-line payment, client and customer on-line access and many more facilities. Clients that appreciate these efforts, look beyond unfair perceptions and make judgements based on present rather than past performance are forming highly productive partnerships with enforcement organisations. As a result, they are enjoying better enforcement policies, increased collections and minimal complaints. Their customers, the debtors, are gaining a better understanding of the role of enforcement agents and their legitimacy, encouraging them to cooperate more and consequently settle debts quicker and with less resentment.

UPSCALING THE ADVANTAGES

A cooperative approach can also enhance clients' duty of care, reduce costs and save on resources, with this applying in particular to synchronising information. As a prime example, clients that do not ensure that debtor data is current and cross-matched routinely send multiple instructions to bailiffs to visit homes where the debtor no longer resides or has deceased. Aside from the waste of time incurred to the enforcement agency, with bailiffs slowly being recognised as representatives, unwarranted repeat

visits reflect very badly on clients. Ethical enforcement organisations will always carry out pre-enforcement data checks and by working with them as a team and utilising the same data cleansing options, clients can easily remedy this situation. Data checks can also mean a substantial reduction of direct costs for clients, with an average saving of 30% of the Traffic Enforcement Centre registration fee achieved when these are applied.


In addition, many enforcement agencies have invested heavily in high end IT systems and software that can be integrated with a client's own system to allow fast and efficient electronic transfer of data, images, cases and payments between the two. Interestingly, in the IRRV Benefits Committee of Inquiry report, electronic transfer of data between agencies and use of document image processing and document management systems are cited as needing further attention, and that *"bringing about improvements in IT would be a key way of raising the standard of service to claimants"*. Although the references are to local and government agencies, systems integration with enforcement agencies would patently deliver increased efficiencies and improved public perception of debt recovery. So yet again an area where

transparent and cooperative partnership working has the power to deliver benefits across the board - to clients, enforcement agencies and the community.

IN FROM THE COLD

It is clear that an ever-increasing number of enforcement organisations across the country are pulling out all the stops to deliver ethical services led by innovation and transparency. The ability of these organisations to partner clients by enforcing the law in a wholly professional way is a distinct asset and as such they deserve respect, not discomfort. When client attitudes change from uneasy to supportive and partnerships become ones to be proud of rather than kept behind the scenes, public attitudes will see similar positive changes. And this can only result in a genuine force for the good.

Certificated Bailiffs in the Enforcement of Road Traffic Act 1991 - Collection of PCNs




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