

ENFORCEMENT^{NEWS}

The quarterly magazine from CIVEA, the Civil Enforcement Association

SUMMER 2021



- Time to breathe
- CIVEA announces partnerships with three EA examination providers
- Is it time to introduce electric vehicles into your fleet?

Every mind matters

The mental health of our stakeholders is hugely important to us, so instead of telling you about our impressive recovery rates, we're using this space to continue championing the Mental Health Foundation's (MHF) latest mental health campaigns: 'Connect with Nature' and 'Take Action, Get Active.'

Connecting with Nature

As restrictions continue to ease, the new uncertainty, the new pressures to socialise and the pending return to the office are causing feelings of anxiety and worry. To reduce stress, balance your mood and help you feel more positive, MHF are encouraging you to spend quality time with nature; to switch on your senses and really connect - whether that's noticing nature on your daily jog, listening to the birds on your woodland walk or surrounding yourself with indoor plants!

Take Action, Get Active

Additionally, the Foundation is encouraging half an hour of outdoor exercise each day to help improve your mental health. If you will struggle to fit this into your routine, try small changes such as walking to work or taking meetings on foot rather than sitting at your desk or around a table.

Remember - every mind matters!

Understanding how to achieve good mental health has never been so important. For more details on MHF's campaign, visit: www.mentalhealth.org.uk



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Fairness
in Operation

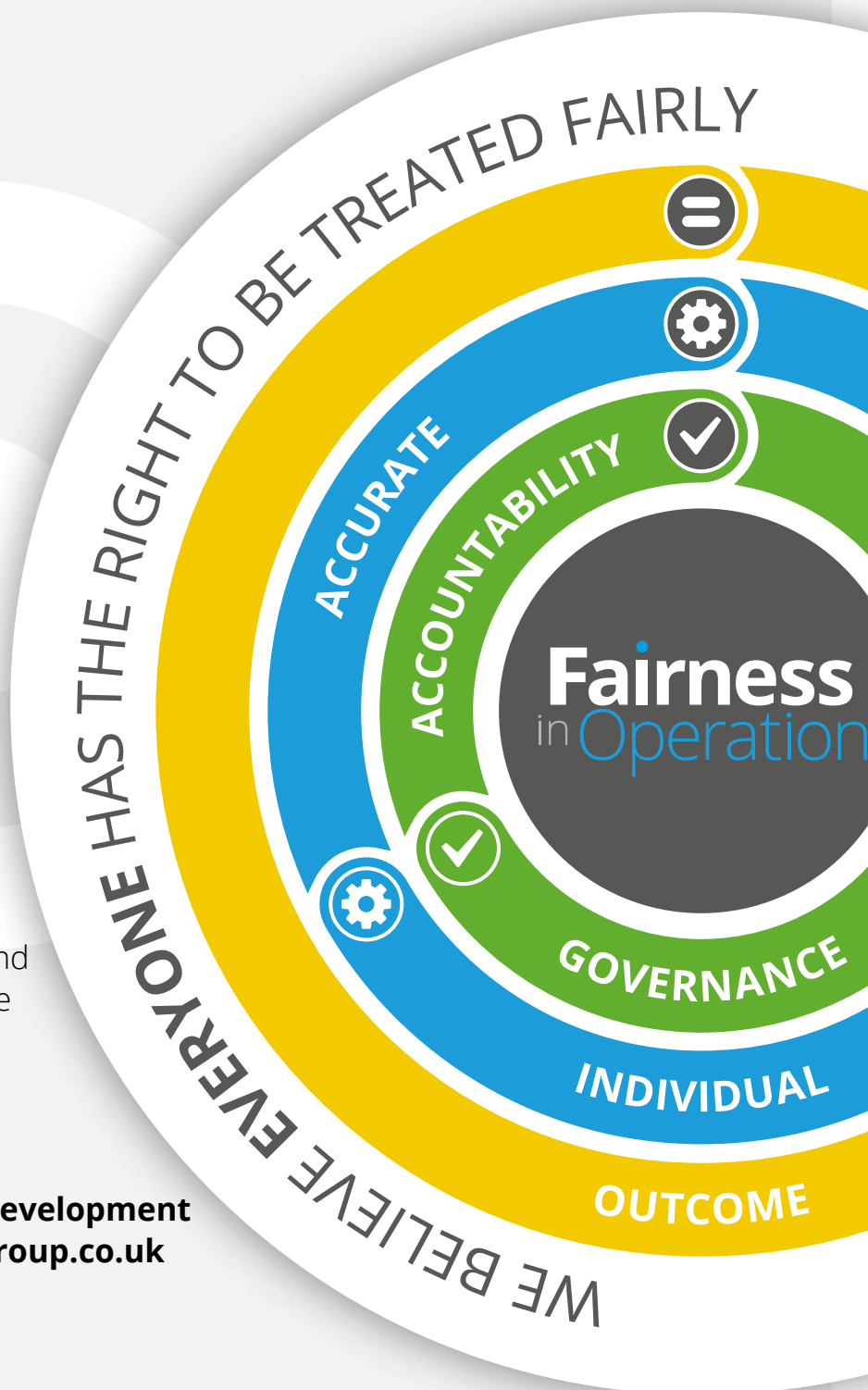
We believe everyone has the right to be treated fairly.

CDER Group deliver a new standard of fairness in collection and resolutions. We call this 'Fairness in Operation'.

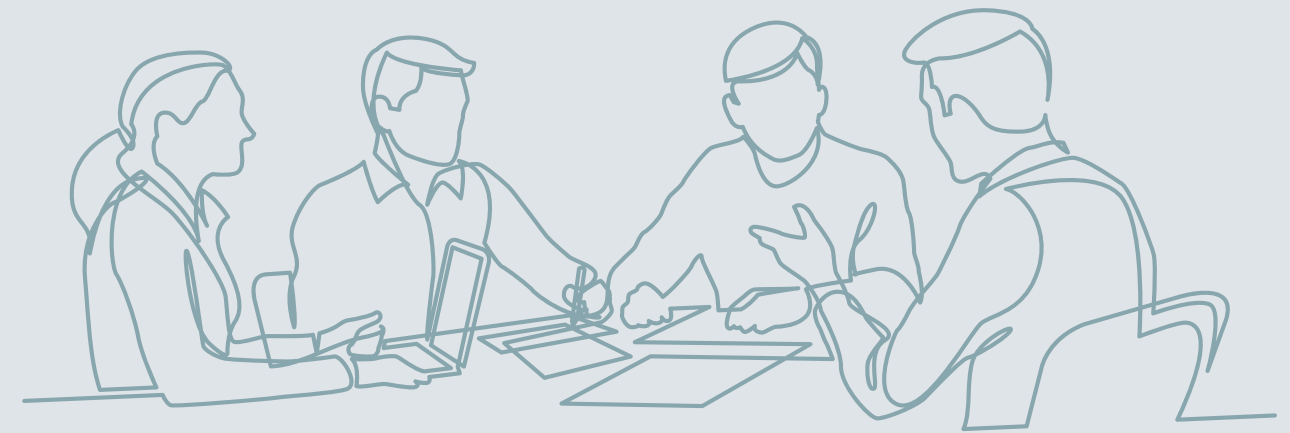
To find out more about our enhanced Vulnerability Strategy and Fairness Charter or to obtain more information about the services CDER Group can provide to your organisation, please contact:

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Welcome to the summer 2021 edition of Enforcement News



We have had a positive response to the new look and format, and I am always pleased to receive your feedback.

For many years, the question of independent, fair, and effective oversight of the Enforcement industry has provoked lively debate. The government has boldly committed to reform, first through the Call for Evidence launched in 2018 and, more recently, in written and oral statements of intent. In response, the Centre for Social Justice (CSJ) established the *Enforcement Oversight Working Group* in October 2020. The Working Group is comprised equally of representatives from the civil enforcement and debt advice sectors.

For the first time in history, the two sectors have come together to collaboratively agree a framework for a new ambitious, industry-funded way forward in the form of a new **Enforcement Conduct Authority (ECA)**. The Working Group has developed the ECA's principles, objectives and functions. In an attempt to get limited statutory underpinning for the new body, an amendment was debated in the House of Lords.

CIVEA is a member of the *Enforcement Oversight Working Group*. While there has been significant progress made in developing a framework document for the ECA, there is much to do. The next critical stage is the appointment of a chairperson and a supporting board.

This edition of *Enforcement News* has a report on the emerging new oversight body.

In conjunction with the ECA, there has been developments in the provision of examinations for new Enforcement agents seeking certification. Following the decision by the IRRV not to offer an online option of the exam, CIVEA invited bids from other training providers. I am pleased that we were able to identify three sources of training courses on the level 2 Taking Control of Goods. In addition, our recommended providers can offer level 2 and 3 training on a range of relevant courses. There are more details from each of the training providers in *Enforcement News*.

The Enforcement Conduct Authority and the new training programmes available to CIVEA members are clear signals of the continued drive for improvements in the enforcement industry. CIVEA is leading the way and was pleased to provide the forum that developed the Post-lockdown Support Plan. The initiative enabled to offer the confidence to the Ministry of Justice that allowed enforcement agents to resume work from August last year.

However, we were not able to convince the government to allow CRAR collection to restart following the lifting of lockdown restrictions. The government prioritised the protection of small and medium-sized businesses that may have been financially impacted by the pandemic. CIVEA made strong representations to the Secretaries of State for Justice and for Housing, Communities and Local Government that firms that relied on CRAR for their income

had been prohibited by law from working for over 12 months. The government ignored our warnings, even though many small businesses that had rent arrears continued to operate and enjoy the benefits of the financial support packages. It was a political error that means, while small businesses have reaped the government's largesse, millions remain outstanding to local authorities and the specialist firms that recover the debts are no longer in operation.

While we welcome the Commercial Rents and COVID-19 Call for Evidence, it is too little too late for the smaller CIVEA members; some of which are unable to remain in membership. We hope that they will be able to return in the course of time.

With a section of the CIVEA membership facing extreme financial pressure, we will be pressing the government to update the statutory fees for enforcement. As members will be aware, the Ministry of Justice committed to review the fees annually in line with the Consumer Price Index. To date there has been no review since the Taking Control of Goods regulations were implemented in 2014. In the intervening period Enforcement firms were required to invest in new technology to meet the requirements of the newly-introduced Compliance Stage. All firms utilise credit referencing and tracing services. Under the CIVEA code of practice, our members are required to provide all agents with body-worn video cameras, which also requires investment in back office technology to monitor and store video footage. Many firms have adopted a range of advanced technology to assess propensity to pay, as well as to provide budgeting tools for people in debt.

This investment was necessary before the pandemic struck and firms were required to furlough staff and then make modifications to offices and supply enforcement agents with protective equipment. The Post-lockdown Support Plan was not adopted without cost but was essential to keep agents in employment.

There will be additional cost with the establishment of the Enforcement Conduct Authority, which is important for the evolution of the enforcement industry. CIVEA initiated this project and continues to drive it forward as a long-term benefit for our sector.

However, the time is approaching for the government to step up and play its part. HM Courts and Tribunals Service is undertaking a consultation on an increase to court fees in recognition of the additional costs of the courts' operations. The same review is required of the enforcement fees if the industry is to fund the new oversight body and to continue to meet the high standards required for its specialist work that is essential to local communities.



Russell Hamblin-Boone
CEO, CIVEA



Baroness Meacher (crossbench) House of Lords

"Bailiff enforcement is not a small matter. It is very common, particularly among public sector creditors. Research for the Money Advice Trust found that local authorities alone had referred 2.6 million debts to bailiffs in 2018- 19. As Citizens Advice has shown, the number of people facing bailiff enforcements for small amounts of unpaid Council Tax debt is likely to double as a result of the pandemic to more than 3 million households. A significant proportion of those people will be in very vulnerable situations. Some 40% of people with bailiff issues helped by Citizens Advice have a disability or a long-term health condition, and 58% of StepChange clients with an additional vulnerability were subject to bailiff action on their Council Tax arrears."

"...the Enforcement sector we are concerned with here is largely composed of private firms collecting mainly public sector debt. The sector operates largely by its own rules, set by a trade body, not a regulator, and touches the lives of millions of people every year, often the most vulnerable people in our society."

3 MARCH 2021

Baroness Morgan of Cotes (Conservative)

"There is currently a confusing landscape in this third national lock-down where bailiffs are permitted to appear on doorsteps but not, for example, enter premises. However, they can seize goods such as cars sitting on the highway...having bailiffs clearly bound by the terms of the SDRP [Statutory Debt Repayment scheme] and... by a regulator would help to ensure compliance with the SDRP scheme."

Baroness Meacher (crossbench) House of Lords

"It is a remarkable first that the leaders of the Enforcement and Debt Advice sectors have come together as part of this group, with the CSJ, to design a new oversight body for the Enforcement industry. This cross-sector initiative is an important and historic breakthrough."

14 APRIL 2021

The Lord Bishop of St Albans

"No industry is exempt from poor practice. While most Enforcement agents will probably abide by national standards, nevertheless we need to make sure that they are properly regulated."

Baroness Coussins (crossbencher)

"Unfortunately, despite plenty of good intentions and existing voluntary national standards and codes of practice intended to govern bailiff behaviour, widespread problems remain in practice... More people may face the prospect of bailiffs at their door, and it is only right that the industry is properly governed and regulated, as other debt collection companies are."

Lord Stevenson of Balmacara (Labour)

"it is also important that we can get confirmation that while individuals are in the debt respite scheme or the SDMP, they will be protected from enforcement action—particularly bailiff action. This has been one of the most welcome measures in the pandemic moratorium affecting those people in unmanageable debt. The suspension has released a great deal of concern that people had about this. It seems unlikely that the government would want to see a scheme that, on the one hand, protects those who are attempting to repay their debts by obtaining Breathing Space and then entering a plan to do so but, at the same time, does not seek to restrict the possible bailiff action that would have such a deleterious effect on them."

Luke Hall Minister of State (Housing, Communities and Local Government) House of Commons

"The government has allocated over £8 billion directly to councils since the start of the pandemic. "In addition, local authorities are expected to receive over £3 billion of support in 2021-22, for both additional expenditure pressures and loss of income. "This takes the total support committed to councils in England to tackle the impacts of COVID-19 to over £11 billion. This includes an additional £1.55 billion of grant funding to meet additional service pressures, £670 million of new grant funding to enable them to continue reducing council tax bills for more than 4 million vulnerable households, and an estimated £800 million to compensate local authorities for 75% per cent of irrecoverable losses of Council Tax and Business Rates revenues this year."

8 MARCH 2021

Lord True, Cabinet Office Minister of State

"...the Ministry of Justice, which leads on Enforcement agents, is currently reviewing the case for strengthening regulation in this sector. This is as part of the second review of the 2014 'taking control of goods' reforms and includes considering the recommendations made by the Justice Select Committee in 2019 in its inquiry into debt enforcement... work on the review of regulation in this area has now resumed, and the government's response will be issued this year."

Lord Lucas (Conservative)

"...we need some way in which a local authority, for instance, which is trying to recover debt due on Council Tax must demonstrate that it has done what it should in order to be allowed to use the bailiff system. There may be some other way of doing it—but not to have that connection through to creditors and think that you can regulate just by putting pressure on bailiffs would be a considerable mistake and would, in the end, result in the system not working."

WELCOMING OUR NEWEST CIVEA MEMBERS

We are delighted to welcome two new members to CIVEA this month. **Just Digital Marketplace** joins CIVEA as our latest corporate member and **County Durham Outreach and Support (CDOS)** joins us in our a public-body membership category.

Just is an enforcement market integrator that aims to ensure enforcement businesses continue to treat customers fairly. The company focuses on sustainable and reasonable solutions for getting people out of debt and returning the principal amount to the creditor as quickly as possible while recognising that vulnerability may exist and that circumstances change. The company vision is that everyone has the right to be paid what they are owed, but not at any cost, which is aligned with the principles of CIVEA and our ongoing commitment to firm but fair enforcement.

On taking up corporate membership with CIVEA, Nick Georgiades, Managing Director of Just said, *"We are committed to driving improved standards in the collections, recovery and enforcement sector. Through CIVEA membership, we now hope to continue this journey and demonstrate that the public value of responsible debt collection, in line with best practice".*

CDOS are an extension of Durham County Council and represent the first Local Authority (LA) enforcement team to have achieved the Code of Practice standards required for obtaining CIVEA membership. This is a significant achievement as our methods and rules are designed to ensure all members provide the highest quality service. With this successful application, CDOS is leading the way for other councils to follow and shown that council teams can meet CIVEA's high standards.

Membership of CIVEA should be seen as integral to corporate communications. CIVEA members have the opportunity to contribute to and shape the future of the industry, as seen with our collaborative **COVID-19 Support Plan**, which provided leadership at a crucial time during the coronavirus pandemic.

As the national roadmap for recovery continues to be implemented in 2021, CIVEA will continue to offer guidance and support to members where restrictions may impact enforcement practice. We have recently launched an updated training portal, containing refresher modules that are designed to consolidate knowledge on safe enforcement. So far, 74% of all Certified EAs across England and Wales that are listed on the Ministry of Justice certificated bailiff register have completed this refresher training.

There are many challenges ahead for our industry and we are pleased to be able to grow our membership with firms that are committed to the highest standards of civil enforcement. Enforcement visits continue to be supported by Government and the ongoing hard work of CIVEA members is supporting the responsible application of the latest government guidance.

Reflecting on a year of challenges and achievements

Our recent CIVEA AGM marked one year into my term as President of our association. I recall vividly taking the post in April 2020, during our first virtual meeting, feeling nervous about leading our industry during unimaginable times and with the disbelief that the world and our businesses had come to an almighty halt.

It is incredible how we adapt to new challenges and as I look back over the last year I reflect on the positive achievements we, as an industry united, have accomplished.

Virtual meetings have improved communication within our membership and facilitated a significant level of external engagement with key stakeholders.

We have seen an increase in attendance at our meetings and in particular by opening our council meetings to all members. It has been a pleasure to meet new members and hear from our wider membership and we hope this will continue when we resume physical meetings.

Attracting new members during the pandemic demonstrates the value our association provides to the industry, the importance of a trade body in setting standards and the support available to businesses with shared interests. It also dispels the myth of a 'rogue industry' as more and more enforcement providers aspire to working to a higher set of standards and to be held accountable through independent audit and complaint adjudication.

As an industry united, we have increased confidence in the important service we provide and left no doubt about our commitment to carry out enforcement activity responsibly, fairly and safely.

Our new virtual environment has allowed us to set up working groups swiftly to develop and implement new initiatives and I am thankful to our executive council for their continued unanimous support to progress these initiatives and to those who offer time from their busy schedules to provide assistance to the work of CIVEA. In our CEO's welcome you will read about some of these initiatives and just how much work is being undertaken to improve, support and promote our industry.

On a final note, I would like to express my gratitude to all of our members who resumed enforcement activity last August and who continue to submit data returns on enforcement activity, COVID-19 impact and complaint statistics. It is evident from the data provided that firms are consistently managing to enforce debts both effectively and safely and this should be congratulated given the difficult circumstances our enforcement agents are operating within.

Despite the global concern of keeping businesses operating and supporting staff, our members have gone the extra mile to drive standards further; enhance technology and contact channels for customers; develop policies to provide greater flexibility and forbearance to those impacted by the pandemic and pro-actively support the implementation of the breathing space scheme through internal best practice policies and external training and information webinars for creditors.

We have an exciting year ahead and I look forward to progressing the work of the Enforcement Oversight Working Group in our continued commitment to raising standards within our profession.



Carole Kenney
President –
CIVEA



For more news go to the CIVEA website <https://www.civea.co.uk/news-and-media>

Time to breathe

Breathing Space seems to have been in the pipeline forever. Every meeting, email, and phone call I have had in the last six months seems to mention Breathing Space. And that's fine... it shows how important it is, and that the message about this complex new legislation is getting out there. Within the Enforcement industry we have always wanted to protect the vulnerable and recently have seen a significant rise in financially vulnerable customers. Whilst the Breathing Space legislation was designed pre-COVID, the impact of the pandemic has increased the need for easy to access protection measures to help people organise their finances. Some of these people will be new to financial struggles, others will unfortunately be more accustomed to the impact of not being able to pay what is due, when it is due. But one thing is sure, within the Enforcement industry we recognise that working with vulnerable customers is the best way to finding resolution to their debts.

The Breathing Space moratorium was finally implemented on 4th May. It was welcomed by many debtors in need of time and professional help to support them organise their finances. With no creditor action during this time to chase the debts, it really does give 'Breathing Space' to individuals, and that all important time 'to breath'!

Because applications for Breathing Space must be made through approved debt advisers, and the debtor is required to engage throughout, the professional guidance that many individuals need, not just as a result of COVID, but potentially due to deep rooted problems that may go back years, can be provided. This support and guidance could be the lifeline some debtors need to protect themselves and their families.

However, there is concern around several issues when it comes to Local Authority (LA) debt types. With notifications from the Insolvency Service only being sent to one central point within LAs, the expectation is that systems are integrated and that colleagues can shout across the office to each other. This is simply not the case for many LAs, who often have entirely discrete departments looking after different debt types, potentially in different buildings and maybe even different parts of a city. This seems to be causing confusion within some LAs as to who is going to pick up the reins and liaise with all their relevant departments to ensure no debt type gets missed.

"With only the limited mandatory information provided (name, most recent address, date of birth and creditor name), how are LAs expected to check and ensure they are putting the correct individual into Breathing Space, check for other debt types (such as HBOP, NNDR, and parking etc...), and complete all this activity within the prescribed timeframe?"

Concerns are also being aired regarding debt types and information being shared from the Insolvency Service. The LA as a creditor has responsibility to search and check for any other debt types the debtor may have with them. However, the mandatory information

that a debtor must provide to qualify for Breathing Space is very limited. Advice agencies are already over-subscribed, so it is unlikely they will send debtors away to collate the additional non-mandatory information. With only the limited mandatory information provided (name, most recent address, date of birth and creditor name), how are LAs expected to check and ensure they are putting the correct individual into Breathing Space, check for other debt types (such as HBOP, NNDR, and parking etc...), and complete all this activity within the prescribed timeframe?

It was commented to me that some consumer creditors will remove their current hold periods, telling debtors the only way to go on hold now is through Breathing Space. This approach will potentially drive debtors to the advice agencies and increase the numbers entering Breathing Space. With advice agencies already stretched, this additional workload may restrict the number of debtors they are able to offer assistance to within the 60-day period. Within the Enforcement industry we already have generous hold-periods for vulnerable debtors to enable them to seek advice and help, but if other creditors are removing hold periods unless an individual is using Breathing Space, this will risk Local Government debts getting swept up into the moratorium potentially unnecessarily.

This also leads me to question what Enforcement firms should do with their standard hold periods? If a debtor goes on hold for 28 days because they are vulnerable or, for example, they are waiting for a doctor's appointment to provide supporting evidence of their vulnerability, and on Day 28 they enter Breathing Space, the case will then essentially have been on hold for three months. But should we consider abandoning our standard hold periods like other sectors and instead stipulate to debtors that the only way to get breathing space is through... Breathing Space?

From a practical standpoint there are certainly positives from the introduction of Breathing Space. As we know within the Enforcement industry, early engagement with vulnerable debtors is key and Breathing Space could help to provide that. Engagement through advice agencies may actually lead to an increase in repayments as it will connect customers who otherwise may have ignored all correspondence with their creditors. After six years in this industry, I am yet to meet a truly vulnerable customer who does not want to pay – we just need to work with these individuals and the debt advisers they are using for Breathing Space to find the most suitable option, albeit we know that often the solution would not be the first choice of either the Enforcement firms or their clients.

Whilst we all agree that struggling debtors often need time to organise their finances, we will have to wait and see if the introduction of Breathing Space is the right thing for Local Government debt types and measure the impact and increase in work it creates. However, one thing we do know is that Breathing Space is here and it is here to stay. So along with every other sector affected, the enforcement industry will do what it always does; adapt.



Edd Moore

Head of Social Value and Customer Welfare at Equita, Ross & Roberts, Stirling Park – Part of the Capita Enforcement Group

Should Mental Health Awareness only be reserved for one week per year?

As we reflect on Mental Health Awareness Week 2021 and the opportunity it provided for the whole of the UK to start conversations about Mental Health, and connect with one another for help and advice, a question I ask myself is "so how do we maintain this momentum going forward?"

Despite global events and campaigns, mental health, both inside and outside of the workplace, remains a taboo subject even though the facts show that one in six people report experiencing a common mental health problem (such as anxiety and depression) in any given week in England (*Mind, 2021*). We know too that this is on the rise, with more and more people reporting mental health problems in recent years, let alone after 2020.

It's fair to say that the COVID-19 pandemic, the impact of lockdown and the aftermath on the economy will affect us all in some way and will leave a deep and lasting scar on the mental health of millions in this country. So yes, whilst more workplaces have started to take steps to treat mental health issues as seriously as they do physical health, are we doing enough? Are employers just paying lip service because they feel it's topical, or are we embedding a culture of mental health awareness in the workplace? And is one week of Mental Health Awareness by the Mental Health Foundation (MHF) really sufficient?

"Good communication and people management skills go a long way in preventing stress and poor mental health in the workplace, so you don't need to have an all singing, all dancing mental health initiative to get it right for your employees – just take time to really understand mental health and embed it into your culture and you're on the right path."

As an industry, we place so much emphasis on supporting those who are vulnerable, (and rightly so!) and it is now standard practice to have an in-house welfare team on hand to provide specialist advice and assistance to those who find themselves the most in need in the community. However, this duty of care also sits within our organisations, as well as outside of them, and it is imperative that as employers we find the balance of treating our workforce with the same level of care and dedication that we treat our customers.

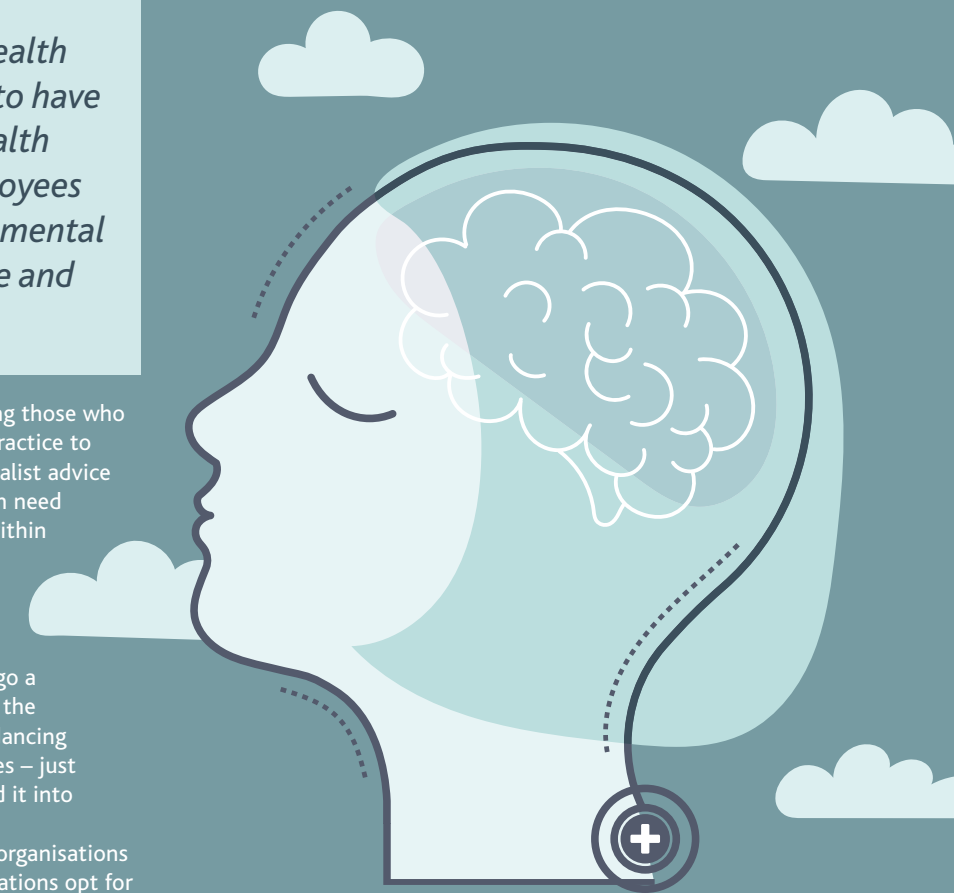
Good communication and people management skills go a long way in preventing stress and poor mental health in the workplace, so you don't need to have an all singing, all dancing mental health initiative to get it right for your employees – just take time to really understand mental health and embed it into your culture and you're on the right path.

Bigger initiatives can be successful and can really set organisations apart, but only when carefully considered. Many organisations opt for Mental Health Champions/First Aiders schemes to encourage open communication and to support staff to stay well in work, but I have seen many schemes fail not long after launch because employers

haven't thought far enough ahead to ensure their success and really embed them. It's all well and good training staff to support others in a crisis or be there for peers reporting a mental health issue, but many organisations don't think about how to provide support for the Champions themselves. At Dukes, a huge part of our strategy when setting up our Mental Health Champion initiative was ensuring that monthly 1:1s with a trained counsellor and coach are scheduled/available so that all of our Champions have a safe space to release and know that their own well-being is as important as everyone else's.

As employers, we have an on-going responsibility (big company-wide mental health initiatives or not) to ensure good mental well-being in the workplace and even the smallest steps can have a huge impact, if only we prioritise them all year round.

In short, no it isn't enough to reserve mental health awareness for one week per year, or just to pay lip service to the issue. Given the high levels of stress and poor mental health we are seeing inside and outside of the workplace, with the expectation that this may only continue in the wake of the pandemic, there is a growing demand for innovative and proactive ways of managing our mental health at work; and our employees rely on us to get it right for them. So, let's use the momentum that MHF's Awareness week built and put mental health at the core of any well-being strategy, ensure it's being championed internally from the top down, and communicate clearly to employees about what your organisation is doing and how it is measuring progress, to remove any taboo. Afterall, a happy workforce is a successful one and prioritising mental health benefits us all.



Zoe Taylor (Assoc CIPD)

HR Director at Dukes Bailiffs Limited

Difficult and Distasteful

This was the comment in 1986 of the Law Commission upon reviewing Distress for Rent. A sentiment continued through the media today with references to the 'medieval practice' when describing the work of the bailiff and the now civil enforcement agent.

Some creditors seek sympathy with this view and have ceased the use of civil enforcement in certain debt streams preferring to consider DCA methods at some cost to themselves.

Is the industry lost in a time warp, or does it offer today a modern and indeed sensitive arm to the collection of much needed revenues?

There is no doubt we work in an industry that can reference such days. Bailiffs were utilised in early medieval times to assist in the collection of debts and attendance in court.

Distress, as the process was known, is seen modified through the centuries and referred to in numerous historic law landmarks such as the Statute of Marlborough 1267 which introduced fines for excessive distress. The Distress for Rent Act 1689 introduced additional penalties against the distrained upon and the distrainor.

Throughout the ages we have acts amending and ratifying an age-old process to the point that much confusion reigned and a demand for reform was argued around the media, the advice sector and within the industry itself.

There was confusion over fee structures between debt types and terminology. I recall attending a levy on a company for outstanding PAYE as a bailiff with a HM Collector of Taxes some years ago. The collector, when challenged over the concept of Walking Possession (an agreement to leave goods within a debtor's control), replied that the charge was so that the bailiff could feed his horse!

A little tongue in cheek perhaps but a typification of the perceived archaic perception.

In this respect I can sympathise with the medieval connotations. However, that's where it ends.

Since 2014 the industry has seen a major review of its processes, bringing enforcement into the current age. We have a clear process of enforcement over all debt types that removes any archaic anomalies and a fee structure that is totally transparent and has seen fee complaints (the traditional source of complaint under the old system) nigh on disappear. Enforcement firms now make it their business to know more about an individual's potential vulnerability than ever before and the Compliance Stage is utilised to highlight and offer remedy in such instances before the knock on the door even occurs. It is no mean feat to be able to report the industry pushes to achieve a 50% resolution at this stage without the need to visit and incur further cost.

Coming out of this pandemic CIVEA, working with the MOJ, published with the full support of its membership and other associations, its Post-lockdown COVID-19 Support Plan. Protocols which have been appreciated by all sides of the industry to the point that the initiative is now a finalist at The Association of Excellence Awards 2021.

In total CIVEA members recover almost half a billion pounds in unpaid taxes and fines each year at no cost to the public bodies themselves.

Surely, this is neither difficult nor distasteful.



Paul Whyte
Partner
Whyte & Co

Challenging negative public opinion of our sector with greater *transparency, support and professionalism*

Whyte & Co are the first enforcement agency in the UK to be independently assessed in its ability to tackle potential vulnerability in its customer base and have been accredited with BS18477

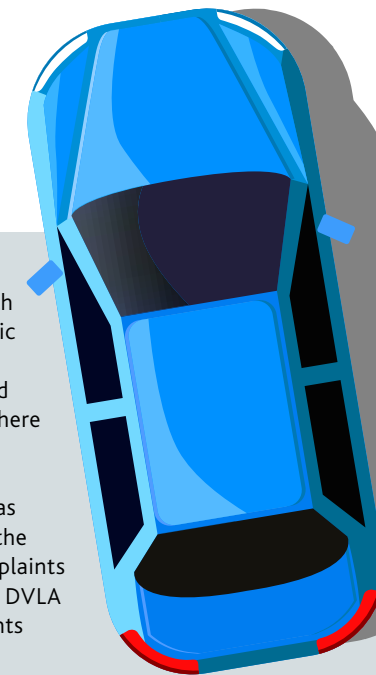
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Enforcement Services

POWERING A POSITIVE PERCEPTION



Tel. 0345 458 9429 info@whyte.co.uk www.whyte.co.uk

Despite everything we have been through and all we have achieved we will still face unfair and unwarranted criticism due to DVLA vehicle keeper data accuracy



Fellow enforcement professionals. Imagine if you will, for one moment, a brave new post-COVID enforcement world where we are back to pre-COVID levels of activity but with even more highly regulated and scrutinised enforcement powers and activity.

A world where the new technologies, systems, data analytics, dedicated welfare teams and independent scrutiny we have already invested in and embraced continue to maximise compliance stage collections, proactively identify the vulnerable, minimise the need to visit and ensure vulnerable customers are treated more fairly and appropriately than ever before.

A world where, as a result of the changes agreed and consistently applied by CIVEA members during the COVID emergency period, Enforcement Agents' skills have been further refined and finely tuned, providing exceptional customer service and a high level of understanding, compassion and effective negotiation to obtain a fair resolution than ever before.

A world where CIVEA members continue to invest in Body Worn Video systems, protective equipment, COVID PPE, highly skilled and compassionate Enforcement Agents and dedicated welfare teams, more effective and tailored training, independent auditing and oversight. Where we continue to ensure Enforcement Agents are compelled to be compliant and conform with government and CIVEA standards and, where it is absolutely necessary, any visit undertaken is only done so when all other options have been exhausted and carried out in the most compliant, professional and safe way possible.

"From a review of just one week of complaints received by CDER Group I was saddened but not surprised to see that the core reason for the majority of the complaints made to us was incorrect or out of date DVLA data."

So, as we emerge from the third national lockdown, I firmly believe the above represents a fair summary of where CIVEA members find themselves. Whilst it may be many months or even years before we really understand the full impact COVID has had on our industry, it is pleasing and refreshing to be able to report how well all CIVEA members have, and will continue to, work collaboratively to ensure that if, and when, the government removes the restrictions on Enforcement Agents to conduct visits with the full powers available to them that they will be undertaken less often and to an even higher standard of compliance and safety than ever before.

Which is why it pains to me to say that until we can effectively address the issue of the accuracy, quality or simply non-existent level of DVLA vehicle keeper data then I am afraid that we will continue to bear the brunt of perceived levels of poor quality of the service – a direct result of a vehicle keeper database and system that is not fit for purpose.

In addition to the impact this has on us directly, Local Authorities

across the country will continue to lose out on millions of pounds worth of much needed revenue from parking, road traffic and road user charging Penalty Charge Notices (PCN) they cannot issue to valid vehicles licensed and on our road but where keeper information isn't available.

From a review of just one week of complaints received by CDER Group I was saddened but not surprised to see that the core reason for the majority of the complaints made to us was incorrect or out of date DVLA data. Yes, of course, there were complaints about other matters. In some cases, the complainant was an innocent 3rd party who had been in their home for many years now and felt bullied or harassed by the letters we had sent or the visits we had made.

I have been in this game long enough to know that blaming the DVLA for holding the wrong keeper details for an address, for not updating new keeper details for a vehicle someone claims to have sold or not updating the new address that someone has just (normally one or two years ago) moved to is one of the most common excuses offered for why a PCN was not paid (or challenged).

Quite often it is only the visit by an Enforcement Agent that such reasons are first raised and quite often it is those scenarios where the former tenant of the property has failed to update the DVLA of their change of address that causes the most complaint. Regardless of how professionally the EA may have handled the situation the innocent 3rd party feels vulnerable, threatened and worried that they may be forced to pay for a debt that is nothing to do with them.

We are the ones that bear the brunt of such inadequacies and lack of enforcement by the DVLA licensing system and process. We are the ones that have to write off thousands of pounds in lost revenue when our clients recall the warrants and are forced to reissue the PCN at the correct address some two years or more since the contravention took place.

Unfortunately, the DVLA always seem to rely on a survey they do every now and again when they write to vehicle keepers they have on record to check the information they hold is correct and regularly quote a 95% or higher rate of database accuracy. This is, of course, absolute nonsense.

A straw poll of some of our clients indicates that some 20% of PCNs they could and should be able to issue are returned by the DVLA as 'no keeper'. 20%! With 39m licensed vehicles that is 7.8m valid UK vehicles where the DVLA cannot even provide ANY details, let alone the correct ones!

In conclusion, as we come out of the other side of COVID, let us now focus on those issues that really adversely impact what we do, our reputation and the revenue that our clients and taxpayers are missing out on because our DVLA keeper database is not fit for purpose.



John Mason
Director,
Road Traffic and Road User Charging Services
at CDER Group



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CIVEA announces partnerships with three EA examination providers



As the primary trade association for civil enforcement agencies, representing more than 95% of the industry, CIVEA encourages all of its members to ensure that Enforcement Agents (EAs) meet high professional standards. All EAs (formerly known as Bailiffs) are required to pass an examination to qualify for certification and the final decision on their suitability is made by a judge. The exam tests an agent's knowledge of the law as well as the industry standards they must meet. Certificates must be renewed every two years. This is a legal requirement that helps to ensure standards on enforcement conduct are met.

CIVEA has recently negotiated new training and examination packages with three eminent providers; The Chartered Institute of Credit Management (CICM), IES Training Limited and the Chartered Institute of Legal Executives (CILEx)/High Court Enforcement Group (HCEG). All three of these providers offer RQF qualifications and were selected after meeting CIVEA's requirements for virtual learning with online resources and controlled examinations.

CIVEA Chief Executive Officer, Russell Hamblin-Boone, says, "CIVEA firmly believes that enforcement agents should have a good knowledge of the law as well as understanding their responsibilities to the public, which is independently assessed and certified. Enforcement is a firm but fair process that is instrumental to the success of civil debt recovery. The rigorous examination process should give confidence to the public that certified agents are professional, responsible, and accountable for their action. We were very impressed with the high standards of the three chosen examination providers, which match the needs of our members. CIVEA recommends each provider without prejudice."

As a result of these new partnership agreements, CIVEA members will benefit from preferential offers and opportunities. These vary depending on supplier but range from waived registration fees, exclusive membership packages, reduced course fees, access to exclusive portals and a plethora of free additional resources. CIVEA promotes continuous development, and all three providers offer Level 3 qualifications for those who wish to advance beyond the standard certification requirements.

Sue Chapple, the CEO of the Chartered Institute of Credit Management (CICM) said she is delighted to be working more closely with CIVEA, "Through our long-term relationship with the HCEOA we have always been closely associated with driving up professional standards in enforcement. Having this endorsement from CIVEA, and all that it is trying to achieve, is a signal of the importance of enforcement as part of the credit lifecycle, and the support we can provide to individuals as CICM members to keep their knowledge and skills up to date."

IES Training Limited said, "IES are very pleased to be recommended by CIVEA to provide Enforcement training and qualifications to the industry and its members, working in partnership to improve the quality of knowledge to those working in the industry."

Finally, on behalf of the CILEx and HCEG, David Grimes, Head of Training & Development, High Court Enforcement Group Ltd (HCEG) said, "High Court Enforcement Group (HCEG) is delighted to have become a preferred partner for exam provision through CIVEA. This recognition is a measure of excellence for our learning programmes and also another external validation that our civil enforcement educational courses and exam provisions have met the highest standards."

Beyond certification and training, CIVEA continues to ensure that standards of conduct are without reproach through close supervision and constant monitoring. Every EA working on behalf of a CIVEA member is instructed to follow social distancing guidelines at present and continue to refer vulnerable members of society to dedicated welfare teams and support services as soon as these needs are identified.

"As a result of these new partnership agreements, CIVEA members will benefit from preferential offers and opportunities. These vary depending on supplier but range from waived registration fees, exclusive membership packages, reduced course fees, access to exclusive portals and a plethora of free additional resources."

The qualification requirements set out in Civil Procedure Rule state that an application for an Enforcement Agent Certificate must be accompanied by proof that the applicant has achieved at least a qualification on Taking Control of Goods at (or above) Level 2 of the Qualifications and Credit Framework (QCF) or equivalent as determined by a nationally accredited awarding body; or has been authorized to act as an enforcement officer in accordance with the High Court Enforcement Officers Regulations 2004. The QCF was removed from all existing qualifications and replaced by the RQF (Regulated Qualifications Framework) in December 2017. Accordingly, the current requirement is for EAs to possess a minimum of a Level 2 RQF qualification on Taking Control of Goods or an equivalent as determined by a nationally accredited awarding body.



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Collaboration is the way to obtain a balanced and sustainable approach to resolving debt

Working with debt advice providers is fundamental in our industry. The work we do brings us into contact with individuals in need of support with their financial planning and decision making, and we rely on the debt advice sector to supply a good deal of this support. However, the level of interaction with debt advice providers varies widely throughout our sector, as does the nature of the relationships between these organisations and our clients, leading to customer experiences that are highly contingent on the area they live in and the organisations they interact with.

As enforcement agents, our duty is to recover the debts that our clients have been unable to resolve whilst upholding their reputations. We are required to focus on collection rates, ensuring that we meet and exceed our clients' expectations in finding solutions to securing payment on difficult-to-collect cases, and so it should be. But if we do not provide some balance, there is a risk on some occasions that maintaining this focus could have a detrimental impact on our ability to meet the targets we are so determined to beat.

If an enforcement business was to focus entirely on the numbers, and not on the individuals, they might forget that the people they are collecting from are exactly that: people. Beyond the obvious ethical and legislative issues that this can create, it is also bad business. Automated processes make sense for most cases; after all, for many the contact from an enforcement agent is the demonstration they need that their debt is not going away and needs to be addressed. But for others, for example when there is a vulnerability factor or a life-changing event involved, a one-size-fits-all approach can actively reduce the chance of recovery.

It is in these cases that our partnership with external agencies is so important. The debt advice sector deals with many of the same people as we do on a day-to-day basis, and their goals are not as different to ours as they might initially appear. Debt advice providers are looking for solutions, just as we are, and while they may be approaching

financial struggles. On average the people we help at CAP have 13 different debts, and three additional difficulties like mental ill health, unemployment or a physical disability. The role we play is to help the individual put this full picture together, working with the creditors so that they can understand it too. We aim to strike the right balance and find the true workable solution. It is not always easy – it can take time and require compromises on both sides – but ultimately without that solution and equipping someone without the confidence and knowhow to exit the destructive cycle they find themselves in, it will only ever be a quick fix and not a real resolution."

Debt advisors advocate for customers' needs in the same way that we advocate for our clients' needs, contributing to a balanced and sustainable approach to resolving debt. Close relationships with local and national support networks enable smart enforcement agencies to truly understand the debt landscape from all angles, supplying an opportunity to develop more robust and flexible collection policies that can support more customers to repay their debts successfully. We know that some debts are uncollectable and collaborating with the debt advice sector creates a clearer picture of which debts need to be returned to our client, and which can be collected if a process is delayed, flexed, or customised to support the specific needs of the individual. This personalisation leads to increased collection rates, and reduced return rates, building a stronger relationship with our clients and helping them to deliver improved services for their communities.

But this collaboration should not be reserved for the enforcement sector and the debt advice sector. It is important to remember that we act as that external viewpoint for our clients as well. As providers of recovery services, we are likely to have a broader view of the debt landscape, and it is up to us to engage consultatively with our clients to help them to understand the wider impact of local and

"But this collaboration should not be reserved for the enforcement sector and the debt advice sector. It is important to remember that we act as that external viewpoint for our clients as well."



the case from a different point of view, they are equally focused on resolving an individual's debts in a way that works for all parties. For enforcement agents, this can be a difficult balancing act between the needs of our clients and those of the customer, as Local Authorities strive to collect what is owed to fund vital services. The debt advice sector can help to strike that balance, provided they are properly included in the process.

One of our key partners in supporting people in problem debt is Christians Against Poverty (CAP). Their Director of External Affairs, Gareth McNab recently spoke to us about his view of the need for cooperation between creditors and debt advice providers. "At its heart debt advice is all about problem solving, and then helping someone take steps to enact that solution. Working from a single viewpoint, what may appear to be a workable solution, quickly unravels when the full financial picture is taken into view, not to mention, the implications of personal difficulties many people face alongside their

national issues. The pandemic is a good example of this: although Local Authorities are the experts of the impact of COVID on their local communities, we as third parties can supply some wider context to make these insights more valuable. The same goes with working with debt advice providers. By showing how collaborating with the debt advice sector has helped our own collection rates and working practices, we can encourage our clients to build these relationships as well, benefiting not only themselves, but us as service providers, and their customers as service users.



Helen Addis
Social Responsibility and
Customer Welfare Manager,
Bristow & Sutor

CIVEA COVID-19 response shortlisted for Association Excellence Award

We are delighted to reveal that the CIVEA Post-lockdown Support Plan has been shortlisted for an Association Excellence Award in the Best Covid-19 Crisis Response category. The winners of this prestigious award will be announced at a ceremony that is set to take place in the events space at The Kia Oval, London on Tuesday 29th June 2021.

The Association Excellence Awards salute, celebrate and encourage the vital work that associations, trade organisations, unions and industry bodies do for and on behalf of their members to ensure their voices are heard and their causes are championed. These awards are open to constituted industry associations, professional organisations, trade bodies and unions within the UK and Europe. All categories are awarded based on the decision of an independent panel of judges.

The Post-lockdown Support Plan was developed to ensure the safety of members of the public, clients, customers and agents. The result was a groundbreaking initiative that set a template for future public debt recovery. Achieving shortlisting for this award is a testament to the ongoing success and achievement of CIVEA members, who contributed to the creation and continued implementation of this robust response to the unforeseen and unimaginable coronavirus pandemic. By acting quickly and decisively CIVEA members provided leadership to a diverse clientele of local authorities at a crucial time and they deserve to receive recognition for their ongoing commitment and efforts.

The first phase of the Post-lockdown Support Plan saw members roll out a reconnection and vulnerability identification period to ensure that all those in debt were aware of the restart of enforcement and the precautions we were taking. This involved a template letter plus individual follow up communication by texts, emails and calls. The letter aimed to engage with customers to understand how they were affected by the COVID-19 crisis and to respond as appropriate. Collectively over two million letters were sent out by CIVEA members to people in debt.

Our commitments that are already outlined in our Code of Practice made it possible to quickly implement a comprehensive and bespoke training programme to over 1700 Enforcement Agents (EAs) over a 10-week period. Training covered donning and doffing PPE correctly, social distancing and contact with the public. We also uploaded two animations to the CIVEA website to explain what this training entailed and an explanation of the standard enforcement process. These videos, 'COVID-19 Safe Working Practices' and 'CIVEA Guide To Enforcement' remain available to view online. Communication with customers remained essential during the health crisis especially after a five-month hiatus on enforcement visits, as during that suspension, councils incurred £4.8 billion of extra costs and income losses, significantly impacting support and funding for essential local services. The Government released updated guidelines on enforcement activity three days before visits were set to resume in August 2020 and CIVEA ensured this was communicated to

all members and implemented smoothly.

CIVEA made a voluntary commitment to contactless visits and to not enter residential premises. All engagement throughout the COVID-19 crisis so far has been contactless and for safety, agents have not been entering people's homes but engaged on the doorstep. Body-worn cameras are mandatory and EAs must comply with social distancing rules and use PPE. Anyone identified as being vulnerable is referred to the council and provided with additional support and help with their debts.

Since enforcement successfully resumed, we published a detailed report based on a survey of 21 enforcement firms and their field agents, the responses to which allowed us to identify where additional training or guidance was needed. Our Post-lockdown Support Plan has now evolved into the COVID-19 Support Plan to reflect ongoing changes to government advice and safety regulations. As the national roadmap for recovery continues to be implemented in 2021, we maintain a flexible approach and offer guidance and support to members, customers and the public by communicating clearly where restrictions may impact enforcement practice.

In light of this, we have also launched an updated training portal this year, containing refresher modules that are designed to consolidate knowledge on safe enforcement. Unlike the mandatory training in the original Post-lockdown Support Plan, this was an optional resource to keep EAs up to date. So far, 74% of all Certified EAs across England and Wales that are listed on the Ministry of Justice certificated bailiff register have completed this refresher training.

Enforcement visits continue to be supported by Government and the ongoing hard work of CIVEA members is supporting the responsible application of the very latest government guidance. Regardless of the outcome of the award ceremony in June, we are incredibly proud to have been commended for the sensible, thoughtful and successful actions of our members and the collaborative.



'Hello and thank you for joining the video call'

Negotiation with customers using video services.

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Hello customer and thank you for joining the video call

Negotiating with customers via video creating better outcomes

The digital revolution is transforming how companies connect with customers and enable their staff to do so from anywhere. Remote visual support technologies play a significant part in this transformation; they are changing how businesses conduct group interactions and are being used to create solutions that blend the real and digital world.

Video technology was rapidly adopted by utility companies who had to maintain customer contact during the pandemic, so could the same technology not be adopted for enforcement applications? If so, this would enable enforcement agents and office staff to meet, interact and negotiate with customers in a safe, secure, and low-cost environment. **Removing most of the traditional business operational costs should be attractive enough for this to become a serious consideration.**

In business, when working with our clients over that last year, we should all be familiar with Zoom, MS Teams, Skype etc. But if we wanted to have a more personable discussion with a customer using video, we would have to know what services the customer has on their phone, tablet or computer. Really a nonstarter.

"The objective for these video consultation applications is to offer customers a secure and recorded meeting with a recovery officer in a completely new, personal and direct way that benefits both parties and reaches a better outcome."

The game-changer is WebRTC technology. This is a robust solution for video-based engagement that can be integrated into websites, mobile apps, or in-branch kiosks. Organisations are using it to see what their end consumers and employees see, providing fast, intuitive guidance to deliver better outcomes for customer service and field force operations.

The objective for these video consultation applications is to offer customers a secure and recorded meeting with a recovery officer in a completely new, personal and direct way that benefits both parties and reaches a better outcome.

For enforcement teams who have had to weather a terrible commercial storm in the last year, this format will reduce operational enforcement overheads by replacing many expensive physical activities with new digital alternatives.

The technology can replace repeat visits with video and telephone consultations that work for both parties and help increase contact rates.

Recordable and reviewable meetings will introduce new higher standards of customer engagement that are measured, helping resolve disputes and defuse tensions.

Video meetings are less confrontational and as you can see the person you are talking with, you can empathise and understand situations better. The results are reflected with post call surveys that measure customer satisfaction. Highly valued evidence when tendering for work if it can be shown how cases are handled.

Before March 2020 and lockdown part 1, video meeting technology was clunky, haphazard, and general user adoption rates were low. Since April that year and the rise of new, easy to use services, adoption is reported to have risen by **70% for all** meetings and consultations.

The coronavirus crisis has thrust video conferencing adoption into the spotlight. With millions upon millions of people working from home, tuning into virtual classrooms or video meetings, this type of technology is the new norm as we collaborate remotely.

Our customers are used to the idea of turning on a video camera for a call as it adds that personal face-to-face feeling that is assuring and helpful when emphasising matters, and it helps detect things like vulnerability.

In a voice-only call, the first few minutes are usually spent trying to figure out the person on the call in your mind. On a video call, you can instantly see who is on the call, which helps improve your understanding of their situation visually. In addition, people can better remember what they see rather than what they simply hear. So, the visual memory of a video meeting is an added benefit.

In general, though video meetings or consultations are often more effective and efficient than traditional voice-only calls, video meetings are reported to be 40% more effective when conducted by video, as opposed to voice alone, which will help consultations to resolve debt management.

Video consultations and scheduling tools will create new opportunities for face-to-face consultations with customers that need better support, and this will help organisations create better outcomes for both parties.

For an emotive application and subject like enforcement services, video could be a game changer regarding keeping all parties happy from the customer, client, and support sector.

Introducing a video service is not expensive or greatly complex, but it will be important to incorporate a scheduling and call reminder element, not unlike your dentist etc used.

A pre-consultation survey that the customer must complete helps gather background information from the customer and help identify potential vulnerability before the call. Preparation is everything!

Following any video meeting it is worth considering the introduction of surveys. CSAT surveys are automatic and provide useful reporting for training and motivation. When debt collection agencies introduced these in 2012 there was a great deal of fear. The feedback from the customers that were handled well was more than encouraging and valuable.

In summary, as enforcement activities look to resume and scant budget for non-essential business improvement, introducing simple video services for customer engagement could not only be good timing, but future proofing the business whilst lowering overheads going forward.



Daniel Pearce
Director of Business Development,
Telsolutions Ltd



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Is it time to introduce electric vehicles into your fleet? Are there any risks?

Last year the government announced they will be bringing forward the phase-out date for the sale of new petrol and diesel cars and vans to 2030.

The government drive for zero-emission vehicles and a green economic recovery will see businesses review and change the way they operate in the coming years. One way they will do this is through the adoption of electric vehicles into their fleet. This will result in a whole host of new potential hazards that businesses need to consider and like with any other piece of work equipment, the employer has a duty to ensure safety and manage the risk. Our dedicated risk management team have put together a short summary of the risks businesses should consider, and the practical steps you can take.

The fleet market beginning to take an interest in electric vehicles...

The focus around electric vehicles over recent years has been in the main retail sector led. However, the fleet market is beginning to take an interest, whether it be from an economic point of view where vehicles typically do lots of local runs and can charge up regularly or even an environmental one, where electric vehicles are seen to be more environmentally friendly, at least in the use stage, if not the build stage.

Just for ease of reference, there are generally three different types.

- A **fully electric vehicle**, which only uses electricity for power. These are the ones which do nothing without a charge and there still exists considerable range anxiety amongst potential users. They also take a lot longer to charge up.
- Then there is the **PHEV plug in hybrid**. This typically has a range of about 30 miles on electric alone and then the fossil fuel engine kicks in. Some models can recharge the drive batteries, some can't. All can be plugged into the mains in one form or another.
- Finally, there are the **mild hybrids**. These are not plugged in and have a much smaller battery. The idea is that the electric motor will assist the fossil fuel engine in some way or another and they may be able to travel for very short distances on electric power like a mile or so.

"In terms of safety and risk management, employers have the same duty as with any other piece of work equipment, be it a vehicle or the charger on the wall."

What are the risks of electric vehicles to drivers?

Electricity can be dangerous when uncontrolled. A 'belt' from the household mains can kill and the drive batteries in cars can do the same. The batteries also carry with them their own risks. Car drive batteries are basically lots and lots of laptop batteries added together. So, it's important to consider what would happen in a major accident if the battery pack were ruptured and you are inside the vehicle.

There are also charging risk with batteries. In simple terms, gases can be released, and these are highly flammable. One spark is enough to cause an explosion with hydrogen for example. Fortunately, modern battery construction is very robust and potential incidents from charging scenarios are minimised by the manufacturers at source, such



as by making unique charging fitments to their cars. Unfortunately, there is no proper standardisation yet so you might turn up somewhere and find they don't have your charger type.

Who is responsible for the electrical safety of commercial vehicles?

In terms of safety and risk management, employers have the same duty as with any other piece of work equipment, be it a vehicle or the charger on the wall. Employers have a duty to ensure electrical safety for their employees and other visitors to their premises, as well as protecting any electrical equipment provided.

What this means in real terms is that you should assess any significant risk as a result of the use of electric vehicles and come up with a safe system of work to use them. This may include keeping charging areas clear of combustibles, no smoking, no charging left overnight on work premises and training for employees in the risk and process of charging, including at home.

You also need to know where to put the chargers at work. Before installation, you should review your fire risk assessment to see if there are any additional risks. For example, putting the charging point next to the fire exits from the building, any fuel tanks, the waste storage area etc., is not a good idea. If you must put charging areas underground, are there any fire reduction processes in place such as additional electrical extinguishers?

The charging station would also become part of your fixed electrical system and would need to be tested in accordance with the legislation there. The HSE has also produced an interesting article on electric vehicles – you can find the link here: <https://www.hse.gov.uk/mvr/topics/electric-hybrid.htm>



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Ground-breaking plans for new Enforcement Conduct Authority

Alongside several charity and debt advice sector partners, CIVEA is a founding member of the **Enforcement Oversight Working Group**, which has been established under the leadership of the Centre for Social Justice. Its primary purpose is to develop plans for independent supervision of the civil enforcement industry.

This is a valuable endeavour that demonstrates the collaborative and progressive approach taken from industry players to address the concerns of stakeholders and increase transparency of the industry. This is particularly pertinent in light of the personal financial challenges faced by people who have been impacted by the pandemic. The government is conducting its own wider study on public debt collection and management.

In a recent debate in the House of Lords the working group sought limited statutory underpinning for a proposed **Enforcement Conduct Authority (ECA)**. The ECA will be industry-funded, but operate independently of the government, industry, and voluntary sector.

The working group is finalising a detailed framework document, but some of the principles are already agreed.

Raising standards

The ECA will drive up standards in the Enforcement sector by building on the National Standards, monitoring performance and conduct in the Enforcement industry, and issuing firm and proportionate sanctions for non-compliance. This will help to standardise practice and ensure consistent application of regulations and codes of practice.

Improving accountability

The ECA will increase accountability across the Enforcement sector

by holding Enforcement firms and agents to account. This will be achieved primarily through supervisory activities (such as audits, reviews of firms' policies and procedures, compliance and complaints, reviews of enforcement agent footage). This will be achieved through the publication of an annual review of the ECA's activities, to be submitted to the Secretary of State for Justice.

Adjudication of complaints

The ECA will review and monitor the complaints processes across the enforcement sector. This will include issuing guidance to Enforcement agencies on how to manage complaints and setting out appropriate measures for redress.

The ECA will run an independent complaints mechanism that will adjudicate on escalated complaints relating to enforcement activity which falls under the ECA's remit.

Recognising vulnerability and achieving fairness

The ECA will commit to drive improvements in the treatment of vulnerable individuals, building on work already undertaken in this area. This will be primarily delivered through provision of new affordability and vulnerability guidance drawing on best practice from other organisations and business sectors, as appropriate.

The development of the ECA will be led by an independent chairperson, who will be responsible for delivering against the mandate that will be shared with government ministers. We will continue to keep CIVEA members informed of progress with establishment of the Enforcement Conduct Authority.

The Debt Resolution Services framework

Crown Commercial Service (CCS) is the UK's largest public procurement organisation and is currently looking to create a new debt recoveries framework to support public sector organisations in their recoveries of overdue debt.

In March 2019, central government debt was estimated at £24.1 billion. The subsequent impact of the COVID pandemic on consumer and public finances mean it is more important than ever for the public sector to collect debt in a timely and socially responsible manner.

Considering this, CCS will be delivering the Debt Resolution Services (DRS) framework, an upcoming commercial agreement that will be the successor to the Debt Market Integrator (DMI) and Debt Management Services (DMS) frameworks. The DRS will deliver a route to market for the public sector for market-leading, value for money services that achieve fair outcomes for the public, through a diverse, resilient, and sustainable supply base.

The DRS has been developed in partnership with central government and the wider public sector following significant market engagement, to ensure we deliver the best possible solution. The invitation to tender (ITT) for the DRS is planned to be issued in mid-June and the framework awarded in November.

A framework to deliver quality and social value

DRS will be looking to utilise only the best suppliers in their class for each service it is procuring.

For many lots we will not be limiting the number of suppliers we select. We will ensure that they will all meet the high-quality thresholds that the DRS will require. This quality benchmark will provide public sector clients with the confidence that the framework will deliver fair outcomes for their customers and will be a kitemark for participating suppliers.

Social value will run through the DNA of the framework, with key objectives suppliers will need to deliver – a 'golden thread' that will weave through this and all future frameworks we will deliver.

We have been working closely with a number of organisations from the debt advice sector, as well as other charitable organisations, to help shape the fairness and social value agendas that the framework will deliver. It is essential that we consider the impact that debt can have on citizens and their individual financial circumstances, ensuring that action is balanced to effectively recover public money without impacting detrimentally on people's lives.

The links between indebtedness and mental health problems is well documented. CCS believes that DRS can make a specific and tangible impact to this area, and as such we will be centering on the theme of wellbeing: with a focus on mental health and financial education for consumers, communities, and the public sector, while ensuring that those who can pay on time, do pay on time.

We will achieve our social value objectives through a three-tiered approach:

- Strategic: DRS will require suppliers to provide a social value roadmap as part of their ITT responses, as well as responding to the specific social value evaluation questions
- Tactical: Following engagement with the market, customers, and debt charities and the third sector, CCS has identified a number of requirements that will be baked into the framework requirements
- Local: Where clients choose not to direct award via the framework, they will be able to run mini competitions against lots. As part of these minicompetitions customers will be able to include social value evaluation requirements, to facilitate local-level social value delivery.

The services

The framework is planned to run for four years from November 2021. As such it is important that we future proof it as far as possible.

Over recent years the market has shown the benefits of using data to understand consumer circumstances, and create tailored strategies based on these. We aim for framework suppliers to continue to maximise and enhance data solutions, including looking at how new and emerging technologies can be utilised to further support fair outcomes and recoveries.

The framework will consist of 19 lots including:

- Managed Collections – the service will consist of two managed service providers (MSP), where each MSP will manage a panel of debt collection agencies (DCA) who will all be FCA authorised and regulated
- Enforcement – consisting of a panel of enforcement agencies from which the public sector can select from a panel of providers via a minicompetition in bespoke circumstances
- Data Solutions – we will have a panel of suppliers to deliver various data feeds, reports, API's intelligently and securely to support public sector customers and contribute to their internal capabilities, including further understanding and supporting vulnerable consumers.

"It is essential that we consider the impact that debt can have on citizens and their individual financial circumstances, ensuring that action is balanced to effectively recover public money without impacting detrimentally on people's lives.."

The framework will also deliver: Litigation, Auctioneers, Process Servers and Spend Analytics and Recovery Services.

The DRS requirements will be aligned to the Cabinet Office's Fairness Principles and Vulnerability toolkit, designed by the Cabinet Office's Debt Fairness Group, including experts in the field of vulnerability from across the public sector and debt advice sector.

The DRS will also drive the application of ethical treatment and fair outcomes across all service lines; for example, by introducing a program of independent assurance of our suppliers where they operate in unregulated markets, including providers of enforcement services.

Meet the team

The Revenue, Recoveries, Analytics and Data category (RRAD) in CCS is the team responsible for delivering the DRS framework.

We operate as a centre of expertise supporting and advising the public sector on our solutions and ensure our commercial agreements are delivered by the right supply chain of market experts, facilitating quality outcomes and value for money.

If you would like more information, please contact: info@crowncommercial.gov.uk.

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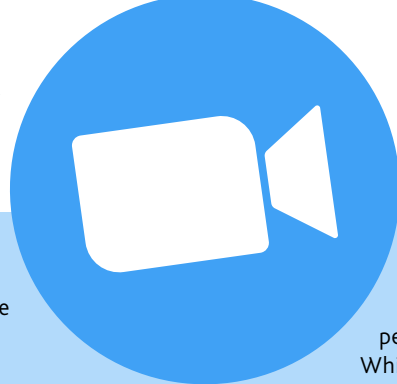
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SEE PAGE 23 FOR MORE DETAILS!

Virtual Visits



The concept of virtual visits has generated much interest, speculation and confusion in recent months. In this article I aim to provide some background, facts and points for consideration on the subject.

I am regularly asked if virtual visits are the way forward for the enforcement industry and are we entering a new generation of enforcement? The term virtual visits or virtual enforcement sounds innovative in a world quick to embrace technology but what does it really mean?

Let's first consider the Oxford English meaning of the word 'visit': 'to go to see a person or a place for a period of time'.

Enforcement visits are not by invite and nor are they welcome. They are the second stage of a statutory enforcement process following a failure to agree payment at the first stage of the statutory enforcement process. This first stage of the process is the compliance stage and is an important factor as we explore the concept of the virtual visit. The compliance stage, certainly for CIVEA members, encompasses a variety of remote contact attempts to engage with a debtor and agree payment.

On the basis that a significant proportion of enforcement activity is already carried out remotely, it may be argued that the concept of virtual enforcement is not new. On the same basis that a visit requires a person to 'go' and see a person or place, then the term 'virtual visit' is rather misleading and the public confusion and intrigue is understandable.

The background to the virtual visit has arisen from a part 8 claim brought by Just Digital Marketplace Limited, now a CIVEA member, seeking a declaration, from a senior High Court Judge, that their proposal to carry out a 'virtual visit' as opposed to a 'physical visit', and (with the consent of the debtor) enter into a controlled goods agreement, is pursuant to the regulations for taking control of goods.

"Yet civil enforcement is highly effective for collecting public debt with almost 50% of cases paid successfully without a physical attendance to a debtor's premises and over 65% of council tax collections resolved via a payment arrangement."

This claim focussed on High Court enforcement where there were differing opinions on a High Court Enforcement Officer's ability to enter into a payment arrangement within the compliance stage of the enforcement process. High Court Enforcement Officers are required to comply with the command of the Writ of Control – to take control of goods, which led to some interpretation that payment arrangements could not be entered into without the security of a controlled goods agreement.

This position is, of course, in contrast to civil enforcement where it is commonplace to operate extended compliance stage periods and pro-actively seek engagement and payment from customers without the need for a controlled goods agreement. In the civil enforcement market, where the majority of debt collected is on behalf of local and central government, **controlled goods agreements are entered into in less than 5% of cases and goods are removed in 0.02% of cases**, primarily as it is extremely rare to gain access to assets that an individual does not want an agent to see or remove. Yet civil enforcement is highly effective for collecting public debt with almost 50% of cases paid successfully without a physical attendance to a debtor's premises and over 65% of council tax collections

resolved via a payment arrangement. In most cases where goods are taken into control or removed the asset is a vehicle and the debt relates to an unpaid penalty charge.

Whilst the Just claim sought clarity on the position of High Court enforcement practice, the statutory instrument and process for taking control of goods is the same for civil enforcement and therefore CIVEA were represented at the hearing as an interested party alongside the High Court Enforcement Officers Association (HCEOA).

Master McLeod made clear her position to focus on the statutory construction of the relevant law rather than the desirability factor of the Just proposal. In her 45-page judgment she reviewed the command of writ and confirmed that the statutory instrument foresees a position whereby a payment arrangement can be entered into and, with the agreement of the creditor, taking control could be delayed. The Ministry of Justice (MoJ) confirmed this was their understanding and the High Court Enforcement Officers Association has since updated their Best Practice Guidance to reflect this. This was a positive outcome of the hearing bringing clarity and reassurance to High Court Enforcement Officers and creditors.

The Master then sought to focus on whether a controlled goods agreement (CGA), without physical entry to premises, would be lawful and proceeds to refer to the term as 'non-entry CGA'. The 45-page judgment from the Master demonstrates the complexity of current statute, existing regulations, pre-legislative history and case law in determining a judgment on the matter. Inconsistencies were highlighted between the Tribunals Courts and Enforcement Act (TCEA) 2007 and the regulations (The Taking Control of Goods Regulations 2013, The Taking Control of Goods (Fees) Regulations 2014, The Certification of Enforcement Agents Regulations 2014). The view of Master McLeod was that *"the Act, in short, does not forbid a non-entry CGA entry, but the Regulations do not fully enable it to be given effect as they presently stand"*. Furthermore, *"A 'non-entry' CGA would offer limited enforcement options if breached unless (a) a warrant for forcible entry could be obtained or (b) peaceable entry was obtained legitimately under para 14 of sch. 12 after entry into the CGA, meaning that subsequent steps are 're-entry'"*.

Master McLeod handed down her judgment on 8th January 2021 with the following declaration:

"An enforcement agent may enter into a controlled goods agreement within the meaning of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 with a debtor whether or not the enforcement agent has physically entered the premises on which the goods are located."

In her final remarks the Master concluded that *"it is a matter now for the MoJ and Lord Chancellor to consider this judgement..., and take a view as to whether policy supports or does not support the amendment or creation of regulations to flesh out the notion of a less intrusive form of CGA entered into without an initial physical entry to the home or business of the debtor"*.

CIVEA, HCEOA and Just issued a joint statement inviting the MoJ to review the judgment and, if appropriate, provide further guidance and/or amendments to the regulations. It is understood that this is still being considered and the challenge for enforcement agencies is whether they await regulatory guidance which sets out a process for a non-entry CGA and the enforcement options in the event of a breach or they provide this alternative option for CGA's now as part of their service provision.

There is no straightforward approach. The Master was clear in her judgment that by providing declaratory relief it would not prevent a debtor from arguing that the process was invalid on the facts of their specific case. It is therefore recommended that firms considering non-entry CGA's ensure they produce a fully documented process which takes full consideration of the High Court judgment and the

current regulations.

To support members CIVEA has produced, and is due to publish, a factsheet which highlights the relevant points to consider and importantly what enforcement agents should be aware of to remain compliant with both the statute and the spirit of the regulations. Some prominent points to note are;

- a non-entry CGA is not part of the compliance stage and a CGA is not necessary to secure a payment arrangement (debtor's goods are already bound in accordance with Schedule 12 to the TCEA 2007)
- the enforcement stage fee cannot be applied in the event a non-entry CGA is agreed prior to a physical attendance at the premises
- a non-entry CGA can only be agreed between the enforcement agent and the debtor (not a third party)
- enforcement agents must ensure goods taken into control are on the 'relevant premises' which the agent has power to enter
- there is no extension to the enforcement period following a defaulted CGA (unlike the 12 months extension following a defaulted payment arrangement)
- re-entry is not permitted following the breach of a non-entry CGA where there has not been a peaceable entry to premises or without obtaining a warrant for forcible entry, nor should it be implied.

A final reference to Master McLeod's judgment is her quote that enforcement *"is a profession of great importance to the effective delivery of justice"*.

The process of a non-entry CGA may have benefits to the debtor, the creditor and the enforcement agent and it is admirable that firms are adaptable to change, particularly as we operate within

"An enforcement agent may enter into a controlled goods agreement within the meaning of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 with a debtor whether or not the enforcement agent has physically entered the premises on which the goods are located."

the restrictions of covid-19. For civil enforcement agents, operating effective compliance stage strategies and strict safe working practices in the field, it is difficult to determine what non-entry CGA's would add to the efficacy of the current process or whether they would hinder the delivery of justice through a lack of transparency by the debtor. These questions will no doubt be answered through case studies from the high court enforcement sector and we will wait in anticipation further guidance from the Ministry of Justice.

CIVEA will remain committed to working with our members, key stakeholders and the MoJ to continue to raise standards in the industry and ensure that the recovery of public debt is fair to both the debtor and the creditor/taxpayer.



Carole Kenney
President –
CIVEA



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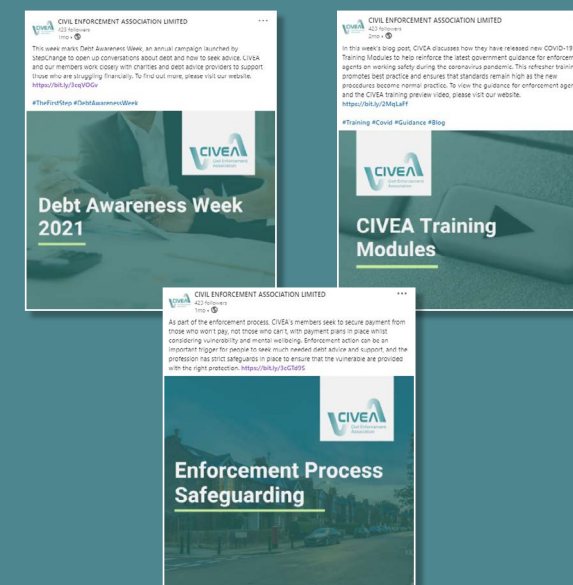
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