

NOVEMBER 2018

# ENFORCEMENT NEWS

The quarterly magazine from CIVEA,  
the Civil Enforcement Association



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## PRESIDENT'S EDITORIAL

Andrew Mackay,  
President,  
CIVEA



as well as a special guest presentation at  
our last Executive Council meeting so we  
are not expecting any surprises. In fact,  
we have already begun to collect data and  
other evidence that we anticipate will be  
required by the MOJ.

Our CEO wrote to the MOJ during the  
summer to seek information about the  
overdue inflationary fee adjustments. I am  
pleased to report the Minister's confirmation  
that the matter will be considered alongside  
the call for evidence.

Therefore, it is essential that the industry  
and all those who work with us support  
the call for evidence and make detailed  
submissions that help the MOJ to make  
informed judgements about the impact of  
the TCE and associated regulations.

CIVEA has good relations with officials at  
the MOJ and we have had private briefings,

In this edition of the magazine, we have  
some interesting articles that raise questions  
about our current practices and ask where

things can be improved. I am an advocate  
of reform and I believe that we should  
continually strive to drive up standards  
through our business and throughout the  
industry. Enforcement News is an excellent  
forum in which to highlight issues and share  
good practice.

Among the articles, there is an expert opinion  
piece on the tendering and procurement  
process adopted by local authorities, which  
argues that there are many opportunities  
for improving the process.

I am sure that we have all experienced the  
challenges of maintaining clean, real-time  
data. The DVLA appears to face the same  
problems. The licensing process is called  
into question in an article in which a CIVEA  
member proposes a simple solution to  
improve the accuracy of DVLA data.

We also have a fascinating article looking  
at how smart collection using behavioural  
insights can be used to improve our  
collection rates. The results speak for  
themselves.

An issue that is close to home for me is  
the Welsh Government's call for a ban on  
imprisonment for non-payment of council  
tax in Wales. A small delegation led by  
Russell Hamblin-Boone met with the lead  
official at the Welsh Government in Cardiff  
to explain our opposition to the removal of  
sanctions and to propose that community  
service should replace a custodial sentence.  
We argued that a community service  
sentence would enable an individual to be  
penalised for non-payment of council tax  
while making an alternative contribution to  
the local community.

We have submitted a detailed response to  
the Welsh Government consultation  
paper. In preparing our response to  
the consultation, CIVEA conducted a  
confidential survey of the Welsh local  
authorities. Of the 22 councils, 20 provided  
a response.

The results show that, while local authorities  
value the threat of imprisonment, very few  
cases lead to committal action. There were  
just 20 people imprisoned in 2016-17.  
However, committal action is effectively  
used to encourage debtors to enter into  
a payment arrangement. Of the 273  
committals in 2016/17, 117 successfully led  
to payment arrangements, compared with  
18 who paid the full sum before the court  
hearing. The Government's response has  
not yet been published, but we will continue  
to lobby for our compromise proposal.

Enforcement News is a member magazine  
that is written for you. We are always  
interested in hearing our members' views on  
issues that affect our industry. If you have  
any thoughts to share, especially regarding  
best practice, please contact either myself  
or a member of the CIVEA team.

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# NEWS THIS QUARTER

## MPs criticise council debt collection

The Treasury Committee has published a report on household finances. It includes criticism of debt collection practices of public authorities, which it labels 'worst in class'.

The report says that people become over-indebted not just through conventional credit, but through arrears on bills, including those owed to central and local government, such as council tax. It claims debts are often pursued over-zealously, uncompromisingly, and with routine recourse to bailiffs. This approach risks driving the most financially vulnerable people into further difficulty. The Committee calls for the public sector to raise its standards to the level of industry best practice.

## HMCTS Change Events

HM Courts and Tribunals Service is hosting an event to showcase the progress on its new and developing services and to provide an opportunity to comment on its plans through discussion, debate and networking.

There will be discussions and demonstrations with 22 projects from across all jurisdictions. For more details contact [HMCTSChangeEvent@justice.gov.uk](mailto:HMCTSChangeEvent@justice.gov.uk)

Date: Tuesday 6 November 2018. Time: 9:30-14:00.

Venue: 102 Petty France, London, SW1H 9AJ

Who is it for: Public users and organisations that represent them.

## Vulnerability Matters

The Money Advice Trust has published its latest edition of Vulnerability Matters, which discusses the latest developments on dealing with vulnerability.

<https://mailchi.mp/moneyadvicetrust/vulnerability-matters-july-2018>

The round-up covers thoughts from Chris Fitch on three conditions required to meet policy and organisational ambitions on vulnerability and details of the new UK Finance Vulnerability Academy, in partnership with the Money Advice Trust.

There is also an updated resources hub with useful links: <http://www.moneyadvicetrust.org/creditors/creditsector/Pages/Vulnerability-resources-hub.aspx>

## Drop in CCJs is first in five years

Latest county court figures show a decline in judgments against consumers for the first time in five years and a sharp rise in judgments against businesses, according to the registrar of judgments in England and Wales.

The Registry Trust said that during the first two quarters of 2018, 571,555 county court judgments (CCJs) were registered against consumers in England and Wales, down 4% compared with the first half of 2017. This bucked a five-year trend throughout which the number of judgments registered against consumers during Q1 and Q2 rose year-on-year.

The average value of a CCJ dropped 3% to £1,460, the lowest since 2008.

Meanwhile, in the same period, there were 63,452 CCJs against businesses – up 19% on the same period in 2017.

## New leadership for CEEA

James Bond stepped down from his position at the Certificated Enforcement Agents Association at the end of September 2018, after a three-year tenure.

Daren Shaw is to take over as General & Membership Secretary. There are plans for closer ties between CIVEA and the CEEA with regular liaison meetings and better coordination of public messages.

## Ministry suspends enforcement and compliance reform programme

Plans are no longer affordable within the Ministry of Justice's funding allocation for the 2015 spending review period.

After careful consideration, the difficult decision has therefore been taken to suspend the Transforming Compliance and Enforcement Programme (TCEP).

The work that is already under way has not been lost. New ways of working including better enforcement strategies and administration will continue to apply. In addition, focused work on the development of future service design will continue, so that it is ready should it be required in the future.

In 2016/17, HMCTS successfully recovered more than £400m in fines, £59m more than the previous year, as well as collecting over £30m of historic debt, previously thought uncollectable.

Contracts for Approved Enforcement Agency Services, announced in July 2018, are unaffected by this decision.

The Government is investing over £1 billion to transform the wider courts and tribunals system - making it quicker, more accessible and easier to use for all. TCEP was separately funded to the HMCTS reform programme.

## WORKING HARD FOR YOU

Russell Hamblin-Boone  
CEO,  
CIVEA



Welcome to Enforcement News. You cannot have failed to notice that the work of enforcement agents is receiving increased exposure on television, radio and in Parliament. Over the summer I have been interviewed or provided briefings for all the major news programmes that have carried stories about bailiffs.

Some of the stories are old cases that pre-date the TCE regulations but have been revived to create publicity for campaigns by debt advice groups. Others are more relevant commentaries on the effectiveness of the 2014 regulations and the need to review Government policy on debt collection in the public sector.

We cannot ignore either of these examples.

Although the cases are extremely rare, the media and politicians continue to associate our industry with tragic cases of debt leading to suicide, like that of Jerome Rogers or Nigel Hurst.

While this is incredibly unfair, it is a reality we must face and challenge with robust evidence. We need to paint a more accurate picture of our industry. In particular, we need to explain the contribution CIVEA members make to the community, while upholding high standards of conduct.



With tighter budgets and tough targets, no-one is going to suggest that the sector is anything but stressful right now. That's why working with **ross & roberts** is like a breath of fresh air.

It's a real partnership, based on shared ideas, common goals and mutual respect – above all it's about the quality of our people.

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We have developed three core messages that form the bedrock of our communications strategy.

Message 1: We operate within a rigorous legal framework.

Message 2: Agents are professionals and closely supervised.

Message 3: There's a very human side to what we do.

These messages are designed to simplify the complex judicial process under which enforcement agents operate. By demystifying our industry, we can potentially reduce many of the complaints and queries that arise through misunderstanding and confusion.

*"Increasingly we are hearing calls for enforcement agents to accept more repayment plans. This is likely to be a feature of the Ministry of Justice's call for evidence."*

For example, the compliance stage is now the most significant part of the collection process and firms are developing technology to improve the amount of debt collected without moving to the enforcement stage.

The main work in verifying, tracing and collecting is carried out at the compliance stage over a period of weeks. This is obviously after council staff have endeavoured to recover the debt themselves. But much of this work takes place behind the scenes and, therefore, gets misunderstood. This leads to complaints. How many times have we heard that an enforcement agency has charged £75 just to send out a Notice of Enforcement?

This kind of misunderstanding often stems from complaints from debtors who have reported their experiences to debt advice agencies. These reports give the impression that agents act aggressively, are inflexible and are quick to charge for an enforcement visit. But the reports are often selective and omit important details like the number of letters, calls, emails and texts debtors receive from enforcement firms attempting to make contact to discuss repayment options.

Enforcement agencies are highly experienced at tracing people and use a range of technology to verify details and track down people who owe money to their councils. The important point is that agents follow a standard procedure set out in regulations and under instruction of the local authority – see message 1.

This leads me to my second example. Increasingly we are hearing calls for enforcement agents to accept more repayment plans. This is likely to be a feature of the Ministry of Justice's call for evidence.

The public perception is that enforcement agents act unreasonably and do not allow debtors an opportunity to negotiate repayments over a longer term. As you know, the court order or warrant specifically instructs an enforcement agent to collect the debt in full or take control of goods in lieu of payment. At the stage of an enforcement visit, negotiations should have been concluded and it is at the agent's discretion whether to agree to a payment arrangement.

There is an argument for councils to collect more information about their residents and to conduct affordability checks before engaging enforcement agencies. This would reduce the number of historic cases that are recycled and increase the amount of debt collected without visits. Any information could be shared with enforcement agencies to assist them in setting up repayment plans and building profiles on customers.

Inevitably, there will be demands on councils to be more flexible and exercise forbearance with debtors. This is likely to be deflected on to enforcement agents and their behaviour. Therefore, it is important that we are seen to be initiating the debate on debt collection in the public sector, not reacting to the demands of public opinion.



## A MISSED OPPORTUNITY TO DEBATE HOUSEHOLD DEBT

Citizens Advice recently published its annual summer silly season story. This year its focus was on the rise of household debt from essential bills, such as rent, council tax and utilities. This is a laudable awareness-raising exercise because we all have experiences of customers who avoid confronting their debts until they become a cause of social and health problems.

Unfortunately, Citizens Advice contrived to shoehorn its campaign against the use of enforcement agents into its message on household debt. In a smartly worded headline it implied that enforcement agents could recover £19 billion of household debt, while every three minutes its staff dealt with a client complaining about 'bailiffs'.

The truth of the matter is that of the £19 billion of "hidden debt", only around 18% is eligible for collection by Certificated Enforcement Agents (bailiffs) and less than that is actually assigned by local authorities to an enforcement agency.

Citizens Advice claims to have recorded a 24% rise in "bailiff problems"

since new regulations were introduced in 2014. These regulations include a duty on enforcement agents to signpost to debt advice organisations and every piece of official correspondence gives details, so the rise in people seeking advice – not necessarily with "bailiff problems" – is a sign that the measures are working.

Of course, a visit by an enforcement agent is always the last resort. Agents are highly trained and must follow a clearly defined procedure to ensure that they collect unpaid council tax and court fines fairly. The fees that are added to the outstanding debt are fixed by Government and anyone owing money to the council will receive calls, letters, emails and texts and an opportunity to set up a payment plan.

The Ministry of Justice will publish its call for evidence shortly, which will ask for substantiated evidence of poor practice, rather than anecdotes and straw polls. This must form the starting point for any reforms. The silly season story was a missed opportunity to open up an informed debate on the challenges of recovering household debt, while at the same time educating people about our industry.

## COMMUNITY SERVICE SHOULD REPLACE IMPRISONMENT IN WALES

The Welsh Government has published a consultation paper on the removal of the sanction of imprisonment for non-payment of council tax. The paper is led by Mark Drakeford AM (Cabinet Secretary for Finance) who is considered to a contender for the Welsh Labour leadership.

Although it is legally possible, this is a direct challenge to Westminster and its legislative powers because the Welsh Government does not have devolved powers to amend the TCE Act or the regulations. Instead it intends to use devolved local government revenue raising powers, which will be introduced in 2019.

The entire paper sets out a strong case for imprisonment for non-payment of council tax for those who wilfully refuse to pay and details the protections in place to help those who cannot pay.

The basis of the argument against a custodial sentence is that the sanction of imprisonment is outdated and a disproportionate penalty for a civil debt. There is a growing support within the advice sector and more broadly to amend primary legislation through the Local Government Finance Act. And yet, a single piece of research by PayPlan and the Institute of Money Advisers is the only evidence that the Welsh Government has presented in support of its case. If approved, it will align the position in Wales with that in Scotland and Northern Ireland.

There are no strong opinions from the Welsh local authorities, but they are likely to support the Drakeford amendments.

CIVEA supports the Welsh Government's view that getting into debt is not a crime. The sanction of imprisonment is an outdated and disproportionate response to a civil debt issue. However, the sanction is intended to be a coercive measure to encourage all citizens of Wales to pay their council tax where this is within their means.

For those who are found guilty of wilful refusal or culpable neglect we propose an alternative sanction of community service. This would be in line with the Welsh Government's support for effective social justice policy. A non-custodial sentence would reduce the burden on the public purse and act as a deterrent to others who refuse to pay their dues. A community service sentence would enable an individual to be penalised for non-payment of council tax while making an alternative contribution to the local community. We do not envisage that this sanction would apply to those identified as vulnerable and with no means to meet their civil obligations.

Based on commercial data from CIVEA members operating in Wales, we estimate that in 2016/17 there were 341 arrest warrants issued by local

authorities with a value in outstanding debt of almost £600,000. Based on collection and repayment rates we estimate that the loss of revenue to Welsh local authorities would far exceed this figure if there were no alternative sanctions such as community service. It is impossible to make anything more than an informed estimate about the impact of removing the sanction of imprisonment and not replacing it with an alternative sanction. However, as our industry figures do not take account of the impact on those who were facing committal action and paid before an arrest warrant was issued, we can reasonably assume that a significantly higher amount of debt would not be paid. As arrest warrants are normally only used where the debtor fails to attend a committal hearing, there will be others who attend in response to the threat of sanctions without having to be arrested.

We have made a strong case to the Welsh Government that to deal with a small but hardcore group of non-payers there needs to be a sanction above and beyond the seizure of goods. However, any alternative sanctions to imprisonment, such as community service, must still be enforced proportionately, fairly and consistently.

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## THE MOST DIRECT YET UNDER USED CUSTOMER CONTACT TOOL AVAILABLE.

Daniel Pearce,  
Business Development Director,  
Telsolutions



Mailed postage is a dinosaur industry that has survived much longer that it should have done for communication to debtors.

As the means of communication, it could not evolve and has been propped up by out-of-date regulations that were written before email was invented.

It is not the first time that a means of communication has become obsolete. I personally started out providing technology for Telex and Fax broadcasting. It was a multi-billion dollar global industry that collapsed suddenly in 2003, only to be replaced by email.

By 2003, SMS text messaging was exploding onto the scene and changing the way that we all communicated socially. This ultimately led to smart phone development and the devices that we all use now.

In debt recovery, there are often questions raised about the security and right party authentication using SMS text messaging to inform customers of debts. If the customer's telephone number is just one digit out and incorrect, then someone else could potentially get the message.

That risk can now be mitigated against. However, an email address is a direct connection to the customer. If the address is wrong, the email will just bounce back undelivered so there is a super low risk.

Thanks to the growth in smart phones and the services we all enjoy and use, customers can easily sell their mobile handset, but they don't necessarily sell their mobile number and certainly don't sell their email address. This makes email the most focused communication channel direct to a customer regardless of their actual location or the postal address you hold for them.

If you analysed what comes through your door now, it is either junk mail or bills that you have to action and store somewhere. Once a year you may get a birthday card or something personal.

In recent years, email as a contact method has largely been ignored for customer communication of invoices and reminders. This is because it is far, far more secure and can be sent directly to the customer, regardless of location.

I have faced some objections from legal advisors who are certainly not experts in communications determining what, if anything, can be sent to a customer. They misunderstand the technology and its objectives. They themselves get bills and invoices. Postage is not necessarily secure and does not prevent someone else receiving and reading content in error - unless it is sent by expensive registered post.

Just about everything sent to customers regarding a debt can be converted to both email or using a tool such as Telsolutions secure SMS WebForms© - all without a single hour of IT project time. By doing so, we can remove 95% of mailing costs per year.

Secondly, making that switch to email will open the door and give an insight into the customer's reaction. Better you know immediately whether a customer has ignored the payment request than weeks

later when they have not responded, saving the business a great deal of time and money.

Have a think about the reminder letters you send to customers now. What you don't know is what the customer did with the letter. Did they stick it on the sideboard for another day? Were they anxious because they are having difficulties and cannot make the payment? Did the named person even open it? Knowing that kind of information from URL tracked reporting is solid gold and can determine your next recovery step.

Finally, there are firms that offer e-invoicing solutions for general invoicing but are not really designed for debt collection. These often involve in-house software and cost a fortune to implement and manage. Generally, these services were designed back to front by firms wanting to make money by software licenses, rather than make something effective, low cost and enable the business to better plan follow-on actions.

*"Thanks to the growth in smart phones and the services we all enjoy and use, customers can easily sell their mobile handset, but they don't necessarily sell their mobile number and certainly don't sell their email address. This makes email the most focused communication channel direct to a customer regardless of their actual location or the postal address you hold for them."*

Sending email reminders from your own servers is not always advisable as this can clog them up with IT demands that they are sent overnight, therefore missing the most tactical times of day to catch the customer's attention. Generally people read emails at typical coffee break times of the day, so why not force the content at those general times to get the best results?

Sourcing customers' email addresses has never been easier. Even in the new GDPR environment, customer email addresses are readily available legally if you know where to look. Providing the content is used in pursuit of debt, then it can be used.

Email as a channel for debt collection can really offer far more than cheap content delivery. It can offer an insight into the customer's activity and allow tactical delivery of content to get the reaction and payment a business is requesting.

Email has been undervalued and underused but is producing excellent results for recoveries. Regardless of the customer's actual location, they can receive and read email. When planning the next change to your reminder letter template, consider email and its potential.

## BEHAVIOURAL INSIGHTS, DATA SCIENCE AND INCOME COLLECTION

Steven Johnson,  
Director,  
Collaborative Change



Combining behavioural insights and data science to improve revenue collection is a relatively new practice. As the pressure to do more with less increases, organisations willing to explore the true potential of this emerging field could significantly strengthen their competitive advantage.

For the past four years we have been working with local authorities and housing associations to explore how the application of behavioural insights and data science can increase the effectiveness of revenue collection activity.

### It's behaviour Jim, but not as we know it.

The concept of 'Behavioural Insights' has grown in popularity over recent years as an evidence-based method of driving positive change. Commonly associated with the concept of 'Nudge', interventions based on behavioural insights focus on making small adaptations to existing process and practice.

These adaptations are based on insights into human decision-making and behaviour, often drawn from the growing field of behavioural economics. Despite the incremental, cost-effective nature of these adaptations, they nevertheless have the potential to generate impressive impacts on collection rates. For instance, some of the headlines from our recent work includes:

- Increased payment rates by 12% by adding just one extra sentence to a letter.
- Increased revenue by 46% by adapting an envelope.
- Increased customer engagement by 24% by redesigning a letter.
- Saved an organisation £1/4 million per year through adaptations to recovery processes.

### Are you sitting on a gold mine?

As both data volumes and processing power continue their exponential growth, the potential to more effectively understand, pre-empt and respond to customer behaviour through the application of data science remains largely untapped.

Whilst there is always a drive for more and better data, many organisations are simply failing to unlock the value of their existing data sets. They are sitting on a gold mine of insight that could be driving more effective collection strategies, tools and practices. For instance, some of the ways existing data sets can drive improved performance include:

**Process Evaluation:** understanding the frequency with which activities are executed and then overlaying the cost of those stages/activities and the resultant customer behaviour. If a process has clear high-frequency and/or high-cost activities that don't have a positive impact on customer behaviour, then we have some hotspots for 'remove or improve' re-design. We recently saved a client £250,000 by identifying activities that were having no demonstrable impact on customer behaviour.

**Behavioural segmentation:** identifying statistically significant clusters of customers that manifest similar sorts of behaviours. If there are certain groups of customers who are behaving similarly to

each other but differently to other groups, you have a platform for a more targeted and tailored approach to managing those customers. For instance, a group of customers who tend to pay late, but pay eventually, would warrant a very different approach to customers who are repeatedly falling into severe debt. They both fall into debt, but they represent very different behavioural challenges and need to be invested in proportionately to their risk. 'One size fits all' is costly and ineffective, behavioural segmentation allows for more intelligent resource allocation and more effective interventions.

**Predictive Modelling:** identifying variables that predict customer behaviours and - crucially - the extent to which they predict those behaviours. Statistical analysis allows us to start building predictive models that forecast shifts at the population, segment and individual level. This work can massively improve decision-making at every level of the organisation:

- Leadership teams can respond to pre-empt overarching population and business trends.
- Strategy leads can better plan for shifts in demand amongst key customer segments.
- Operational teams can deploy more efficient and effective collection and recovery tactics.

### Knowing 'what works' is no longer enough

Behavioural Insights Teams are strongly associated with their use of Randomised Controlled Trials (RCTs) to ascertain the effectiveness of their adaptations. Widely regarded as a 'gold standard' method of building an evidence-base, RCTs (run properly) identify the extent to which customer behaviour can be said to be causally-related to our recovery activities.

Traditionally, an RCT will deliver the following sorts of results:



In this example, we tested different sorts of 'social norming' message against a control group that received the existing communication. Social Norming is a popular behavioural insights technique that basically consists of informing a customer that most people like them are paying / paying on time. This social pressure increases the likelihood that that customer will subsequently make a payment.

As can be seen from the chart, we found that both types of new message performed better than the existing one to a highly statistically significant degree. However, taking these findings at the level of group averages, hides the fact that different customers will respond in different ways. Just because a particular approach works better on average, doesn't mean that that approach will better with all customers. As such, we need to use RCT analyses to progress beyond knowing what works to knowing what work for whom and then target and tailor our activities accordingly.

The potential for behavioural insights and data science to impact positively on revenue collection is immense and largely untapped. If you'd like to join us on this exciting journey, please get in touch.

## POLITICAL SCRAPS

### Ministry of Justice – Oral Questions, 9 October 2018

#### Yvonne Fovargue (Makerfield) (Lab)

1. What assessment his Department has made of the effectiveness of the regulation of bailiffs.

#### The Parliamentary Under-Secretary of State for Justice (Lucy Frazer)

As chair of the all-party parliamentary group on debt and personal finance, the hon. Member for Makerfield (Yvonne Fovargue) is campaigning hard on this important issue, and she is right that bailiffs are not operating as they should in some areas. I was pleased to have the opportunity to meet with the hon. Member for Croydon Central (Sarah Jones) and her constituents, the Rogers family, who sadly lost Jerome as a result of and following some action by bailiffs. We intend to launch a call for evidence shortly to evaluate our most recent bailiff reforms.

#### Yvonne Fovargue

I, too, met the family of Jerome Rogers, and I pay tribute to them for their courage in taking the campaign forward. However, Jerome's case perfectly highlights why the industry needs regulating, because his problems were just the tip of an iceberg. Citizens Advice helped 41,000 people with 90,000 bailiff issues last year - one person every three minutes. The call for evidence relates to rogue bailiffs, but this is not just about one or two wayward individuals; the whole system is rotten. Will the Minister consider the need for an independent body to regulate and police the industry properly?

#### Lucy Frazer

The hon. Lady makes some important points. Officials in my Department recently met with Citizens Advice, StepChange, the Money Advice Trust and AdviceUK to discuss such issues. Last month, they also met the Certificated Enforcement Agents Association. I have met Peter Tutton, the head of policy at StepChange, and he made a statement similar to the hon. Lady's about the need for independent regulation. We will be putting forward a call for evidence and questions will be asked on variety of issues.

#### Kevin Foster (Torbay) (Con)

There will always be difficulties when debts are pursued, particularly when people may genuinely be struggling to pay them. As for the call for evidence, how will the Minister be working with local authorities, which obviously engage bailiffs to enforce council tax debt against those who may be most struggling to pay off such debt?

#### Lucy Frazer

As my hon. Friend highlights, council tax debt is an important area in which we must ensure that bailiffs and enforcement agents are operating appropriately, and we will be looking at the enforcement work that bailiffs do.

#### Dr David Drew (Stroud) (Lab/Co-op)

Will the Minister call for accurate statistics as part of the review? It is difficult to get to the facts in this area, including the number of people who are suffering because of bailiffs, so will she look into that as a matter of urgency?

#### Lucy Frazer

Of course, evidence is extremely important. I should mention that when we reviewed the legislation earlier this year, we found that not all bailiffs act inappropriately. A large number act in accordance with the regulations that we set out, but we need to look at the small number who do not.

#### Chris Bryant (Rhondda) (Lab)

But it is like the wild west at the moment, and often there is no redress when the bailiffs have made a mistake. I have one case in which a family lost their property because the bailiffs went to Treorchy instead of Treherbert. Three years later, the police will not investigate and there is no body to which they can go to get their place back. It is surely time that we acted instead of having yet more consultation.

#### Lucy Frazer

I would be very interested to hear about the case that the hon. Gentleman mentions. There is regulation in relation to bailiffs. For example, they have to be appointed by the court every two years. They come to the court to get their authorisation. So measures are in place to protect people, but we are looking at the issue and we must go further.

#### Marie Rimmer, (St Helens South and Whiston) (Lab)

Last year, my constituency had the third highest rate in the country of complaints against bailiffs. Since 2014-15, Citizens Advice has seen a 74% increase in people seeking help with how to complain about bailiffs. Will the Minister commit to exploring the need for an effective mechanism, as well as the independent regulator, for registering complaints against bailiffs?

#### Lucy Frazer

As I mentioned, we are looking into this, and we will, I hope, very shortly launch our call for evidence, which will look at a number of issues.

#### Sarah Jones (Croydon Central) (Lab)

If he will make a statement on his departmental responsibilities.

The Lord Chancellor and Secretary of State for Justice (Mr David Gauke): Following a successful pilot, we have made the decision to equip every prison officer in the public sector adult male estate with PAVA spray. PAVA can help to prevent serious harm to staff and prisoners alike, as well as being a tool to persuade prisoners in the act of violence to stop. All officers will receive specialist training before being allowed to carry the spray, and it will be delivered only where key worker training has already been rolled out. Key working will allow officers to build more positive relationships with prisoners, support their rehabilitation and manage difficult behaviour.

#### Sarah Jones

I am grateful to the Under-Secretary of State for Justice, the hon. and learned Member for South East Cambridgeshire (Lucy Frazer) for meeting me and the family of Jerome Rogers before the summer recess. Jerome took his own life after aggressive bailiff threats and intimidation. Does the Secretary of State not find it astonishing that charities giving advice about debt, such as Citizens Advice, are regulated by the Financial Conduct Authority, yet bailiffs, with infinitely more power, are not? Will he confirm that this will form part of the consultation?

#### David Gauke

As my hon. and learned Friend mentioned a moment ago, we will conduct a call for evidence shortly. That will be an opportunity to look at all these issues. I express my condolences to the family of the hon. Lady's constituent.



# HOW DEMYSTIFYING DEBT COLLECTION CAN HELP LOCAL AUTHORITIES

Colin Naylor,  
CEO,  
Dukes Bailiffs Limited



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### IMPROVING UNDERSTANDING

Financial transparency rules may have failed to create the ‘armchair auditors’ who were expected to pore over Government finances, but they still present a chance to set the record straight. YouGov research suggests that people continue to make false assumptions about how their taxes are spent. Instead of relying on the public to seek out the truth, councils should take the initiative by sharing financial information in a helpful, clear and targeted way.

### ENCOURAGING OWNERSHIP

The effect of this is that taxpayers gain an understanding of how the system works. They can begin to make connections between service cuts and unpaid bills, or council tax rises and improved local public services, and this encourages them to take ownership of their contribution.

Kent County Council provides us with a great example of this approach at work. When considering extra funding for policing, they went to the public before acting. Their survey found that 68% of people supported tax increases to fund increased police numbers, giving them a clear mandate for action and showing the public that their views and payments matter.

### EMPOWERING INDIVIDUALS

This kind of approach can also encourage people to engage with their finances. Studies suggest that growing levels of personal debt are making people feel powerless. By giving residents a voice on spending and showing them what their payments achieve, councils can help to reduce this sense of powerlessness.

But when debtors are genuinely struggling to pay, councils must also actively help. They can achieve this by taking the time to understand the circumstances of debt and by communicating effectively with debtors to create manageable payment plans. Using the latest payment tools can also make it easier for debtors to pay when the money is there.

### EXPLAINING ACTION

Unfortunately, enforcement action remains an essential tool in ensuring repeat non-payers are held to account. Residents must be made aware of the consequences of non-payment, and their rights and responsibilities in such situations.

Charities like StepChange and Citizens Advice have useful information you can share. But here, too, councils can take the initiative by working to identify those struggling with debt, and those who could pay but don’t. Doing so will create an opportunity for positive intervention, encouraging struggling residents to seek help and limiting debt enforcement action to those it’s designed for: deliberate non-payers.

# CUSTOMER SERVICE & ENFORCEMENT: ARE THEY MUTUALLY EXCLUSIVE?

Carole Kenney,  
Customer Service Director,  
Phoenix Commercial Collections



I would argue passionately that rather than being mutually exclusive, customer service and enforcement should go hand in hand. The challenging environment in which enforcement businesses operate should compel practitioners to strive for higher levels of customer service, precisely because the expectations of the customer are low - they are not expecting to have an enjoyable customer journey.

I can hear the cynics laughing at the suggestion that customer service is a key component of effective enforcement. The cynics need to stop laughing and recognise that a successful modern enforcement business must strive to deliver exceptional customer service and by customer, I mean debtor.

My cynical friends would no doubt state everyone knows that no one is happy when a case reaches enforcement stage - particularly in the parking arena, with passions often running high. Accordingly, customer service initiatives are merely spin as the debtor will always be unhappy.

The cynic may believe that renaming the debtor as a “customer” pays sufficient lip service to customer service in the enforcement sector and anything else is pointless as complaints are inevitable.

A negative approach to enforcement action, one that treats all debtors as if they are scheming and persistent evaders without even a passing acquaintance with the truth, will inevitably lead to conflict and complaint.

Enforcement action is a necessary and vital remedy for local authority creditors, particularly in an era of austerity when council budgets continue to be cut. However, it cannot go unnoticed that many of those who do not pay simply cannot afford to or are vulnerable in some way. Many simply need a little time or a repayment solution which does not create additional debt or hardship.

Whilst the new enforcement regime introduced in 2014 brought much needed clarity and simplicity to the enforcement process together with fee transparency, to achieve the targeted level of success during the compliance stage required a cultural change. This was a change that recognised debtors as customers and which required organisations to design new business processes that encouraged engagement, alongside developing more accessible payment and communication channels.

The challenge was to deliver outstanding collections for creditors from those who “can pay” whilst ensuring the ability for staff to identify and support those experiencing poverty or deprivation. The 2014 reforms sought to provide extra protection for the vulnerable and led to significant investment from the enforcement industry in developing new policies and training programmes for staff. With differing views on the definition of vulnerability, it was important to gain a better understanding of the varied situations we needed to consider.

To gain this insight and encourage early compliance, I was keen to work closely with a variety of advice sector partners, sharing best practice and working collaboratively. It was clear to me that merely signposting customers via letters to advice agencies is not sufficient when considering many of our customers simply do not open their letters.

In addition to enhancing training and adopting new techniques and referral strategies to help those identified as vulnerable, I also

recognised that the majority of customers experiencing financial hardship do not simply owe the debt held by the enforcement agency. On average these customers have at least six other debts and therefore it is important for the customer and the enforcement agency/creditor that a sustainable repayment plan can be agreed which takes into consideration other debts too. Perhaps this wasn’t a revelation as such, but it was a lightbulb moment in understanding that by offering a holistic solution to a customer’s financial situation, they are more likely to pay their debt in full, whether classed as vulnerable or not.

Whilst a sustainable re-payment plan may have to be over an extended period, it undermines the criticism that local authorities are aggressive creditors. It also ensures that customers negotiate a solution that addresses all of their debts and avoids the detrimental impact of recovery action both for the customer and on other indirect Government resources, such as the NHS and housing costs associated with deprivation and poverty.

This approach negates the calls to replace “bailiffs” with “ethical enforcement” as we are already delivering an ethical service to our customers on behalf of our clients. A service that importantly does not cost our clients, or their residents, unlike the commission payments that are payable to debt collection agencies.

Of course, exceptional customer service is only possible with the appropriate organisational values and can only be achieved with the commitment of staff, from the bottom to the top of a business. To achieve this, you need to commit to a culture of continuous improvement and open your business to independent assessment and evaluation.

A worthy accreditation I have personally worked with and achieved is the Customer Service Excellence Standard (previously the Charter Mark). I was particularly drawn to this assessment as, in addition to an extensive desktop review of business processes, systems, documentation and performance records, it includes personal interviews with staff, clients, partners and customers. It was these personal interviews which demonstrated that customer service excellence in the enforcement industry was the ability for staff to be compassionate and listen to individual circumstances then find a solution to help break the cycle of debt rather than simply collecting the money at any cost.

Rather than assuming all customer (debtor) feedback would be negative, I commissioned a full survey of customers who had direct contact with my call centre or enforcement agents and this is now a regular quality control exercise. The last comprehensive customer survey achieved a rating of either satisfactory or highly professional from 86% of respondents, which is evidence that not all debtors want to complain. They want to be treated professionally, with courtesy and respect.

Whilst it would be naïve to expect the customers of an enforcement business to experience the same excitement and joy that comes from making a purchase in a consumer context, whether the customer is a can pay, could pay or won’t pay, they should at least feel: “That wasn’t so bad.”

Through designing collection processes with the needs of the customer as a priority and through delivering exceptional customer service, we can reduce the behavioural and procedural issues that lead to complaints and deliver greater and more effective early compliance for the benefit of customers and clients. These benefits are vast improvements in early engagement rates and early stage payment arrangements and significant decreases in payment instalment defaults and complaints.

This demonstrates that enforcement and customer service are not mutually exclusive, and that exceptional customer service delivers higher collections for clients with less complaints, which is an outcome that all stakeholders should support.

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Mike Marrslan MacDonald, Colin Naylor, Andy Rose,

Paul Sharpe, Paul Whyte, John Mason, Martin Stanford.

## Executive Meeting 26th September 2018

We would like to thank our guest, Tessa Wearing from the Ministry of Justice (MoJ) for joining our last meeting and briefing council members on the imminent call for evidence. Whilst the details are not yet finalised or published, it was helpful to gain an understanding of the likely evidence the MoJ would like to see to determine how successful the 2014 reforms have been.

We are grateful to members for their continued support in providing data for our information hub. There may be additional information required once the call for evidence is published and we appreciate your prompt submissions at this time to ensure we provide a fully substantive response to the MoJ.

The Code of Practice and Complaints Procedure working groups are progressing well and we look forward to sharing the proposed changes in due course. If you would like to contribute to the working groups please contact [admin@civea.co.uk](mailto:admin@civea.co.uk)

Our members meetings are very informative and a good opportunity to network, share thoughts and discuss important issues so please do come along or feel free to send any questions/thoughts ahead of Executive meetings for feedback. Forthcoming dates can be found below:

**Friday 14th December 2018** : Member Meeting followed by Christmas lunch

**Wednesday 13th February 2019** : Executive Council Meeting

**Wednesday 10th April 2019** : AGM (all members)

Our next meeting is followed by our annual Christmas lunch on 14th December 2018. Please contact [admin@civea.co.uk](mailto:admin@civea.co.uk) to confirm your place.

## CIVEA Examination

Next examination dates are as follows:

**Tuesday 27th November 2018**

If you are interested in sitting the CIVEA examination please contact [admin@civea.co.uk](mailto:admin@civea.co.uk) who can provide more information and also alert you to future examination dates as these become available.

Congratulations to the 30 individuals who has passed their exam in the last quarter.

A special mention goes to those who achieved over 90% pass mark:

Robert Hunt 92%

Lewis O'Neill 91%

Samuel Brown 90%

## Enforcement News

We want to hear from all who have an interest in the enforcement sector and welcome editorials from members and non-members, inside and outside the industry. If you would like your views published in Enforcement News or would like to advertise in the magazine then please contact us at [enfnews@gmail.co.uk](mailto:enfnews@gmail.co.uk). Future deadline and publication dates are below:

Edition	Deadline for Adverts & Editorials	Publication Date
Winter 2018	14/12/2018	11/01/2019

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# PROCUREMENT OF ENFORCEMENT SERVICES: BREAKING THROUGH THE CONUNDRUM?

Jeremy Brim,  
Managing Director,  
Growth Ignition



As a bidding professional who has played a part in the enforcement market working for a couple of companies in the past, I continue to keep tabs on how the procurement of enforcement services has evolved. With its set fee structure and highly competitive environment, it seems to lead the way in challenging and pushing the envelope in public sector procurement. It's the most challenging market I have experienced.

The current dynamic is fascinating. In return for continuing to study and learn from your market, using it as a case study to refer to when consulting in others, I thought I would share with you some thoughts and observations as an impartial bystander. Hopefully it will be useful for buyers and suppliers alike.

The market trends can be identified as follows:

- The supplier base for enforcement continues to narrow through acquisitions. Larger and larger providers have the scale to form large specialist bid teams, sponsor a range of events and forums and employ PR agencies to help influence buyers.

- SME providers, and certainly new entrants, on the other hand struggle to compete. This dilutes the opportunity for a genuinely local supplier base disrupting the established players through innovation – a counterintuitive position for public sector buyers against a backdrop of obligation to drive social value and enterprise in their communities.

- Lastly, and most acutely, councils have struggled for many years with the tricky procurement of enforcement services. It must be the market with the most challenged and failed procurement exercises in the UK. The wasted effort has been huge for both clients and suppliers alike. Appointing a small number of suppliers when 10 could do the job within a tiny tolerance of each other, with bids received with little genuine points of differentiation, is a difficult situation to manage. Suppliers appear to heavily 'game' the limited commercial opportunities they are given and can exaggerate claims throughout submissions. This has led to a difficult conundrum for procurement functions and service users alike.

I outline below some potential solutions:

## Engage with the supplier base to head off challenges

Local authorities should release their full Invitation to Tender (ITT) for review well in advance of the procurement taking place. They should properly test it with bidders through soft market testing and through engagement with CIVEA, inviting feedback and working through issues before the procurement goes live.

This would temper any challenges, as bidders should have raised any issues prior to release. I would also advocate 'mid-bid' conferences or meetings with bidders half way through the live tender period, as seen widely in construction bidding. This provides opportunity for queries or issues to be tackled prior to submission.

## Keep it simple

Procurement functions should avoid the urge to build unwieldy ITTs with lots of questions and complex scoring criteria. The more quirks, the more opportunity for issues and challenges. In other similar situations I have seen mini-bid ITTs used through frameworks with

the same set of six to ten questions and straightforward scoring criteria used every time. This allows bidders to continuously improve and reduce the complexity and cost of bidding. Both YPO and Rotherham should consider this.

I don't believe direct appointment derives best value for an individual council. In these times of sharp focus on budgets and outcomes and with technological progress marching on day by day, there should always be mini-competitions to drive innovation in that moment, throughout the lifetime of a framework.

## Get a grip on social value

With the Social Value Act being so woolly and clients' policies being in their infancy, I would propose two simple measures for this complex and quite grey area:

1. Divide the procurement into lots. Have one lot for large national providers and one for local SMEs, divided by turnover evidenced in their accounts. Consider appointing three large companies and one small one.
2. As a market (perhaps through CIVEA, IRRV or the LGA), agree a universally recognised measurement system of Social Value and publish the results. This is becoming fairly common in other markets. Providers such as the Social Value Portal could help: <https://socialvalueportal.com>

## Evidence and audit

Councils need to be confident that the information they receive is accurate, that the standards they procure at are maintained throughout the lifetime of their agreements and that they continue to drive performance from suppliers. Requesting and verifying evidence diligently during tendering and continuing to audit suppliers appropriately in delivery is key. Any reputable provider should have no issue in complying.

## I would advocate in tenders:

- All individual enforcement agents used on work should be named in tenders and evidenced with copies of their certificates in an appendix to the bid submission. Any changes of personnel in delivery should be notified to the client.

- Collection rates quoted in bids should be evidenced by references received directly from similar clients.

- Any commitments made in bids should be logged in a commitments' register submitted with the bid, signed into the contract and quarterly reviews should be delivered to measure against progress.

- A great initiative that I recall Liverpool City Council undertaking was to go and inspect bidders' contact centres during the bid process. This verifies claims made on capability and capacity.


## Also into delivery I would propose:

- A league table approach to performance based on a simple score card of collections by stage, complaints, etc.

- Random calls where agents have to report to council offices in 30 mins and/or provide location data.

- Unannounced visits to providers' offices to verify and audit delivery standards and capacity.

I believe that implementing at least some of the points above will help break down some of the conundrum of enforcement procurement and help to drive the improving trend in the reputation of the industry.



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