

Appendix 3 – CIVEA Response to ACORN Manchester/Debt Justice

Thank you for the opportunity to respond to the ACORN paper calling for an end to civil enforcement of Council Tax debt in Manchester.

CIVEA represents approximately 40 companies that make up more than 95% of the entire enforcement industry. As local government finances come under continued pressure, the work that our members undertake is becoming increasingly important as a major source of revenue. Uncollected tax debts and fines means less money for services and higher bills for residents who do pay on time.

Civil enforcement prevents losses to the public purse of an estimated £12 billion from unpaid Council Tax, criminal fines, and unpaid penalty charge notices.

The ACORN briefing paper makes numerous generic statements from a range of sources that evidence a national economic crisis. We do not dispute this, but it cannot be attributed to Council Tax collection. Therefore, it is a matter for central government if it chooses to reform the Council Tax system.

The background notes that the section titled A False Economy seeks to link costs of over-indebtedness to costs to the public purse. Again, we do not dispute this. We would also argue that there are many other socio-economic factors that create pressure on local government finance, such as climate change and efforts to improve the environment. We do not dispute that health and well being is directly linked to financial deprivation. However, civil enforcement is not the architect of problem debt. In fact, with 60% of local authority expenditure on supporting vital services, such as housing, adult and child social care and health services, we would argue that Council Tax recovery is essential for supporting vulnerable households.

Contrary to ACORN's view, support for Enforcement Agents remains high. A survey conducted by YouGov in 2020 found that 65 per cent of people said non-payment of Council Tax puts services, like social care, at risk. More than half of those polled (56 per cent), said councils should use bailiffs [sic] to collect money from people who can pay but won't. This was more than twice the numbers who said councils should not use bailiffs [sic], at 26 per cent. Almost half of those surveyed (42 per cent), said they were worried that failure to use bailiffs [sic] would lead to fewer people paying their Council Tax. Only 5% said it would lead to improved compliance.

The government and others want regulations to address the treatment of the vulnerable, but the cost of living crisis means that payment for essential services is required from an increasing number of people in vulnerable circumstances. This is not a consequence of Council Tax collection policy.

Therefore, the attempts by ACORN to contrast the costs of supporting vulnerable residents with the costs of enforcement are spurious at best.

This leads to the only relevant section in the briefing paper, which refers to non-payment.

There is no question that priority debts are becoming unmanageable for a significant minority of people, especially where these form multiple debts i.e. recurring debt not collected in previous years. Creditors and charities are aware that a new cohort is emerging of first time debtors struggling with energy, water, rent and Council Tax bills.

Consequently, enforcement firms are required to invest more in identifying, analysing and communicating with people who fall into the “hard to collect” category. The civil enforcement process has evolved significantly, especially since the pandemic, and the Taking Control of Goods National Standards no longer reflect common practice.

Evolution of the Compliance Stage

Since 2014, the Compliance stage has been transformed by firms seeking to engage debtors, identify vulnerability, assess income and expenditure, maximise income and benefits, profile for propensity to pay, run benefits checks and ensure repayments are sustained.

The Compliance Stage at which around 40% of debt is successfully recovered involves data cleansing, case matching and linking, DVLA checks and financial profiling. Using debtor’s live financial information such as: Open Banking, (status of credit accounts), pending patterns & behaviour, payday dates & frequencies, firms can build up a financial profile of an individual and assess propensity to pay. At this stage, the objective is to engage with people. It may involve a call or even a visit from an enforcement agent to ascertain a debtor’s circumstances without any taking control of goods action. There may be letters and an outbound communication campaign leading to interventions for vulnerability, such as welfare support offered by council services, debt advice and suspension of debt recovery.

Our own data shows that around 32% of Council Tax cases and 5% of cases passed for enforcement are not pursued. This may be after intervention by the council client, where an enforcement agent traces a new address and/or new occupier saving the council both time and money; and cases where vulnerability had been identified and it is deemed not appropriate to pursue enforcement action. Cases in which an individual has no means to pay and no goods of any value account for approximately 39% of cases for Council Tax.

Almost half of debts are recovered in full or through payment arrangements at the pre-visit stage.

In around 24% of unexecuted cases for Council Tax Enforcement Agents are unable to locate the debtor after trace enquiries.

As a comparison commercial debt collection agencies (DCAs) receive comprehensive personal details, such as date of birth; bank details; CRA information; financial and payment history before they are able to undertake debt recovery for commercial creditors.

Supporting vulnerable households

Enforcement agencies have an increasingly challenging role as intermediaries in debt resolution, acting on behalf of creditors and seeking satisfactory resolution via debtors. They aim to respond to individual needs whilst appropriately seeking to successfully resolve debt through effective engagement and flexible solutions. Our members invest significant time and resources in getting this right for all stakeholders – clients and customers as well as the broader community.

All CIVEA members have fully trained welfare teams dedicated to identifying and supporting people who are vulnerable or in genuine financial hardship. These teams receive additional training and support to ensure they are prepared to manage the most challenging conversations and guide individuals to a positive outcome. They use the same technology-based tools as DCA's – such as credit reference checks and affordability assessments - to highlight behaviour that may suggest vulnerability and the need for additional care.

This work includes partnering with debt charities, providing vulnerability training and using technology-enhanced repayment processes to ensure that vulnerable people are protected, and positive outcomes for both local authorities and taxpayers. Industry standard affordability calculations are used to ensure consistent repayment policies, and individual agents cannot use their discretion. Budgeting tools identify any benefits an individual could apply for and whether the individual is overpaying for other services, such as gas and electricity.

Individuals who are identified as potentially vulnerable are supported and receive communications with enhanced and tailored signposting that links to internal welfare teams and external debt advice. Self-serve apps and web portals encourage people to manage their debts remotely and more autonomously. Providing a choice of communications channel based on preference ensures services are fully accessible 24/7. Benefits and budget calculators often identify unclaimed benefits, resulting in a repayment plan being agreed.

More serious instances include liaising with Social Services where we discover safeguarding issues concerning children. Discovering squalid living conditions and liaising with the Councils tenancy officer to arrange a visit to the premises. Assisting those who are contemplating ending their life, not necessarily solely due to a debt but our team provide a listening ear and offer solutions and signpost where they can get support.

Mental health first aiders are embedded in welfare teams to assist with the increasing amount of vulnerability surrounding mental health. The examples below show how people identified as vulnerable are supported by Enforcement Agents. These are not exceptional and are daily occurrences for welfare teams.

Croydon Parking advised they suspected vulnerability. An enforcement agent visited the following day and discovered that the customer recovering from a stroke. The firms' vulnerability team researched support for stroke victims in Croydon and passed details to the customer. The enforcement agency recommended to the council that the debt be written-off and this was agreed. Parking Services reported

their concerns to Social Services who took over the customer's case. The following is an extract from a press release issued by Croydon Parking Services.

"This is exactly the kind of partnership working we are trying to achieve and shows how good communications can improve the customer experience."

A firm's welfare team was contacted by a customer who was suicidal. The customer was dealt with by the team manager. The following email was subsequently received from the customer the content of which speaks for itself.

"I just want to say a big thank you to [the team manager] who has literally changed my life who has been exceptionally helpful. I am actually tearing up as I write this. I currently suffer with depression and suicidal thoughts due to the huge amount of debt I currently am in, I was about to take my life but XXXX ensured that my debt was being dealt 4 with and she would help me the best way she can – and she did just that! I have been finding it hard to be a single mother and also having dealt with domestic violence and coming out of that I already had depression caused from that which the debt my ex partner got me in contributed to it in a very big way! I make £645 a month and have been out in to debt of over £10,000. XXXX is amazing and I don't think an email explaining how great she dealt with my case is enough I feel like she needs something more than that because she saved a life without knowing. Please give her the well deserved reward deserves on my behalf and thank you again for hiring such a supportive and understanding person who did more than just exceptional customer service but she helped a young woman who is struggling financially to see another day and see that things can get better. Honestly not enough words to express how grateful I am, and I will never forget her."

The following is an extract from an email from a Domestic Abuse Outreach Worker:

"Further to your email. Thank you so much for your email. May I take this opportunity to say thank you. It is really humbling to see another organisation, being so understanding and allowing a victim of abuse some respite from her situation. Many thanks, Minaz"

The following is an extract from an email from a debt adviser in a national charity:

"I want to thank you on behalf of my client for assessing and understanding his circumstances and vulnerability. I and my client are extremely grateful that you have agreed to send the debt back to Council."

Affordable Repayment

It is in the interest of all parties to agree on affordable payment arrangements at an early stage. The enforcement fee structure is designed for this purpose and to avoid additional enforcement costs being added to the outstanding debt.

Increasingly, local authorities are following the examples of enforcement agencies and issuing SMS 'nudge' texts to their customers to remind them of their forthcoming instalment or to provide them with a digital receipt. Similarly, local authorities are emulating enforcement agencies and providing their customers with a 'MY

ACCOUNT' function enabling them to check their account status, make a payment or make contact.

However, there are challenges with affordability assessment for debt owed to public bodies. Local authorities means-test their residents at the liability stage. Although they can offer tax reduction schemes, they cannot choose who can and cannot make use of their service and make risk assessments to reduce the chances of people missing payments.

The terms of payment plans are agreed between enforcement firms and their local authority clients, but are often criticised by debt advisers. However, the income and expenditure model is misconceived in the way it is used by debt advisers. Often a debt adviser will record an individual's income details against the outgoings of an entire household, despite there being other working adults in the house. ⁵ We also encounter inflated expenditure statements to show less disposable incomes. This undermines the integrity of the process and requires each statement to be scrutinised and verified by enforcement staff. It must also be recognised that a simple statement of income and expenditure does not take into account other assets. It is not uncommon for Enforcement Agents to encounter people in debt that have no disposable income but a wealth of assets. This is part of the specialist work that distinguishes enforcement from standard debt collection.

Alternative debt recovery

The ACORN briefing paper opposes the use of Enforcement Agents to collect Council Tax, but offers no alternative other than "an ethical and financially exclusive alternative".

The only possible alternative would be to consider using private debt collection agencies (DCAs), which are used by commercial businesses, financial institutions and utility companies.

Debt collection practice in the commercial sector is often held up as an exemplar for its engagement with the money advice sector, communication with customers, support for vulnerable people and affordability assessments for repayment plans. All of these practices can be seen in the enforcement industry and, as in private debt collection, have become integral to daily operations.

Unlike traditional debt collection, enforcement firms receive very little information about the individuals who owe debt. In most cases, the courts provide the name and address, the type of debt and the amount owed. The rest of the information is extracted from data sources and is a cost borne by enforcement firms, not the public purse.

In terms of value for money to local authorities and central government, our records show that overall collection rates have declined as a consequence of the pandemic. Average Council Tax collections by Enforcement Agents were at almost 30% in 2018 but have dropped to 21% in 2022.

However, collection rates at the Compliance Stage (pre-visit) have held strong as a result of enforcement firms' investment in technology and focus on early engagement. Around 40% of public debt is recovered without an enforcement visit. Such high returns for hard to collect debt would be considered exceptional by DCAs, which average nearer 10% recovery rates.

In response to pressure to reduce the use of Enforcement Agents some councils have trialled alternative collection methods. For example, Hammersmith & Fulham trialled the use of DCAs and discovered that the charges it incurred for recovery are not justified by the small sums of debt that the DCAs recovered.

The DCA charges included the direct costs of recovery plus 7.5% of the amount recovered, as opposed to civil enforcement that has no public cost. There were charges for the entire collection process, so the pricing structure was based on agreement and not regulation as with standard civil enforcement contracts. In August 2019, Hammersmith & Fulham Borough Council responded to a Freedom of Information request on collections for the period March 2017 to April 2018 and March 2018 to April 2019. The response showed that the council only passed 1,684 cases for collection and 40 percent of debt was recovered. Given that this was the low-hanging fruit and not hard to collect cases that would require 6 enforcement action, the results were poor. There was a cost to taxpayers, but the result was no better and made a strong for the use of Enforcement Agents.

In common with DCAs, enforcement agencies are providing software and apps with functions to help people self-manage their accounts, check their account status, make a payment or make contact to discuss debt resolutions before the enforcement stage. Latest developments involve the use of AI through chatbots to meet demands from people who prefer to self-manage their debt without speaking to a contact centre.

Enforcement agent visits break the rules

We strongly refute the allegations by Citizens Advice that Enforcement Agents are acting in contravention of regulations and the Ministry of Justice National Standards.

Taking the facts alone, there is no shred of evidence in the research provided by Citizens Advice to prove that enforcement action was not conducted according to The Taking Control of Goods Regulations 2013. The only evidence was that those conducting the research have a poor knowledge of the legal powers afforded to Enforcement Agents. Anyone who does not pay their Council Tax and does not respond to numerous letters, calls and texts from the council and enforcement firm, should expect an enforcement visit to their home.

Given that the case study inaccurately states that an enforcement action is confirmed to have broken Ministry of Justice rules, we would need to review all the evidence to ensure that Citizens Advice has correctly interpreted its anecdotal surveys. We appreciate that enforcement action can be distressing, but it is the ultimate sanction available to councils to recover £5 billion unpaid debt that funds essential services, such as adult care, fire and police services and even pothole repairs and street lighting.

Our own evidence based on the experiences of frontline agents shows that the regulations introduced in 2014 are meeting their original objectives with: fewer customers receiving doorstep visits, and therefore incurring smaller debts; low complaint levels due to the simplified process and fixed fees; improved awareness and training in all aspects of vulnerability and the development of specialist staff; and significant investment in technology to maintain professional standards within the enforcement sector.

I wrote to Dame Clare Moriarty, chief executive of Citizens Advice in March (see letter attached). Despite numerous reminders, I am still waiting for a reply. The lack of response suggests that the research would not stand detailed scrutiny and is statistically invalid. I suspect that this applies to much of the research sources cited by ACORN, which are subjective.

Accountability

As stated previously our recent survey with YouGov found that 65% of the public are concerned that vital public services like social care will be put at risk if people who are able to, do not pay their Council Tax. Two-thirds believe the costs of collection of unpaid CT should be added to their debt. Over 80% think non-payment would get worse or continue if councils could not use bailiffs [sic].

The highly competitive market is the most effective way of ensuring agents and enforcement agencies uphold standards. With firms competing fiercely for local authority contracts, there is a strong emphasis on conduct and compliance. However, the industry has led ongoing reform. For example, the establishment of the Enforcement Conduct Board is an industry funded independent oversight body for the enforcement industry. It originated from CIVEA and is the next step on a path of reform, which began with the implementation of new regulations in 2014. CIVEA members also adhere to an independently monitored code of practice, which was revised in 2019. The code builds on the existing industry standards, goes beyond the statutory regulations and complements the government's National Standards. It promotes responsible and fair engagement and is reviewed regularly to ensure accountability is maintained and standards upheld.

The Enforcement Conduct Board (ECB) was born out of plans we were developing for independent supervision and monitoring of Enforcement Agents. It was launched one year ago, with a mission to ensure enforcement action remains accountable and fair. The ECB was devised through a collaboration between the enforcement industry (including CIVEA) and debt advice charities. This ensured that its objectives were shared by both sectors and its targets were realistic.

Finally, the annex includes testimonials from Manchester residents which are entirely subjective. We are not given the source, but we must assume that they are verified by ACORN. However, there are no recent cases (i.e. Post-pandemic) and no context for us to be able to judge whether the enforcement action in each case was justified.

For example, how old was the debt being enforced? How many times has the resident broken payment arrangements? We can assume that more recently

Manchester residents have had less cause for complaint. There is much more that can be evidenced in support of civil enforcement as the most responsible, fair and efficient way to recover unpaid Council Tax, but I hope that this response is helpful. If you require answers to specific questions, please come back to me.

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