

Appendix 4 - Additional submission from Debt Justice

Why Manchester City Council Should End Bailiff Use (Addendum)

This supplementary note contains additional supporting evidence to our original submission to the Manchester City Council feasibility study into ending the use of Enforcement Agents in the collection of Council Tax.

National Regulatory Failure

Due to failures of national regulation and the poor practice that is widespread throughout the bailiff industry, Manchester City Council cannot guarantee that their residents are treated fairly by bailiffs when contracting them to collect Council Tax arrears on their behalf.

There is no independent regulatory body for Enforcement Agents in the UK ⁱ and research from Citizens Advice shows bailiffs are breaking the rules on a 'massive scale'. ⁱⁱ

The bailiff industry itself, represented principally by the trade association CIVEA ⁱⁱⁱ, has been unable to regulate itself and raise standards sufficiently, which has prompted the creation of the Enforcement Conduct Board.

We are hopeful that the Enforcement Conduct Board ^{iv}, which has been set up to provide more independent oversight of the industry, can raise standards. At present though, the board lacks the statutory powers needed to compel all Enforcement Agents to adhere to high standards. As a result, we cannot predict if, or when, bad practice in the industry will be eliminated.

Lack of Accountability

We take Manchester City Council at their word when they tell us that bad practice from the bailiffs they use is investigated. However, the complaints and accountability system for people that face bailiff malpractice is confused and broken at a national level.

Manchester City Council have told us that incidents of bad practice should be reported to them, and if law breaking has occurred, it should also be referred to the police.

Guidance from the UK Parliament ^v suggests people in debt should complain to the bailiff firm that the agent works for in the first instance. It is advised that if the debtor is unhappy with the outcome, they should then refer their case to CIVEA.

There are many types of bailiffs that people in unmanageable debt may encounter. If the bailiff they encounter is a High Court Enforcement Officer, then the complaint system is administered by a separate body, the HCEOA. If the bailiff they encounter is a county court bailiff, or civilian enforcement officer, people in debt are advised to write to the court concerned. ^{vi}

In an acknowledgement of the broken system of accountability, the Enforcement Conduct Board say on their website that “One of our goals will be to simplify the multiple existing routes for escalating complaints”.^{vii}

People in debt have no choice about the enforcement firm appointed to collect their debts from them. People in debt are often vulnerable and under severe emotional and financial pressure, making the complaints system impossible for many to navigate at a time of crisis.

The Centre for Social Justice note that low levels of complaints are not necessarily an accurate way of understanding how widespread incidents of rule breaking are.^{viii} This is because people in problem debt are often experiencing additional vulnerabilities.

For reasons set out above, there is a high chance that incidents of rule breaking may never be reported to a creditor. That is why we say that whilst we do not doubt Manchester City Council’s ambition to follow up reports of rule breaking, we have no faith in the system of complaints as it is currently configured.

Anecdotally, ACORN Manchester has been approached by people affected by poor bailiff practice. We have encouraged them to make complaints directly to the council, however they do not have trust that anything useful will result from the process.

Bailiff Fees and Profits

Despite recent reports of bailiff companies making large profits^{ix}, the Ministry of Justice has proposed increasing fees by 5%.^x These fees will further increase the cost of bailiff action for people in debt across Manchester and beyond. According to the consultation this is to ensure “...enough revenue for EAs and HCEOs to run a profitable business, whilst seeking to protect people in debt from disproportionate costs”.^{xi}

The Dehayen Review^{xii} found that the bailiff fee structure was likely to deliver profit margins of 10%. However, commercial sensitivity and opaque evidence gathering processes mean that it is difficult to say how much profit bailiff companies are currently making and from which collection activities.

In short, we know bailiff companies have a commercial incentive to continue to collect Council Tax debt. The council cannot say with a high degree of accuracy how large the profit margin being extracted from their residents is.

Conclusion

All the evidence points to the fact that bailiffs make a place poorer, have a detrimental impact on peoples’ mental health and do not drastically improve collection rates.

Manchester has always been seen as a socially progressive city - one that has dared to be different, especially when its population has faced difficulties.

The cost-of-living crisis is one of these moments and it is heavily impacting on the lives of communities across Manchester. We call on this committee be on the right side of history and ban the bailiffs in favour of more inclusive and fairer methods of collection.

Footnotes i House of Commons Library, "Enforcement officers (formerly known as bailiffs)," House of Commons Research Library, Feb. 09, 2023.

<https://commonslibrary.parliament.uk/research-briefings/sn04103/> (accessed Nov. 29, 2023). ii W. Eichler, "LocalGov.co.uk - Your authority on UK local government - Bailiffs breaking rules on 'massive scale', says charity," www.localgov.co.uk, Mar. 22, 2023.

<https://www.localgov.co.uk/Bailiffs-breaking-rules-on-massive-scale-says-charity/55864> (accessed Nov. 29, 2023). Please see submissions by the Money Advice Trust and Christian's Against Poverty for further evidence. iii Trade associations, by their very nature, are not well placed to investigate rule breaking in an objective manner. iv

<https://enforcementconductboard.org/about-us/> v House of Commons Library, "Enforcement officers (formerly known as bailiffs)," House of Commons Research Library, Feb. 09, 2023.

<https://commonslibrary.parliament.uk/research-briefings/sn04103/> (accessed Nov. 29, 2023). vi

House of Commons Library, "Enforcement officers (formerly known as bailiffs)," House of Commons Research Library, Feb. 09, 2023. <https://commonslibrary.parliament.uk/research-briefings/sn04103/> (accessed Nov. 29, 2023). vii

<https://enforcementconductboard.org/complaints/>

viii The Centre for Social Justice, "TAKING CONTROL FOR GOOD Introducing the Enforcement Conduct Authority," 2021. Page 26. Accessed: Nov. 29, 2023. [Online].

Available: <https://www.centreforsocialjustice.org.uk/wp-content/uploads/2021/07/CSJJ9052-Taking-Control-For-Good-INT-210720-WEB.pdf> ix

S. Das, "Bailiffs making record profits collecting debt for councils in cost of living crisis," The Observer, Aug. 12, 2023. Accessed: Nov. 29, 2023. [Online]. Available: <https://www.theguardian.com/business/2023/aug/12/bailiffs-making-record-profits-collecting-debt-for-councils-in-cost-of-living-crisis> x

Ministry of Justice, "Review of the Taking Control of Goods (Fees) Regulations 2014," 2023. Accessed: Nov. 29, 2023. [Online]. Available:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1170373/fee-review-response.pdf xi

Ministry of Justice, "Review of the Taking Control of Goods (Fees) Regulations 2014," 2023. Accessed: Nov. 29, 2023. [Online]. Available:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1170373/fee-review-response.pdf xii

A. Dehayen, "Enforcement Agents Fee Structure Review Enforcement Fee Structure Review Proposal for a new Enforcement Fee Structure and analysis of the issues and options A report by Alexander Dehayen for the Ministry of Justice," 2009. Accessed: Nov. 29, 2023. [Online]. Available:

https://consult.justice.gov.uk/digital-communications/transforming-bailiff-action/supporting_documents/enforcementfee%20structurereview.pdf