



BRIEFING PAPER

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Enforcement officers (formerly known as bailiffs)

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Summary

Instructing an enforcement agent (still commonly referred to as a bailiff) is one method of civil debt enforcement. Different enforcement agents are used to collect different types of unpaid debt on behalf of creditors (including local authorities, government departments and private individuals). Some enforcement agents are officers of the court, others are self-employed, some are employees of a private debt collection company. The rules governing the regulation of bailiffs were completely overhauled on 6 April 2014.

This Library paper provides an outline of the different types of enforcement agents and their regulation. It also provides information on the current Ministry of Justice review of the regulatory regime and the separate Justice Committee inquiry. Importantly, this Paper attempts to answer some of the most commonly asked questions about "bailiff" action.

It is important to stress that if an enforcement agent has already notified a debtor of their intention to visit their home, the debtor should seek proper legal advice as a matter of urgency. An outline of sources of advice is provided in Section 5 of this paper. A separate Library briefing paper, [Legal help: where to go and how to pay](#) (CBP3207), may also be of interest.

1. Introduction to enforcement agents

1.1 What is an enforcement agent?

Enforcement agent (or officer) is now the official name for bailiff since revised regulations in 2014, although the term “bailiff” is still commonly used. In a nutshell, enforcement agents are used to collect unpaid debts on behalf of creditors (including local authorities, government departments and private creditors through County Court judgments). They have the legal power to remove and sell goods via warrants and writs of control (for County and High Courts respectively) to cover the debt and fees charged to the debtor.

Enforcement agent is now the official term for bailiff.

It should be noted that the High Court is one of the two primary civil courts which deals with non-criminal cases and usually involves financial claims. The other civil court is the County Court. Cases involving higher value financial claims are dealt by the High Court, whilst the County Court handles smaller claims.

1.2 Types of enforcement agent

The law relating to bailiffs is complex, not least because there are different kinds of enforcement agents, namely:

- Certificated enforcement agents
- High Court enforcement officers
- County Court bailiffs
- Civilian enforcement officers

Different enforcement agents are used to collect different types of debts. Detailed information on each is provided below.

Certificated enforcement agents

Certificated enforcement agents (formerly known as certified bailiffs)¹ are used to take control of goods and act on a warrant issued by the County Court for debts such as:

- rent arrears;
- council tax arrears;
- non-domestic rates;
- parking fines; and
- child support agency arrears.

An enforcement agent is certificated by a County Court judge.

Certificated enforcement agents are normally self-employed or employed by a private debt collection company (i.e. they are not

¹ Pursuant to part 2 of the [Tribunal Court Enforcements Act 2007](#), which came in to force in April 2014

employed by the court). They are not officers of the court, but they are certified by the court. The certification process enables the court to exercise a degree of control over the standards of competence and conduct of these enforcement agents.

The certificate, granted by the County Court, authorises the enforcement agent to take control of goods anywhere in England and Wales. The certificate must be renewed every two years. To qualify for a certificate, the applicant must satisfy the court that they are a “fit and proper” person to act as an enforcement agent. The applicant must prove that they have a sufficient knowledge of the law and procedure relating to powers of enforcement and provide a security bond.²

The Ministry of Justice maintains the [Certificated Enforcement Agent \(Bailiff\) Register](#), which holds details of all enforcement agents who hold a certificate, granted by a judge at the County Court, which allows them to carry out enforcement action by way of taking control of goods and, if necessary, selling these to recover a debt. It also contains the details of all individuals who have applied to hold or renew such a certificate.

It is important to distinguish between a certificated enforcement agent and a private debt collector. The crucial difference is that the enforcement agent will have completed the certification process and will be authorised by the court to act, whereas a private debt collector is an employee of a private company. They do not have the same legal power as certificated enforcement officers. For example, debt collectors are not allowed to take control of goods.

High Court enforcement officers

A High Court Enforcement Officer (HCEO) has specific authorisation from the Ministry of Justice to enforce higher value judgments known as High Court Writs.

It should be noted that if a judgment obtained in the County Court is over £5000 and the claimant wishes to enforce this by way of execution against the debtor’s goods, then it must be transferred to the High Court for enforcement. This will be undertaken by a HCEO.

The appointment of HCEOs is governed by rules made under the [Courts Act 2003](#). They are private sector enforcement officers appointed to enforce High Court orders and any County Court order that the creditor transfers to the High Court for enforcement. The debt could include:

- utility bills;
- business debts;
- tribunal awards; or
- rent arrears.

High Court Enforcement Officers cannot enforce court judgments in respect of debts that are regulated by the [Consumer Credit Act 1974](#)

Most certificated enforcement agents work for private companies rather than as individuals, but agents must have an individual certificate.

² [The Certification of Enforcement Agents Regulations 2014](#), SI 2014/421

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(also known as regulated debt), for example, credit cards, personal loans or overdrafts. Court judgments relating to these types of debts are enforced by County Court bailiffs (see below).

County Court bailiffs

County Court bailiffs are used to enforce County Court orders and those orders made at tribunals that have been transferred to the County Court for enforcement. They are directly employed by the courts (specifically, by [HM Court and Tribunals Service](#)) and are responsible to the court for their actions. Since they are Crown employees they do not need to be certificated.

When recovering money under a County Court judgement, a bailiff's authority to act comes from the warrant of control.³ They can take control of goods to recover money owed under the order and associated costs.

Some enforcement work is generated through the County and High Courts: if debtors do not pay or comply with judgments the creditor can go to court to get an enforcement order.

Civilian Enforcement Officers

Civilian Enforcement Officers (CEOs) are employed by the Magistrates Court under the provision of Section 92 of the [Access to Justice Act 1999](#), the [Magistrates Courts \(Civilian Enforcement Officers\) Rules 1990](#) and the [County Courts Act 2003](#).

These bailiffs execute a range of warrants including: distress warrants, warrants of arrest, commitment for non-payment of fines and other sums a court has ordered to be paid. In addition, they can enforce warrants of arrest for breaches of community sentences.

³ The judgment creditor can ask the court to issue a warrant of control if the judgment debtor fails to pay all or part of any instalments due under a judgment or order. The court can only issue a warrant for sums up to £5,000 unless the claim was made under the Consumer Credit Act 1974.

2. Regulation of enforcement agents

2.1 Overview

The Government made a commitment to deliver protection against “rogue bailiffs” who use “aggressive methods” whilst ensuring debts could still be collected effectively.⁴ It delivered this commitment through the implementation of Part 3 of, and Schedule 12 to, the [Tribunals, Courts and Enforcement Act 2007](#) together with the underpinning regulations listed below:

- [Taking Control of Goods Regulations 2013](#) – which set out the procedure enforcement agents must follow when taking control of goods.
- [Taking Control of Goods \(Fees\) Regulations 2014](#) – which introduced a new fee regime for High Court Enforcement (replacing the multiple fee structures that were previously in place in disparate pieces of legislation and common law). The new structure is based on a staged approach with trigger points, which remunerate the officers for each stage undertaken.
- [Certification of Enforcement Agents Regulations 2014](#) – which focused on the requirements an individual must meet before they are granted a certificate to work as an enforcement agent.

All three sets of Regulations were implemented on the **6 April 2014**.

Introducing this new regime, the Ministry of Justice itemised the broad policy objectives as follows:

- Disincentivise aggressive enforcement: specifically, excessive charging and the premature or unnecessary undertaking of enforcement activity.
- Incentivise earlier recovery of debt.
- Provide protection against inappropriate enforcement agent behaviour: specifically, threatening behaviour and misrepresentation of legal authority.
- Simplify the process for enforcement agents, debtors and creditors.
- Provide adequate protection for debtors, particularly the vulnerable, and for third parties and co-owners.
- Maintain or improve the effectiveness of enforcement.
- Fairly and adequately reward enforcement agents for the work they do.

⁴ Ministry of Justice, ‘[Transforming Bailiff Action](#)’, Consultation Paper CP 5/2012, 17 February 2012, [online] (accessed 24 July 2019)

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The specific measures implemented under the [TCEA 2007](#) include:

- Introduction of a simple set of rules detailing when an enforcement agent can enter a property and what goods they can and cannot take.
- A single fee structure clearly setting out what a debtor can be charged at each stage of the enforcement action.
- A new certification process for enforcement agents to ensure that they are the right people for the job.
- Mandatory training to ensure enforcement agents have the skills required to perform the role.

The fixed fee structure consists of three main stages:

- compliance;
- enforcement, and
- sale

According to the Ministry of Justice, the intention behind this structure is to incentivise settlement at the compliance stage before a visit and control of goods becomes necessary. Fees are still charged to the debtor in addition to the amount owed (i.e. the original debt), but by settling at compliance stage extra costs to the debtor are minimised and more intrusive action avoided.

A Ministry of Justice press release summarised the key changes as follows:

Bailiffs are banned from entering homes when only children are present;

Bailiffs cannot visit debtors' homes at night after 9 pm;⁵

Landlords need to go to court before using bailiffs to seize property for residential rent debts;

Introduce a new mandatory training and a new certification process for all bailiffs;

Ensure vulnerable people receive additional assistance and advice, and bailiffs are trained to recognise vulnerable people;

A simpler set of rules for when bailiffs can enter a property and what they can take;

New restrictions on when bailiffs can sell goods;

Require bailiffs to give the court much more information to obtain a warrant to force entry (except where an agent is enforcing a Magistrates Court warrant for a criminal fine⁶);

Bailiffs must give seven days' notice before taking possessions unless they have permission from a court.⁷

⁵ [Taking Control of Goods Regulations 2013](#), 12-13

⁶ Para 18, Schedule 12, [Tribunals, Courts and Enforcement Act 2007](#)

⁷ Ministry of Justice, '[Cowboy bailiffs outlawed as new law takes effect](#)', 4 April 2014, [online] (accessed 24 July 2019)

2.2 New national standards on enforcement

The legislative package outlined above is supported by updated [National Standards on enforcement](#).⁸ The standards focus on the professionalism of enforcement officers and the expectation that they will at all times act fairly towards the debtor. Enforcement officers are also expected to recognise vulnerable debtors and treat them with extra care.⁹

The National Standards set minimum standards for public and private enforcement officers, the enforcement agencies that employ them and the creditors who use their services. However, the standards are not legally binding.

⁸ Ministry of Justice, '[Taking Control of Goods: National Standards](#)', 6 April 2014

⁹ See [Section 2.9: What protection is there for vulnerable people?](#) for more information

3. Complaints about enforcement agents

3.1 Is there a regulatory body?

There is no regulatory body for enforcement agents. There are trade bodies agents can join who offer guidance on the legislation, provide training and deal with complaints (see below).

3.2 Is there a general guide?

There is a general guide on Gov.UK: [How to complain about a bailiff](#).

In addition to the regulatory regime outlined above, the [National Standards' on Enforcement](#) expect enforcement agents to treat the debtor fairly. However, the national standards are not legally binding.

3.3 Who should I complain to?

There may be reasons to complain about enforcement action, including alleged harassment, incorrect fees, incorrect notices or warrants or seizing the wrong goods.

Who you need to complain to depends on the kind of enforcement agent encountered, specifically whether he/she are employed by a private company or the court:

- A private-sector enforcement agent: either a [certificated enforcement agent](#) or a [High Court enforcement officer](#)
- An officer of the court: [Court County Court bailiff](#) or a [civilian enforcement officer](#), both work directly for the court

Most bailiffs work for private companies, even if they're collecting debts on behalf of a local authority or the government.

3.4 Complaints about private sector enforcement agents

Private sector enforcement agents include: certificated enforcement agents and High Court Enforcement Officers (HCEO).

At first instance, a complaint about a certificated enforcement agent or a HCEO should be made in writing to the firm the agent works for.¹⁰ If dissatisfied with the response received, you may be able to complain to the enforcement agent's trade association (checking first that they are a member).

Certificated enforcement agents

The [Civil Enforcement Association](#) (CIVEA), is an independently funded association formed to represent all private certificated enforcement agents in England and Wales. The CIVEA has a [Code of Conduct and Good Practice Guide](#) that is mandatory for all its members.¹¹

¹⁰ Under the [2014 National Standards](#), enforcement agents are expected to provide a complaints process for the agency they are either employed by, or subcontracted to collect debts for.

¹¹ CIVEA, [Code of Practice](#) (accessed 24 July 2019)

The process for making a complaint to CIVEA is detailed on [its website](#), including a link to a complaint form.¹² The Association will only consider complaints if the private firm's own complaints' system has failed to resolve the matter. The contact address for complaints is:

Chief Executive Officer

The Civil Enforcement Association

PO Box 745

Wakefield

West Yorkshire WF1 9RJ

Before making a complaint to the CIVEA, the constituent should first check that the firm in question is in fact a member. It is possible to search the [CIVEA membership directory online](#).

In addition, Regulation 9 of the [Certification of Enforcement Agents 2014](#)¹³ sets out a process by which a formal complaint can be made in writing about the fitness of an individual to hold a certificate. The complaint should be made to the County Court where the enforcement agent obtained their certificate. Information (including forms EAC2) is available from the [GOV.UK website](#).

High Court Enforcement Officers (HCEOs)

HCEOs are required to be members of the [High Court Enforcement Officers Association](#) (HCEOA), a trade body which is responsible for promoting higher standards within the profession. This means that a complaint about an enforcement officer can be made either to the private company which employs him/her or to the HCEOA. Information about the HCEOA's complaint procedure can be obtained from the following address or website:

[The Complaints Officer/Secretary](#)

High Court Enforcement Officers Association

Drake House

Gadbrook Park

Northwich

Cheshire CW9 7RA

Email: complaints@hceo.org.uk

It is possible to search the [HCEOA membership directory](#) online.

¹² CIVEA, [Complaints](#) (accessed 24 July 2019)

¹³ SI 421/2014, these Regulations make detailed provision for the certification of enforcement agents who undertake enforcement action by way of taking control of goods in accordance with the procedure set out in Schedule 12 of the [Tribunals, Courts and Enforcement Act 2007](#) and the [Taking Control of Goods Regulations 2013](#)

3.5 Complaints about court enforcement officers

County Court bailiff or civilian enforcement officer

HM Courts Service recommends that if the complaint is about a County Court bailiff or civilian enforcement officer, the complainant should write to the court concerned (there is an online [complaint form](#)), giving their name, address, and case number. The court manager should then investigate the complaint and write to inform the complainant as to what action will be taken. The Gov.UK website provides a useful link to the [court finder](#).

3.6 Complaining to the creditor

Another avenue of complaint open to the debtor is to complain directly to the creditor. For example, complaints about the enforcement of a VAT debt, should be sent to the Debt Management Unit of the local VAT office. Complaints about the enforcement of national insurance debts should be sent to the HMRC National Insurance Contributions Office. If the creditor is a local authority, the complaint should be made in writing in line with its complaint's procedure, this can typically be found on its website.

It is worth noting that some creditors operate under an Ombudsman scheme (for example, debts collected on behalf of an energy or phone company, or on behalf of HMRC). Depending on the circumstances, it may be possible to complain to the Ombudsman about an enforcement agent. Complaining to an Ombudsman is free, but the complainant is expected to have exhausted the creditor's own complaints procedure.

3.7 Taking legal action

As a last resort legal action might be considered, if, for example, an enforcement agent has wrongly seized goods. However, proper legal advice should be sought before beginning legal action on the merits (or otherwise) of the case.

4. Recent developments

The Ministry of Justice and the Justice Committee have undertaken separate inquiries on the regulation of enforcement agents.

4.1 Ministry of Justice inquiry

Following the implementation of Part 3 and Schedule 12 of the [Tribunals, Courts and Enforcement Act 2007](#), the Government made a commitment to review the Regulations to ensure they were working as expected and there were no unintended consequences. The first review began in 2015 and involved analysing data and gathering views from key stakeholders.

One-year review of the 2014 reforms

A report was published on 2 April 2018, [One year review of Enforcement Agent reforms introduced by the Tribunals, Courts and Enforcement Act 2007](#).¹⁴ In brief, the review found that the reforms had led to many positive changes, including improved transparency and consistency, both in terms of the enforcement process and the fees charged by enforcement agents.¹⁵ The report noted, however, that some enforcement agents were still perceived to be acting aggressively and not complying with the new rules.¹⁶ **Box 1** (below) provides a summary of key findings.

Box 1: One-year review of Enforcement Agent Reforms

Key findings:

- All stakeholders agreed that the reforms have provided transparency and consistency in the enforcement process, where this was previously lacking. The new standard forms and letters provide the debtor with clear signposting detailing where to find advice with their financial problems, information about their rights, and where to complain.
- The overall proportion of debts successfully enforced between April 2014 and April 2015 was 27% for civil enforcement officers and 33% for high court officers, which was higher than predicted during the design of the new fee structure and provides a baseline for future monitoring.
- A major component of the reforms was a new fixed structure for enforcement fees. The intention was to control excessive charging and incentivise settlement at the initial (compliance) stage before a visit and removal of goods becomes necessary. Indications are that High Court Enforcement Officers¹⁷ have been particularly successful at compliance stage enforcement, exceeding predictions by nine percentage points (1% of total warrants issued were expected to be settled at this stage, versus 10% achieved).
- For civil enforcement agents, compliance stage enforcement rates have been lower than expected (38% of successfully enforced warrants settled at compliance, relative to 50% predicted). The disparity between high court and civil agents in this respect may be partly due to the difficulties making accurate predictions during

¹⁴ Ministry of Justice, [One-year review of Enforcement Agent reforms introduced by the Tribunals, Courts and Enforcement Act 2007](#), Cm 9600, April 2018

¹⁵ [HCWS 1776](#)

¹⁶ Ibid

¹⁷ There are two main groups of enforcement agents who are covered by these reforms, those who collect outstanding high court writs (High Court Enforcement Officers (HCEOs)) and those who collect other types of debt (referred to as civil enforcement agents).

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reform design, however we would expect compliance stage enforcement to improve for this group as reforms bed in.

- By clarifying what was considered unacceptable enforcement behaviour and including advice sector contact details on enforcement letters, the reforms have provided greater transparency over debtor rights and how to complain. Data provided by the advice sector show that some debtors and debt advisors perceive that aggressive behaviour is still happening in practice, and while it is not realistic to expect this to have been eradicated altogether, the Ministry of Justice take the concerns expressed by the advice sector feedback seriously and will pay close attention to the level and nature of complaints as the reforms bed in further.

On 25 November 2018, the Ministry of Justice launched [a call for evidence](#) to inform their second review of the 2014 reforms.¹⁸ Lucy Frazer, then Parliamentary Under-Secretary of State for Justice, gave the Government's position as follows:

The majority of bailiffs act professionally and within the rules, but we have been told by those working on the front line that this may not always be the case.

Aggressive tactics will not be tolerated, and through our call for evidence we will identify where the problems are and, if necessary, take action to ensure all bailiffs operate professionally and with proper respect and sensitivity.¹⁹

The Minister confirmed that any proposed changes would be put out to consultation. The call for evidence ran until 17 February 2019.

According to the Ministry of Justice, it received nearly 300 responses to its call for evidence from:

- individuals who have been visited by enforcement agents;
- enforcement agents, firms and trade associations;
- local authorities and other creditors;
- debt advice organisations and charities;
- MPs and members of the judiciary.²⁰

It intends to provide a full response to the report and to its call for evidence following further engagement with stakeholders over the summer.²¹

David Gauke, then Lord Chancellor and Secretary of State for Justice, made a Statement to the House of Commons on 22 July 2019, in which he said that the government would be pushing forward with a reform package to make sure that people do not face aggressive action from enforcement agents and to improve trust in the industry. It was in the process of considering its recommendations for further reform. An extract from his statement is reproduced below:

Based on their data, civil enforcement agents now enforce around 3 million civil cases each year. Creditors need an effective,

Call for evidence to inform second review of the 2014 reforms

Ministerial Statement confirming future reforms

¹⁸ Ministry of Justice, [Review of the 2014 enforcement agent reforms introduced by the Tribunals, Courts and Enforcement act 2007: Call for Evidence](#), 25 November 2018, [online] (accessed 24 July 2019)

¹⁹ [HCWS 1112](#), 26 November 2018

²⁰ [HCWS 1776](#)

²¹ Ibid

sustainable way to ensure that they receive the money owed to them. At the same time, the Government must ensure that those in debt, especially the vulnerable, including those with mental health issues, are treated fairly and given the protections they deserve.

Enforcement agents carry out an important job in often very challenging circumstances.

Many firms have made considerable efforts to make sure that they are treating those in debt fairly, but complaints continue. All enforcement agents must operate to the same high standards. So, we will be pushing forward with a reform package to make sure that people do not face aggressive action from enforcement agents and to improve trust in the industry as a whole.

One area of our focus will be **how people can make complaints against enforcement agents**. Data submitted to our call for evidence has shown that the volume of complaints made about enforcement agents is much lower than would be expected relative to the volume of debts enforced and compared to similar industries. While this may in part be due to improvements in the sector, we believe that there are a number of barriers in the current complaints system that may deter people from making a complaint. We will look to address these with enforcement agents and others with a view to making the complaints system more effective, transparent and independent.

We are also considering **what role independent regulation of enforcement agents could potentially play** in ensuring that vulnerable debtors are treated fairly. We believe that regulation of this sector could be strengthened but we do not yet have a firm view on the form this should take. It is an issue that would benefit from further discussions with stakeholders. We are clear that any further regulation must be effective, proportionate and sustainable.

Alongside considering these reforms, we wish to bring quicker changes to the system to improve how enforcement agents operate. Our call for evidence and the Justice Committee's inquiry found strong evidence that **body-worn cameras** are important in protecting both those in debt and enforcement agents, raising standards in the industry and enabling complaints to be properly investigated. We will be taking forward work to make use of body-worn cameras mandatory for all private enforcement agents and to produce best practice guidance.

Under the current system, all enforcement agents have to demonstrate knowledge of the law, customer care, dealing with conflict situations and identifying vulnerable situations. We believe that there is a good case, however, to **look again at the guidance and requirements for how enforcement agents interact with those in debt**, with a view to addressing any unfair treatment of vulnerable people, including those with mental health issues.

The Ministry of Justice proposes to engage with the enforcement industry, debt advice agencies, creditors and others on these and other issues over the summer before responding in full to its call for evidence and the Justice Committee report. The response will include a full analysis of the variety of evidence submitted to the review and set out proposals for reform to enhance the regulation of enforcement agents. We will consult on any proposals for legislative reform.

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This work forms part of wider cross-Government efforts to improve the treatment of those in debt. This includes work by HM Treasury to implement a “breathing space” and statutory debt repayment plan for people in problem debt and the Ministry of Housing, Communities and Local Government review of how local authorities can improve the way they collect council tax debt.²²

The Minister identified the focus of future reforms as follows:

- The Ministry of Justice to work with enforcement agents and others with a view to making the complaints system more effective, transparent and independent.
- The Ministry of Justice to consider the role independent regulation of enforcement agents could potentially play in ensuring that vulnerable debtors are treated fairly. It thinks that regulation of this sector could be strengthened but does not yet have a firm view on the form this should take.

Alongside considering these reforms, the Ministry of Justice said it intends to bring quicker changes to the system to improve how enforcement agents operate, including:

- to make the use of body-worn cameras mandatory for all private enforcement agents and to produce best practice guidance; and
- to look again at the guidance and requirements for how enforcement agents interact with those in debt, with a view to addressing any unfair treatment of vulnerable people, including those with mental health issues.

Current position

In response, [Citizens Advice](#) has said that the introduction of compulsory body cameras will do nothing to protect people from rule-breaking bailiffs while the industry is not regulated.²³

This is the current position.

4.2 Justice Committee consultation

On 14 December 2018, the Justice Committee announced its inquiry into the enforcement of debt by enforcement agents in England and Wales. It outlined the scope of its inquiry as follows:

The Committee wishes to understand the impact of the 2014 enforcement agent reforms introduced by the Tribunals, Courts and Enforcement Act 2007, and whether improvements should be made.

The Committee’s inquiry focused on High Court and Civil Enforcement officers. To avoid duplication with the Ministry of Justice inquiry, the Committee did not publish a call for written evidence.

The Committee’s report, [Bailiffs: Enforcement of Debt](#), was published on 11 April 2019.²⁴ The Committee is awaiting government response to its report. **Box 2** below provides a summary of the Committee’s key recommendations.

²² [HCWS 1776](#)

²³ Citizens Advice, [Bailiff body cameras meaningless without industry regulator](#), 22 July 2019, [online] (accessed 23 July 2019)

²⁴ Justice Committee, [Bailiffs: Enforcement of Debt](#), Seventeenth Report of Session 2017-19, 11 April 2019, [online] (accessed 24 July 2019)

Box 2: Justice Committee Inquiry: Enforcement of Debt

Complaints

In its report, the Justice Committee made the following recommendations to the Government:

- That there should be an independent complaints body, to which all complaints about bailiffs should be escalated if the complainant has exhausted local complaints procedures (i.e. those for the organisation for which the bailiff was working).
- The complaints process should be very clearly set out and have as few levels as possible so that it is easy to navigate.
- That the Ministry of Justice (MOJ) should, when deciding where to site the independent complaints function, take full account of the existing role of the Local Government and Social Care Ombudsman.
- The MOJ must also take into account the opportunities afforded by the planned Public Service Ombudsman. However, the Committee is concerned about the delay in introducing the legislation required to implement the Government proposals for this body.

Regulation

The Committee said it was surprised that bailiffs are apparently so under-regulated compared with other sectors, including debt collection. In its view, the existing system of individual certification by the courts seems to be a rubber-stamping exercise. The Committee made the following recommendations:

- The regulator should be able to stop unfit enforcement agents and companies from practising. It should have the power to set immediate sanctions such as fines for poor behaviour. An appeal mechanism should be built in.
- This regulator should also work to change culture and raise standards (for example, by dissemination of good practice, owning and updating the National Standards, and supporting continuing professional development). It should work closely with the complaints body, for example, sharing information about good practice.
- The Ministry of Justice should consult widely on where this regulatory responsibility should sit, whether in an existing body or a new body, and how it should be funded.

Fees

The Committee thought the fee structure deserves close attention, “since it has not been properly reviewed or updated since its introduction in 2014, despite a Government commitment at the time to do so annually in the light of Consumer Price Index (CPI) inflation. Equally, given that these fees are paid by some of the poorest people in society, it is also vital that the fees are proportionate”.

The Committee made the following recommendation to the government:

- That the new regulator regularly reviews and makes expert recommendations to the MOJ about the fixed fee structure set out in the [Taking Control of Goods \(Fees\) Regulations 2014](#). Fees should be set as low as possible while ensuring the sustainability of the enforcement industry.

Body worn cameras

The Committee recommended to the Government:

- That body-worn cameras be mandatory for all enforcement agents visiting homes and businesses. The regulator to produce good practice guidance on their use.

Further information is available from the [Committee's website](#).

4.3 Westminster Hall debate

On 9 January 2019, there was a Westminster Hall debate on “Bailiffs: Regulatory Reform”. The debate was introduced by Emma Reynolds MP, with cross-party support. Lucy Frazer, Justice Minister, spoke in the debate.²⁵

4.4 Other debt initiatives

In a statement, Lucy Frazer, then Justice Minister,²⁶ outlined steps being taken by the Government to help people who fall into problem debt, including:

- Increasing Government funding for free debt advice via the [Money Advice Service](#) to £56 million this year.
- Via regulations to be laid this year, the Government will introduce a breathing space to give people in problem debt the right to legal protections from their creditors for up to six weeks whilst they seek debt advice.
- The Government to introduce a statutory debt repayment plan to enable those with problem debts to enter into an agreement with their creditors.
- The Ministry of Justice, as a member of the Government’s Fairness Group, to work with the advice sector to look at the issue of fairness in Government debt management and in enforcement practices.

4.5 Stakeholders’ initiatives

- In August 2018, Citizens Advice, supported by other charities and organisations including the Children’s Society, called on the Government to commit to measuring levels of household debt and to impose independent regulation of the bailiff industry.²⁷
- CIVEA published a [response](#) to Citizens Advice claims that it has evidence of widespread problems in the enforcement industry. As part of its response, the CIVEA questioned the scale and scope of Citizens Advice’s research.

²⁵ [c.174-178 WH](#)

²⁶ [Ibid](#)

²⁷ Citizens Advice, [£19 billion owed in everyday bills, as Citizens Advice reveals it helps 1 person every 3 minutes with bailiff issues](#) (accessed 24 July 2019)

5. Frequently asked questions

In this Q & A section of the paper, to keep matters simple, the term “bailiff” is used.

5.1 When can bailiffs enter a property?

The statutory position is that bailiffs are required to give 7 days’ notice before they first visit a debtor’s property. This is called an enforcement notice.²⁸

Once this notice has been served, a debtor does not have to let bailiffs into their home when they knock on the door.²⁹ However, bailiffs are permitted to enter an individual’s home without using force by using any usual means of entry.³⁰ This can include entering the property through an unlocked door, gate, or attached garage.

It is important to note that if a bailiff has previously entered the debtor’s home to take control of goods, they have a legal right to re-enter the property, as long as the debtor has been notified about the intention to do so.³¹ There are various reasons why a bailiff might re-enter the debtor’s property, including where they believe the debtor has broken the terms of a Controlled Goods Agreement (see below).

Entering the debtor’s property

Bailiffs can usually only enter in a peaceful manner and with permission, unless a court has said they can use force.

5.2 Are there any time restrictions?

Bailiffs can legally visit a debtor’s premises or business premises on any day of the week, but enforcement can only happen between 6 am and 9 pm.³² There are some exceptions:

- a bailiff may have a court order which says they can enter outside these hours;
- the debtor’s valuable belongings are at business premises which trade outside of these hours; or
- a bailiff is close to completing their enforcement and can stay a short time to finish their work.

5.3 Who can let a bailiff in?

Anyone over the age of 16 can let a bailiff into the property. The bailiff must withdraw without making enquiries if the only person present is a child under 12 years old.

If the only person present is a child or is a vulnerable person,³³ the bailiff cannot take control of goods.³⁴

²⁸ Regulations 6-8, [The Taking Control of Goods Regulations 2013](#), SI 2013/1894

²⁹ Para 24(2), Schedule 12, Tribunals, Courts and Enforcement Act 2007

³⁰ Regulation 20, *ibid*

³¹ Regulation 19A, *ibid*

³² Regulations 12-13, [The Taking Control of Goods Regulations 2013](#), SI 2013/1894

³³ See [Section 2.9: What protection is there for vulnerable people?](#) for the definition of a vulnerable person.

³⁴ Regulation 10, [The Taking Control of Goods Regulations 2013](#), SI 2013/1894

5.4 Can bailiffs force entry?

In general, a bailiff cannot force entry unless a court has granted permission, or it is for a particular type of debt.

Bailiffs can apply to the court for permission to use “reasonable force” to gain access. Common examples of reasonable force include using a locksmith to bypass a lock or cutting through a padlock or chain. In making this application, the bailiffs are required to give the court information on the likely means of entry and the amount of force required, as well as details on how the premises will be left secure afterwards.³⁵

In some limited cases, bailiffs do not need to apply to a court for permission. If bailiffs are collecting a Magistrates’ Court fine in respect of a criminal conviction, they are permitted to use force to break into a debtor’s premises.³⁶ County Court bailiffs and High Court enforcement officers are legally allowed to force entry to trade or business premises (but not residential homes) to chase unpaid County Court judgements or High Court judgements.³⁷ In addition, enforcement agents employed by HM Revenue and Customs can force entry if the debt is unpaid tax.³⁸

As previously mentioned, once bailiffs have been let into a property, they have a right to enter again. They can use reasonable force to gain entry and remove goods if the debtor is not keeping up with payments for a Controlled Goods Agreement.

5.5 How do you know it is a certificated bailiff and not a debt collector?

Bailiffs must on request show the debtor evidence of their identity and their authority to enter the premises.³⁹ Legally, they must also have given the debtor an enforcement notice **7 days** before they visit.⁴⁰

In contrast, private sector debt collectors can chase a debtor to pay what is owed to a creditor, but they cannot take control of goods. Debt collectors are not allowed to pretend to be a bailiff.

Debtors can also check the [register of certificated bailiffs](#) if they are unsure about whether a bailiff is certificated or not.

5.6 What belongings can a bailiff take?

If bailiffs cannot recover full payment of the debt, and negotiation of a payment plan is not an option,⁴¹ they can take control of goods (i.e.

³⁵ Ministry of Justice, ‘[Cowboy bailiffs outlawed as new law takes effect](#)’, 4 April 2014

³⁶ Para 18, Schedule 12, [Tribunals, Courts and Enforcement Act 2007](#)

³⁷ Para 18A, *ibid*

³⁸ Para 19, *ibid*; Section 127, [Finance Act 2008](#)

³⁹ Para 26, Schedule 12, [Tribunals, Courts and Enforcement Act 2007](#)

⁴⁰ Regulations 6-8, [The Taking Control of Goods Regulations 2013](#), SI 2013/1894

⁴¹ It is not a statutory requirement for bailiffs to negotiate a payment plan. This is at the discretion of the bailiff, depending on a debtor’s circumstances and those of the creditor for whom the agent is acting.

recover the money owed by seizing a debtor's belongings and selling them at a public auction). However, bailiffs are not allowed to seize certain essential items, such as:

- Items of equipment necessary for work, study or education, including tools, books and computers up to a value of £1,350;⁴²
- Household equipment for basic domestic needs, including cookers, fridges, washing machines, clothes, dining tables and beds;
- Anything belonging to a child, such as toys;
- Pets;
- Food;
- Items that are not owned by the debtor.⁴³

Often, a bailiff will enter into a **Controlled Goods Agreement** with the debtor.⁴⁴ This is where goods are technically seized, and the debtor is given the opportunity to pay the debt within a specified time to retain the goods. If the debtor does not do so, the goods may be sold by the bailiff in public auction and the money realised is passed onto the creditor.

Controlled Goods Agreement

5.7 Can bailiffs take other people's belongings?

Bailiffs can only seize goods belonging to the debtor. The onus is on the debtor to prove that items found in his/her home belong to someone else. Proof of ownership might include: hire purchase agreements, shop receipts or bank statements.

If a bailiff seizes goods belonging to a third party, the debtor or the third party can complain to the bailiff's company and ask for the belongings to be returned. There is a clear complaint process to follow, which is [available online on the Justice section of GOV.UK](#).⁴⁵

However, bailiffs can take jointly-owned belongings, provided they are not exempted items.

5.8 Can bailiffs take goods from outside of the home?

Yes. The main example of this is a vehicle owned by the debtor parked at the debtor's home, place of trade or business, or on a public highway. Bailiffs are expected to check that the vehicle does belong to the debtor.

⁴² Up to a value of £1350. If the debt is for unpaid business rates, items for use for work are not protected. See Reg 4(2), [The Taking Control of Goods Regulations 2013](#), SI 2013/1894

⁴³ Regulation 4, [The Taking Control of Goods Regulations 2013](#), SI 2013/1894

⁴⁴ Para 13(4), Schedule 12, [Tribunals, Courts and Enforcement Act 2007](#)

⁴⁵ Civil Procedure Rules Part 85: [Claims on controlled goods and executed goods](#) (accessed 24 January 2019)

Bailiffs can clamp a vehicle they are intending to seize. However, they must leave a “Warning of Immobilisation” notice giving the date, time and reason why the vehicle has been clamped (typically failure to pay a debt), a 24-hour contact number, and a reference number.⁴⁶

Bailiffs cannot usually take a vehicle if it is parked on private land, although they could apply to the court for a warrant to do so. Bailiffs should not seize a vehicle displaying a valid disabled person’s badge or a vehicle used for emergency service purposes.⁴⁷

5.9 Are vulnerable people protected?

Bailiffs cannot take control of belongings if the only person present at the debtor’s property is a child or vulnerable person.

Under the [National Standards’ on Enforcement](#), bailiffs are expected to protect vulnerable debtors and ensure appropriate discretion is used, including communicating directly about a vulnerable debtor with the creditor if there is cause for concern. Under these standards, a debtor is defined as vulnerable if:

“[...] for reasons of age, health or disability they are unable to safeguard their personal welfare or the personal welfare of other members of the household”.

The following groups are identified as being potentially vulnerable:

- the elderly;
- people with a disability;
- the seriously ill;
- the recently bereaved;
- single parent families;
- pregnant women;
- unemployed people; and,
- those who have obvious difficulty in understanding, speaking or reading English.⁴⁸

Bailiffs cannot recover fees for the enforcement stage, and any related disbursements, unless a vulnerable debtor has been given “adequate opportunity to get assistance and advice in relation to the exercise of the enforcement power”.⁴⁹

5.10 What fees can bailiffs charge?

Since 6 April 2014, bailiff charges have been standardised.⁵⁰ Full information is contained in the [Taking Control of Goods \(Fees\) Regulations 2014](#).

⁴⁶ Regulation 16(3): [Taking Control of Goods Regulations 2013](#), SI 2013/1894

⁴⁷ Regulation 4(d-f), *ibid*

⁴⁸ Paras 74,77, Ministry of Justice, [‘Taking Control of Goods: National Standards’](#), 6 April 2014

⁴⁹ Regulation 12, *ibid*

⁵⁰ [The Taking Control of Goods \(Fees\) Regulations 2014](#), SI 2014/1

Bailiffs can also charge disbursements if they incur other costs when collecting debts. For instance, this might include the cost of storing goods, the cost of hiring a locksmith if reasonable force is granted, any court fees, auction house costs (including a 15% commission on sales) and any other exceptional costs.⁵¹

⁵¹ Regulation 8, *ibid*

6. Where to get debt advice

A person in financial difficulty should seek proper financial and legal advice. If enforcement officers have notified them of their intention to visit their home, the debtor should seek this advice as a matter of urgency.

6.1 Citizens Advice

[The Citizens Advice online advice guide](#) has detailed information about bailiffs and what they can and cannot do when collecting debts.

Local Citizen's Advice Bureaus can give legal advice. [The CAB website contains a search tool](#) to help people find their nearest CAB.

6.2 National Debtline

Free and confidential advice is available from the National Debtline on 0808 808 4000.

They also offer [an online web chat](#).

6.3 StepChange

StepChange, a debt advice charity, offer a free helpline for advice on debt management and bailiffs: 0800 138 1111.⁵²

They also offer an [online web chat](#).

6.4 Money Advice Service (MAS)

The [MAS](#) provides free debt advice 24 hours a day via its [website](#) and five days a week by telephone on 0800 138 7777 (calls are free).

⁵² A StepChange survey in 2016 found that 50% of their clients contacted by bailiffs felt they were treated unfairly, higher than with any other type of organisation. See StepChange, ['Creditor and debt collector conduct: what's making debt problems worse?'](#), July 2016.

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