HOUSE OF COMMONS

Justice Committee

Oral evidence: Bailiffs: enforcement of debt, HC 1836

Tuesday 26 February 2019

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Watch the meeting

Members present: Robert Neill (Chair); Bambos Charalambous; Robert Courts; David Hanson; John Howell; Victoria Prentis; Ellie Reeves; Ms Marie Rimmer.

Questions 97 - 201

Witnesses

I: Carole Kenney, Customer Service and Performance Delivery Director, Phoenix; Tracey Stone, Director, JTR Collections Ltd; and Andrew Wilson, Chair, High Court Enforcement Officers Association.

II: Dr Andrew Hobley, Assistant Ombudsman, Local Government and Social Care Ombudsman; John Kruse, Freelance Consultant and founder of the Campaign for Enforcement Reform; Barrie Minney, Chair, Local Authority Civil Enforcement Forum; and David Platts, Head of ICT and Revenues, Stratford-on-Avon District Council.

Examination of witnesses

Witnesses: Carole Kenney, Tracey Stone and Andrew Wilson.

Chair: Good morning, everyone. Thank you very much for coming along to help us with our evidence gathering. This is another of our sessions on how we deal with the whole question of enforcement of debt on the back of some of the consultations that have been going on recently.

We have to go through a little bit of formal business before we can start. We have to declare our interests every time for the record. I am a non-practising barrister and consultant to a law firm.

Ellie Reeves: I am a non-practising barrister.

Robert Courts: I am a tenanted barrister but non-practising at present.

Bambos Charalambous: I am a non-practising solicitor.

Q97 **Chair:** What we are interested in is the background to the work that you do. For the record, could you say who you are and what organisation you represent? Then we will go into the questions.

Tracey Stone: I am Tracey Stone. I set up JTR Collections in 2010 after working for local authorities and a large enforcement company. I did not like how their practice was and thought I could do it differently, so I set up JTR.

Carole Kenney: I am Carole Kenney. I am the customer service director at Phoenix Commercial Collections. I started in enforcement 20 years ago, working for a small bailiff company. I first started out as a certificated bailiff, collecting council tax arrears.

Andrew Wilson: I am Andrew Wilson. I am a solicitor and a High Court enforcement officer. I am a former under-sheriff and the current chair of the High Court Enforcement Officers Association. High Court enforcement officers were created in 2004 to replace sheriffs of counties, and they enforce orders of the court, now mainly CCJs. They use enforcement agents, both employed and self-employed. We come from a background of business-to-business debt.

Q98 **Chair:** That is very helpful. Thank you. Tracey and Carole, you made the point that you have spent most of your working lives in the business, in one way or another. You have a lot of experience in it. We had reforms in 2014. We were told that the idea was to make the system fairer, more transparent and, hopefully at least, as effective. How do you think it has worked out since then? What is your take on the state of the business as it currently is and where it ought to be going?

Tracey Stone: Since 2014, we have reduced a lot of the complaints that we had. When I was an enforcement agent lots of different authorities charged very differently, depending on where you were in the country. That caused a lot of complaints with debtors, or customers, because you did not know how much you were being charged. Different authorities charged completely different things. For that purpose, the reforms brought in a lot of clarity. Having one charge made it a lot easier and reduced a lot of the complaints that came through.

Carole Kenney: The reforms have been a great success and have exceeded the expectations set out by the Ministry of Justice. What we have seen at Phoenix is that the compliance stage has been successful. It has exceeded expectations, in that most enforcement agencies offer extended compliance periods that go beyond the seven clear working days that a notice of enforcement would have.

For council tax in particular we are seeing an average of 28 days as a compliance stage period. Enforcement agencies have invested significantly in their call centre strategies and internal collection methods via various routes. We feel that customers have around five attempts at contact prior to an enforcement agent visiting. At Phoenix, over 60% of our customers pay only the compliance fee of £75. That has been a great policy achievement of the reforms.

In addition, collections are more focused on compliance than enforcement. We are not seeing cases escalate so quickly to enforcement stage. Our stats at Phoenix show that only 0.6% of cases actually reach the sale stage. Again, that is a massive achievement. Prior to the reforms, particularly for council tax, the first contact a customer would have from an enforcement agent was a doorstep visit. It has dramatically changed how enforcement is carried out.

Q99 **Chair:** Is the nature of the work that your firm does predominantly council tax?

Carole Kenney: It is a mixture of council tax, business rates and collection of unpaid parking fines.

Q100 **Chair:** What about yours, Tracey?

Tracey Stone: Mainly council tax and business rates. We do sundry debts for housing benefit and the like for councils, but it is mainly council tax and business rates.

Q101 **Chair:** Andrew, yours is a different situation; you said it is business to business, mostly. What is your take on the situation?

Andrew Wilson: We have found considerable improvement, mainly because of the greater transparency in the way the process works. We have now moved to the taking control of goods process. That is helpful. There is transparency both in process and in fees. Certification of enforcement agents, with level two training as a minimum, has removed some of the less desirables from the industry. If you cannot actually get to level two, which is GCSE A to C, I don't think there is any place for you in the enforcement world.

Prescribed forms for each stage of the process have been very helpful. Of course, at the bottom of each form there is signposting for debtor customers to go to advice agencies if they need help. There is no question but that we are trying to get people to the help if they possibly can.

As Carole mentioned, the end result is fewer bailiff visits and more settlements and agreed arrangements at the earliest compliance stage, with a minimum cost of £75. People leaving it to the eleventh and a half hour to deal with their court judgments are beginning to realise that if they leave it any longer it will become progressively more expensive, and the opportunity is there for them to engage and sort out their debt arrangement. We find that particularly with businesses. Any finance director who is simply trying to juggle his debts will look at the amount of fees that would be charged by allowing the case to go to full enforcement, and should really say, "This is one that needs sorting out now and not left to run."

As we mentioned, the Government first-year review found no unintended consequences. There was nothing disastrous in the reforms that needed immediate change, and many positive benefits. The main benefit has been more settlement at the compliance stage, so it has achieved that aim.

Q102 **Chair:** Businesses often take that commercial decision. Tracey and Carole, you are often dealing with individuals who may have got their lives and circumstances into a bit of a mess for a raft of reasons. When I was in practice I used to find sometimes that there was a tendency to just want things to go away and for people to put their heads in the sand. Is that still an issue? Are people getting the right sort of advice early on to prevent them from getting to that stage?

Carole Kenney: It has certainly improved over the years. The signposting that Andrew mentioned is one aspect that was brought in with the new reforms on the statutory notices. Enforcement agencies have invested time in engaging with the advice sector so that we better understand the circumstances of individuals who bury their heads in the sand or simply should not be in the enforcement space at all. Those cases need to be treated elsewhere, or back with the local authority. We operate extended compliance periods so that we can focus intentions.

Some of the work I have done with the advice sector is about improving referral strategies over the telephone and being able to identify vulnerability, or it is just people who need a little more flexibility with their repayments. It is looking at affordability and how we can contact people better through using those relationships with the advice sector. We are certainly seeing a lot more people seeking advice and getting good advice that gets them into a sustainable repayment plan, which benefits all parties.

Q103 **Chair:** What is your take on it, Tracey?

Tracey Stone: The majority of the advice sector is great. We work well with StepChange and CAP, but there is still some quite bad stigma for enforcement agencies from the advice centres. They still tell people, "Don't answer the door. Don't speak to them." We cannot help people if they won't speak to us.

JTR is slightly different from Phoenix and the other larger companies. Most of my work is second and third referrals.

Q104 **Chair:** Can you explain what that means?

Tracey Stone: I work for 15 local authorities. Most of their work, before it comes to me, has been with a larger enforcement company and returned as uncollectable. They pass it to us. I set up JTR to be different, and to work with customers and make long-term arrangements so that people could be re-educated into paying and getting used to paying again. They have not paid due to their circumstances, burying their heads or for a variety of reasons. It does not help us, or anybody else, when they are being told not to speak to us.

Q105 **Chair:** Why do you think that is, and how widespread is it?

Tracey Stone: I don't know how widespread it is. I can only speak for the authorities I deal with. Some of them are very good. I have been to meetings with an advice service. The meeting was very mixed; some people were very for us helping to achieve and help the customers, but there were a few people very against us and who thought we should not be knocking on doors.

We try to work at compliance as much as we can, but we do not always get telephone numbers. We do not get emails. We do not always get the correct address, to be fair. Working at compliance is not always possible and sometimes the only way you know that somebody is vulnerable is by knocking on the door.

We have an example at the moment. We have worked with a gentleman for a year. We finally got SSAFA involved.

Q106 **Chair:** SSAFA?

Tracey Stone: Service, Airmen—I can't remember what it stands for; it is military help.

Q107 **Chair:** Those who follow our proceedings probably do not understand acronyms in the same way. We are all used to it, but it is just for the record.

Tracey Stone: It has taken us a year to get help for him. They have agreed to help him, and now his council tax will be paid, which will be a relief for him and his family. He can move on. We try hard to work with people, but we need to get rid of the barrier; we are not bad people. We just want to help people.

Q108 **Chair:** Do you agree, Carole?

Carole Kenney: Yes, Tracey makes a really valuable point. If you look at some internet blogs, or places where customers get advice, it is very much, "Don't open the door. Don't open the letters. Don't engage," whereas we are trying to encourage that engagement. Then we can get sufficient help. If people do not engage, the work is simply recycled and sent out to other enforcement agencies, as Tracey mentioned. It cannot be good for anyone's mental health to keep receiving letters. First-point contact means that people get the help they need. Removal of goods is a myth; we just do not see that.

Q109 **Chair:** How often does removal of goods happen now?

Carole Kenney: In 0.6% of our cases, they pay the sale fee, and of those over 50% actually pay and goods are not sold. It is a minority. The role of most enforcement agents now is negotiating repayment, not removal of goods.

Q110 **Chair:** Andrew, is that the case with you?

Andrew Wilson: No. We have slightly more removal in the business world. Our powers are greater. We have power to break into commercial premises, but increasingly we are dealing with individuals and therefore the same points arise. We have to take a view about those who go to advice agencies. We are very happy with that because it shows that a debtor is engaging with their problems.

Our main problem is with those who simply do not engage in any way. That is very difficult. All we can do is to have somebody knock on the door and see what the position is on the ground. That is the great difficulty of using enforcement against goods when there is no realistic information about the debtor/customer concerned. One of the things I would like to see changing is that more information is made available at the enforcement stage, so that we can take informed decisions about how debtors should be approached, not simply attempting contact by post, possible telephone contact and then a bailiff going and knocking on the door. That is a very old-fashioned approach. It is a Victorian approach.

Q111 **Chair:** Where does the information come from?

Andrew Wilson: Government databases. If I was working in the magistrates court I would have access to the Department for Work and Pensions database. Although they audit one in every 25 inquiries, that information is available. They have Experian for credit history. On email request they have access to HMRC's database. There is a prisoner location service for those detained at Her Majesty's pleasure. As a final resort, they can even have access to the police national computer.

If you open up those databases, clearly you have to have great safeguards. You must not allow the information to go where it should not be. At the moment, we have access to DVLA for car numbers, and we are subject to audit without notice. Therefore, we have to make sure that our process is squeaky clean and verifiable.

Q112 **Chair:** The quality of the people employed doing the work is all the more important if they have access to that sort of sensitive information.

Andrew Wilson: Indeed, but it is a matter of making sure that those in charge of the organisation that is allowed access know that there would be dramatic results if it was abused in any way. For us to lose our DVLA access would be a major disaster. We are very careful not to allow somebody to look up a car number because they have been bashed into at the supermarket. It would be very bad news indeed if that was picked up.

Q113 **Chair:** Tracey and Carole, what about your access to data?

Tracey Stone: The only data I have is if my clients are registered with the national anti-fraud network. I can get DVLA checks done through them, but if I have the details they will only confirm whether they are right or wrong. I do not get any other details so I do not have any other access.

Q114 **Chair:** It is a different position. Carole?

Carole Kenney: Our access would be by using credit agencies such as Experian, which we do for tracing, and DVLA.

Q115 **Ellie Reeves:** You talked about the reforms and the fee structure a little bit. Debt advice charities have told us that the new fee structure was flawed because it incentivised bailiffs to escalate the situation by refusing to accept payment plans and moving quickly to the visit stages so that they could charge the higher fee. What do you think about that from the perspective of not only your own companies but the wider industry?

Carole Kenney: The evidence I have from my own company, Phoenix, does not support that assumption. It is an easy assumption to make—that if there is a higher fee at the next stage you would jump to it—but I have already demonstrated that we are operating a longer compliance stage. We are making more efforts to try to contact people so that they will only pay the £75 fee. Over 60% of our customers are paying that. When I analyse our contact centre work, over 70% of their activity or work involves setting arrangements and maintaining those arrangements at the compliance stage.

We have prompt and reminder services. When someone sets an arrangement with us we have their contact details and we send them an SMS: "Your payment is due tomorrow." We send them a reminder: "You have missed a payment; if you are struggling, please contact us." We are not seeing that jump. Unfortunately, some people simply do not engage at that stage, and it will move to enforcement, but not until we have worked very hard to try to encourage engagement.

Tracey Stone: It is pretty much the same for us. We have SMSs to remind people of payments. We have a longer time for people who have broken arrangements. Because the majority of our work concerns multiple liability orders over several years rather than just one liability order, we try to make longer arrangements. If they have broken them, we call, text or email them, if we have the details, and send them a letter so that we have tried everything before it gets to enforcement stage.

If we have an account that is on an arrangement and we get the new year one because it has been returned, we call them and say, "Look, we have this new account, so can we increase your arrangement to cover it?" so that it does not escalate to enforcement and they do not have the extra fees. We try really hard; other companies have failed to collect those debts, so it is important to us to try to prove that they are collectable debts. They just have to be collected differently.

Q116 **Ellie Reeves:** Do you think the practice you have described is the same across the industry with other firms?

Tracey Stone: I would like to think so, but I do not work for other firms. I know what I do because this is how I wanted to be different. I wanted to be fairer to the debtor. I wanted to make a difference. The only way of doing that is to have longer arrangements, to speak to them, to understand their circumstances and to work with them: £5 a week now, but £20 a week in three months' time. That is how I work to try to limit going to enforcement agents. I try to engage and get them into the habit of paying again. I would like to say that everybody is the same, but I don't know.

Q117 **Ellie Reeves:** Debt advice charities have told us that they are seeing a sharp increase in complaints about enforcement agents. Do you have any views as to why that might be?

Carole Kenney: When debt advice agencies use the word "complaints", I they are referring to inquiries. When someone goes to seek advice and there is an enforcement agent involved in a debt, they record that as a complaint or inquiry and they are seeing a large spike.

There are two key reasons for that. I have seen research that shows that around 1 million more people are paying council tax today than four years ago, due to benefit reforms. We see a lot of people on low incomes who have never had to pay council tax before. They are the key ones who need advice.

Secondly, we are signposting people to debt advice early in the process, as early as the notice of enforcement. We are reinforcing that through our own referrals to debt advice agencies. I will give you an example of an initiative we have at Phoenix. We work in partnership with PayPlan, where we seek to target at the outset the low balance cases and where people are possibly paying council tax as a result of the council tax reduction scheme. We are contacting them via various methods, with direct links to Payplan, to seek advice. We are proactively sending people to the debt advice agencies. I do not think it is necessarily complaints; I think it is inquiries. I would like to see some of the complaints to be able to quantify them. If there is bad practice I want to see it dealt with, as anyone else would.

Andrew Wilson: The thing that has increased in the High Court is the number of people settling at compliance stage. That is a big increase; it has gone from 24% in 2016 to 30% in 2017. That seems to be a trend.

The thing about fees and escalation is that the new fee scale is very clear and has taken out the old bugbear of reasonable costs, which tended to be applied by the bailiff on the ground. Now we apply fixed fees centrally when the bailiff is instructed. It takes that element away, and the discretion that may have been there in the past has been removed. To me, the trend is settling earlier rather than not settling early and trying to push it through to maximise fees.

Q118 **David Hanson:** Andrew, you told us in your written submission that your complaints procedure has an element of independence involved in it. Let us take an example. Say I am making a complaint against an agency. What happens?

Andrew Wilson: What happens is that a complaint goes via email, telephone or letter to our office and is referred to the complaints officer. If the case is still running—

Q119 **David Hanson:** Who is the complaints officer?

Andrew Wilson: He is one of our association’s board. He is a High Court enforcement officer.

Q120 **David Hanson:** Where does the independent element come into it?

Andrew Wilson: The independent element comes in at the next stage. If the case is passed to the complaints board, the complaints board is composed of two High Court enforcement officers and one independent solicitor in the first case, and at a later stage generally an independent barrister.

Q121 **David Hanson:** How many complaints do you receive at the first stage?

Andrew Wilson: A tiny amount come through to the association based on the numbers of writs that are received each year. In 2016, it was 0.15%.

Q122 **David Hanson:** How many complaints?

Andrew Wilson: In numbers, I think the figure was 128. These are figures that have been put in detail in the call for evidence to the Ministry of Justice. That is the independent part of it; we have advisers. We need people who understand the industry, but we are certainly looking at people in a very independent way because we are trying to maintain and improve standards.

Q123 **David Hanson:** Of the 128, how many complaints were upheld at the end of the complaints procedure?

Andrew Wilson: I would need to look at the figures submitted. Of the 128, 88 were referred back and resolved by the High Court enforcement officer. The process is that we encourage each business to have their own internal complaints procedure. We now have an incentive for them not to allow a complaint to go forward. There is a penalty of £500 for any High Court enforcement officer who allows a complaint to go to the complaints board. It will only be refunded if the complaints board is satisfied that the process internally has been done correctly and without delay.

Of that 128, 88 were referred. In 2016, four went to the complaints board and those cases were upheld, so the complainant was found to have a valid complaint. The amount of fine imposed in 2016 was between £895 and £1,500. In 2017, the total received was 187. The total resolved by referring back to the HCEO was 144. Of those, six were passed to the complaints board. There are two still pending; the remaining four were found in favour of complainants. The amounts charged in penalty were between £900 and £1,500.

Q124 **David Hanson:** Ultimately, there is a financial sanction by your organisation against the member.

Andrew Wilson: It is a financial sanction, but if there is conduct that is so heinous that it should lead to termination of authorisation, there is a fast track under our complaints procedure from the board straight to the senior Queen's bench master.

Q125 **David Hanson:** Has that happened?

Andrew Wilson: Yes. There is one case going through at the moment. It has happened on five occasions, and on one occasion the authorisation was terminated. That was a fairly straightforward one because the HCEO could not tell the difference between his own money and the debtor's money. Therefore, he was obviously quite unsuitable to remain authorised. There is one current case going through at the moment.

Q126 **David Hanson:** We have had evidence from StepChange that the process of making a complaint is not an easy one; it is quite fragmented and very often it is impossible to initiate a complaint. I want to get your response. If you were a complainant to your organisation, would you find it easy to complain and would you understand what your rights were if that complaint had to come forward?

Tracey Stone: If we have a complaint and if it is done by telephone, we ask them to put it in writing so that we understand exactly what they are complaining about or what their complaint is, so that it is not misconstrued or taken in the wrong context. We put notes on the account to say that a complaint has been made, but we like it in writing so that we can understand and answer each point individually.

For 2018-19—I know we still have a month to go—I have had three complaints. One was an admin error. A customer was set up on a reoccurring card payment but he had a DRO—a debt relief order. He did not tell us and a payment went through. He said that we had acted illegally. The payment was refunded once he provided us with proof. Unfortunately, it was our error that the payment was taken, but we did not actually know because we had not been informed by the council or by him.

Another one was when the EA was accused of kicking and swearing at a customer. We had body-worn cameras to prove that that was not the case. It was actually the other way round. It was the customer kicking the vehicles.

The final one was quite serious. The person was threatening to sue our company because he said we had acted illegally. He had taken advice from a solicitor who was working for "Beat the Bailiff". Again, he asked for the CCTV, which we provided. We provided him with our insurance details. Everything he accused us of was unfounded. We had the evidence, and the police were in attendance as well.

It is very easy for people to make a complaint. We will thoroughly investigate it and provide a written response. If they are not happy, we involve the local authority at that time so that the local authority understands, and we understand, if we need to change our practices. We have processes in place, but sometimes they need amending or updating.

Generally, it is easy to complain to JTR. They can email or phone. As long as we can justify what we are answering to, it can be by email or letter.

Carole Kenney: Phoenix has a very accessible complaints policy. Customers can access it via the website, or, if they telephone, we take the complaint over the telephone and process it that way.

One thing to point out is that all the work we carry out is on behalf of local authorities, who are governed by the local government ombudsman. If a complainant is unhappy with how we deal with their complaint, they have a route of escalation that would go to the local government ombudsman. That is taken very seriously by local authorities. Our clients do not like complaints to be escalated in that way because they are published online. If they find that the enforcement agents they contract to collect their debts attract a high level of complaints or escalation of a matter, or show evidence of poor practice, they will terminate contracts with us.

To put that into perspective, Phoenix collects around £22 million-worth of public debt each year for 50 local authorities. The contracts are very important to us. Loss of a contract through bad practice or a published founded complaint through the LGO website would be very detrimental to our business, future reputation and future procurement opportunities.

Q127 **Ms Marie Rimmer:** What advice would you give a friend or a relative if they had had dealings with an enforcement officer and felt they had been unfairly treated? What advice would you give them?

Carole Kenney: Obviously it would depend on the debt type, but if it was someone who had a council tax debt or a parking fine and had gone through the route we deal with, I would certainly say they should make sure they escalate it to the local authority they are contracted to work for, and escalate it through the route of the local government ombudsman. That would be my advice.

If it relates to a specific enforcement agent—it could be a company administrative issue or not getting a decent response from a company—take it through the LGO local authority route. If it was an individual enforcement agent, I would advise them to make a complaint against their certificate at the county court that issued the certificate. It is a free and accessible route to complaint.

Q128 **Ms Marie Rimmer:** Complain through the local authority.

Carole Kenney: No; through the county court, if it is about a specific enforcement agent and his or her behaviour towards the person.

Q129 **Chair:** Because they are certificated by the county court.

Carole Kenney: Yes.

Q130 **Ms Marie Rimmer:** So it is for the individual to take it through themselves.

Carole Kenney: Yes. It is very easy to do.

Q131 **Ms Marie Rimmer:** For vulnerable people.

Carole Kenney: You did not mention vulnerable. For a vulnerable person I would either assist them myself, if it was a friend, or I would advise them to speak to a debt advice agency. If it was just someone in general who had a complaint, there are accessible routes they could take, and I would advise them.

Q132 **Ms Marie Rimmer:** What is the cost to them?

Carole Kenney: There is no cost.

Q133 **Ms Marie Rimmer:** What advice would you give, Tracey?

Tracey Stone: Like Carole. I would look to help them. You need to understand what the complaint is and whether it is an individual enforcement agent, the company or the local authority and then decide which route to take.

In the first instance, I would go to the company to see if they could rectify the complaint, depending on what it was. If it was a serious issue against an enforcement agent, it would be a form 4 through the county court if that was appropriate. I have had people phone about a complaint to be made—as I am sure Carole has—and you offer assistance as to where they should go.

Carole Kenney: It is important to point out that any complaint received today about an enforcement agent or enforcement agent business can easily be proven or disproven. In all reputable organisations, enforcement agents have body-worn video cameras. Call centres can provide call recordings, and we all have IT systems that are auditable and have an audit trail. If there is a process issue, it can be identified. If it is an issue with an EA on the doorstep, there should be video evidence to support that.

Q134 **Ms Marie Rimmer:** It is about the enforcement agent visit. That is where there are most complaints.

Carole Kenney: The enforcement agent should have body-worn video footage, and it is very easy to review that footage. I spend a lot of my time doing it. Very often, it is the case that the complaint has no bearing on what actually happened. When you can pick that up and look at it as a first stage complaint, and ring the customer and say, "I have looked at the footage and it does not match the complaint you have made," it is very easy to close the complaint at that stage.

Q135 **Ms Marie Rimmer:** If they are not happy with that response, they can go to the county court and the evidence would be there.

Carole Kenney: Absolutely, and the footage would be available for the judge to view.

Q136 **Ms Marie Rimmer:** And they are aware of that before they go there.

Carole Kenney: Yes.

Q137 **Ms Marie Rimmer:** Would you agree with what was just said?

Andrew Wilson: Pretty much, yes. In our case, in the High Court, the advice is always to complain to the business concerned. All businesses have their internal complaints procedure. My own business has a complaints procedure on a single side of A4, and a response within seven days is our standard. The advice is that, if you do not get a decent response within 14 days from the business, you complain to the association. The association will take it forward, provided it is not subject to any sort of court hearing. That is the only point.

Then it is a matter of its going through the process. I have an example of one earlier this month that is going to cost the High Court enforcement officer £7,300. The complainant is going to receive £2,500 plus interest at 8%. That is a recent example of a complaints board decision in favour of the complainant. I am sure it has taken longer than the complainant would like, but we have to be balanced between the enforcement agent and the complainant.

On the point about bailiffs on the ground, obviously, if the conduct is poor, the EAC2 county court complaints procedure is there. Our association made submissions not too long ago to the county court where an agent, acting on behalf of a High Court enforcement officer, was applying for renewal of their certificate. We objected to the renewal of the certification and he withdrew his application, and so is no longer able to deal with work of that sort.

We have a suitable system. I find the idea that people are reluctant to complain slightly contrary to our own experience. The arrival of email has meant that people are very quick to complain. We get instant complaint. As Carole mentioned, sometimes it is with little substance, and the whole thing comes in with a great rush after the event of enforcement if that is the case that has arisen.

We accept complaints, and we expect our members to accept complaints, from those helping others. If the debtor is vulnerable, somebody is helping them. We accept complaints from other enforcement agents. There is no question of us restricting access to the complaints procedure in any way.

I have a little strapline on our complaints procedure that says, "The way in which we handle our complaint leads to better practice." That is what we are trying to get our members to do—to learn from what people are saying. Increasingly, although it is not yet universal, body-worn videos are making an enormous difference to complaints handling. There you have the factual information in front of you. It has changed behaviour, both of the agents and of the debtor customers who are aware that there is video evidence being taken.

Q138 **Ms Marie Rimmer:** The wearing of the camera is crucial.

Andrew Wilson: Yes, it is.

Q139 **Ms Marie Rimmer:** If you had a complaint and you found that the camera had not been worn, would you sway towards the complainant?

Andrew Wilson: Certainly, yes. I have a fairly recent example in my own business. The agent managed to turn it on in the van before the visit and the next footage was of him turning it on when he got back in the van. I said, "Well, in that case I believe what the complainant says. All fees to be refunded. It will directly affect your bonus. Kindly don't do it again." I think that is the way to do it.

Q140 **Robert Courts:** I would like to ask you each about your firm's approach to vulnerable people, which of course is always something that catches public attention, and particularly your approach to those who are disabled, elderly or mentally ill. Tell us a bit more about your firm's approach. I understand that you pride yourselves on an ethical approach.

Carole Kenney: Yes. Our ethos at Phoenix is a culture in the organisation about treating customers fairly. That is all customers, not just those who are vulnerable. We place great emphasis on understanding that there are people who are simply not equipped to deal with their debt issues, or who have a lot of other issues going on in their life.

We spent a lot of time, certainly early in the reforms, training our staff in accordance with debt advice agencies, particularly the Money Advice Trust. We spent a lot of time in our organisation training staff to look at indicators that would help them to identify customers. We have a lot of helpful tools for our people in call centres to help them identify those who, as you say, are elderly or have mental incapacity.

Q141 **Robert Courts:** I think you have experience yourself in knocking on doors, as it were.

Carole Kenney: I do, yes.

Q142 **Robert Courts:** How easy is it for you to identify someone who is vulnerable?

Carole Kenney: It is not always easy. People's vulnerabilities are not immediately apparent. As I said, that is why we have to treat all the people we deal with with a level of respect, courtesy and understanding. There could be a lot going on in their life. I have personally had very difficult experiences over the past year, but that would not be apparent to the people I work with.

Q143 **Robert Courts:** I understand what you are saying about needing to treat everybody with respect. I hear that entirely, but there will be some people who are particularly vulnerable and would need extra steps taken. I am particularly interested in how you identify someone who needs extra care because they are vulnerable. It is not only how you identify it but what you do about it.

Carole Kenney: As you say, the key thing is identifying that someone is vulnerable or potentially vulnerable. There could be different routes that we would follow. We have a specialist welfare team who would handle that particular case and have continued engagement with the customer, just so that they have someone they can speak to on the phone that they are familiar with.

They would refer those people to a debt advice agency where appropriate, or charities such as Mind, Age Concern, and so on. We are quite good at understanding who offers which level of support and where that could help a particular person. As I said, we understand that they might have a number of other things going on in their life and not just the debt that we are there to collect. Therefore, it is really important that we refer people to debt advice so that we get a holistic view. The person can then come back, having had help with their entire situation, able to make a sustainable payment plan.

When we speak to the debt advice agency or third party that we suggest gets involved with the person, it could be that we agree, looking at the evidence, that enforcement is not the appropriate route. Looking at some statistics—not wishing to bore people with stats—of the cases we deal with, in 122,000 instructions, we probably make contact in around 50%. Of those, we identify 13% of people as vulnerable. Those are people where we are concerned that they do not have the capacity to deal with their debt; 90% of those cases are referred back to the local authority as we deem them inappropriate for enforcement action. Sometimes, the remaining people want to pay. They have difficulties and they may have disabilities, but they want to repay and just need some flexibility to do it. That is when we enter into a sustainable payment plan with them and have the reminders. We manage the case within the welfare team.

Tracey made a really important point earlier. Sometimes, it can be a doorstep visit despite the activity where we have tried to engage with the customer at the outset. Sometimes that is the first time you really see that people are living in difficult circumstances and leading very chaotic lives. We place a lot of emphasis on training people to identify vulnerability and how to guide those people to the best routes. Our agents carry leaflets for another agency we work with—Christians Against Poverty. When they see people who need help, they suggest that they contact Christians Against Poverty, and refer the case back to our welfare team and remove enforcement costs.

Q144 **Robert Courts:** Is there a complicating factor where the debtor may not realise that they are vulnerable? Of course some people may say so, or it may be obvious, but some may not realise it if they are mentally unwell. Does that complicate factors?

Carole Kenney: It does complicate factors, but again all you can do is to try to show flexibility and understanding, and find the best resolution for them. You cannot force people to go to a debt advice agency or a charity for help. You can encourage them to do so. You can ask them, "Do you have a friend or a relative who you could give authorisation to so that they can deal with your affairs on your account?" But they might not want to do that either. All we can do is try to work with them and reach a resolution. If we feel that they are not in a position to pay, will not repay or are likely to default, it is better that we refer the case back to the local authority with the information that perhaps they need a different level of care.

Q145 **Robert Courts:** Tracey, can I ask for your approach?

Tracey Stone: Obviously, we see vulnerable people. As Carole said, and I said earlier, sometimes it is not until you knock on the door that you realise that people are vulnerable, even when you have spoken to them on the phone. It is very hard sometimes to understand what people are going through if they are not willing to tell you.

It is very easy for some people to say that they are vulnerable. We have people who say they are vulnerable because they have seen the list in the national standards and they categorise themselves as such. They are perhaps not necessarily vulnerable as in they cannot pay. They perhaps do not want to pay so they use that as an excuse. It is trying to find the "Can't pay, won't pays". We will genuinely help anybody who is vulnerable with extended payment plans by referring them to other people.

I have been out and knocked on doors. I have phoned the council and said to them, "This person doesn't have the capacity to deal with this debt; please look to write it off. I can give you the information you need, but this isn't the right course of action." It is about having information, but it is not always forthcoming. Sometimes, it is more luck than judgment that you find out that somebody is vulnerable and can help them in that way.

Q146 **Robert Courts:** On the point about more luck than judgment, isn't the issue about people having the skills? I think you have some experience, haven't you?

Tracey Stone: I have, yes.

Q147 **Robert Courts:** It is through talking to them and understanding. How easy is it to identify someone who is vulnerable, particularly if they don't know themselves?

Tracey Stone: My office staff are trained in safeguarding and vulnerability, along with my EAs. There are key words that people use when they are vulnerable. It is learning those key words. Not everybody who says they are vulnerable is vulnerable, but the ones who do not think they are tend to be the most vulnerable and need the most help. They need referring elsewhere, whether it be a family member who helps them and then guides them somewhere else or whether you need to refer them to CAP.

I spent a day with CAP last month to learn what they are doing with debtors and customers. They actually go out and visit. They make sure that people have food in their cupboard. They make sure that they have bedding and beds, whereas some of the others do not have that facility. It is finding the truly vulnerable people who need help and then guiding them to the right place. Sometimes, just by talking to them and listening to them—the most important thing—you can take action as to where they need to go. That might be back to the local authority with the guidance that they cannot pay, or to CAP or SSAFA or somewhere else that can give them the help that they need.

Q148 **Robert Courts:** You have raised a good point. The Money Advice Trust told us that, in their experience of the industry, collectors rarely identified debtors as vulnerable and returned them to the client, to the local authority. I can see your response already. Is that your experience of the industry?

Tracey Stone: No. Sometimes you only know when the enforcement agent has been at the door. As I said earlier, one of my EAs has spent a year with a chap to try to get him the help he needs. That has meant spending half a day with him, so he is not earning or going out somewhere else but he is trying to help this chap get the help he needs. We ask them to look out and, if it is within their powers, identify people to us so that we can give the help. This chap talks to my EA, and he has taken it upon himself to get him the help. We have done that. A lot of enforcement agencies are working in the same way. If we can identify them, we can help them.

Q149 **Robert Courts:** Before you answer, Carole, I want to clarify two points, Tracey. You are answering very much about your experience and your practice. What about your experience of the industry as a whole, if you can answer that?

Tracey Stone: I struggle with the larger companies when I phone them to say people have multiple debts. They may have lived in separate areas, so I perhaps do not cover that area. When I have tried to speak to other agencies and say, "Look, this is the issue we have come across, so can you put a hold on it?", I have found it very difficult to get across that it is a vulnerable person. I cannot speak for everybody, but with the couple that I have dealt with that were a lot larger than Phoenix and myself, it is sometimes very difficult to get away from the hard pressure.

Q150 **Robert Courts:** So the larger the agency, the less sensitive they are to vulnerable people.

Tracey Stone: I believe so. But that is only my opinion; it is not anybody else's.

Q151 **Robert Courts:** Carole, perhaps you do not agree.

Carole Kenney: As well as being a director of Phoenix, I am an officer of the Civil Enforcement Association so I see a lot of the practices that a lot of the larger, medium and small companies operate. Vulnerability has been a key focus, certainly since the reforms. Some have caught up. There is a significant amount of investment. Most agencies have a welfare team. Most agencies are engaging with the advice sector, doing the best they can. I think most agencies and most enforcement agents understand that when you knock on the door people can only pay what they can afford. They do not have goods to remove, and removals are a very rare occurrence.

We see enforcement agents returning cases as vulnerable quite regularly. We see them entering into long-term payment arrangements quite regularly, managing those arrangements and having a good rapport with the customers they are collecting from. It is important to pinpoint that vulnerability can have many different levels. There are some people who simply do not have the capacity to deal with their issues. Many people might say, "Well, they are vulnerable because they have debts. They are financially vulnerable."

Would you necessarily class them as vulnerable? Are they able to understand that they have debts and can they repay? Yes, many of them can. What they need is flexibility and time to pay, so we place a lot of emphasis on affordability assessments and setting longer-term payment arrangements. We see an average mix of enforcement agent arrangements and compliance stage arrangements. EAs are doing that.

We survey our customers and ask them to comment on how our staff have treated them. Were we professional? Were we fair? I have an example that I think fits with what I am saying: "Your enforcement agent, Mr P, has been very fair and reasonable with helping me arrange a payment plan to suit me. He made a very stressful situation much easier." That is what most people need.

Q152 **Chair:** What is your response rate on those surveys?

Carole Kenney: On the surveys, higher than the CAB response rate.

Q153 **Chair:** What is it?

Carole Kenney: It is just under 10%. It is not quite at the 10% mark, but people respond and they give comments. That enables us to change our practices.

Q154 **Robert Courts:** What more could be done across the industry as a whole to protect vulnerable debtors?

Carole Kenney: Certainly continued engagement. It works well operationally when advice agencies and enforcement agencies work together. Some of the policy campaigning gets in the way of that. I would like to see more operational engagement, which helps people to get advice early and set affordable payments.

Secondly, I would make the use of BWV cameras mandatory across the board. That is what I would like to see, because it is clear evidence.

Tracey Stone: It is being able to work together and not make the enforcement agencies the enemy of the advice centres. Let us help the people without making us the wrong people. It would be more helpful for all of us to work together rather than being pitted against each other.

Andrew Wilson: With commercial debt, we tend to have slightly less sympathetic creditor customers. The ultimate responsibility as to whether somebody should be treated as vulnerable tends to lie with the High Court enforcement officer rather than being referred back.

We have cases where we tell the creditor customer that we are not proceeding, which goes down extremely badly, but that is the ultimate decision that has to be made. In the High Court, vulnerability training is in place. We tend to follow the FCA guidelines, but our problem, as ever with vulnerable people, is engagement. Like others in the industry, we tend to divert any potentially vulnerable person to a specialist team. Where visits are required, it is done at the most senior level. I have been out to deal with vulnerable people where simply emails have shown that there is a real problem. It is then a matter of persuading the person by email to actually speak to you, and that can be quite difficult to do.

Generally speaking, vulnerability is very much on everyone’s wavelength. The days of bailiffs just bashing ahead have now gone, because it is very time-consuming for them. They are far happier to push it into the office, and let the office and the specialist team deal with the matter, than trying to persevere with somebody where they should not be persevering. That is an area that has improved considerably over the last few years.

Chair: The issue of regulation has been talked about and leads on to how you make sure there is good conduct.

Q155 **David Hanson:** Debt charities have told us that self-regulation is all very well, but we need a regulator and we need to set some standards. Do they have a point?

Carole Kenney: Phoenix was the first enforcement agency to support the call for an independent regulator. That is not because we feel there is a need for one or that the reforms have not worked—I think the reforms have been a great success—but because we know that the debt advice sector perhaps won’t rest until we have one. The key thing is what will be the cost and who pays the cost. Is it more money that comes out of the public purse?

Q156 **David Hanson:** Is that going to be harder for smaller companies like yourself? How does it work?

Carole Kenney: Absolutely. It is not costed for in the fee regime. We have a fee regime that is already criticised. Who pays for the regulator? That would need to be costed elsewhere, I believe. In terms of our firm, we do not object to having one. We already have a sister business that is regulated by the FCA, so we are well equipped to deal with it. We simply do not see the level of complaints or bad practice that is widely reported. I am not quite sure what it would add to some of the good methods and sanctions that are already in place via the local government ombudsman or the Courts Service, where there are some hefty sanctions.

Q157 **David Hanson:** Does anybody disagree with that point of view?

Andrew Wilson: The High Court has its own regulator: the Ministry of Justice. We had regulations in 2004 and judicial involvement with the senior Queen’s bench master. The association is neutral about a regulator. We do not think it is necessary in the High Court. High Court enforcement officers have the obligation, inherited from sheriffs, to be balanced between creditor and debtor. As I mentioned on vulnerability, we can and sometimes do say no to the creditor customer.

The point I would like to make is that, although the Ministry of Justice is a very light-touch regulator, it has relied on us to do the things that a full-time regulator might do, such as a complaints procedure free to the complainant, best practice, continuous professional development, training, annual returns, which are effectively a practising certificate, and a modern educational pathway. What we have done is to try to think what a regulator should be doing and get on and do it. If the rest of the enforcement sector were to have similar regulations, and all enforcement agents were obliged to be members of one of three associations, we could see self-regulation actually applying across the board rather than just to one small part of the system in the High Court.

When we were reformed in 2003, we were asked by the then Department for Constitutional Affairs to be an exemplar of the way in which civil enforcement was organised. We have tried to do that. Since then, regulation has not flowed down as we would have expected it to over the period from 2004 to now. Without having an independent regulator, much could be done by beefing up self-regulation.

Q158 **John Howell:** High Court enforcement officers and civil enforcement officers do exactly the same thing on the doorstep. Why are you making a distinction between the two?

Andrew Wilson: Mainly because of personal responsibility and personal liability. High Court enforcement officers are personally responsible for the person acting in their name, whereas in other parts of the civil enforcement world that is not the case. I suppose the other point is that we are dealing with enforcement of court judgments as opposed to liability orders and other types of warrant that are issued in an administrative way.

Q159 **John Howell:** I heard what you just said about regulation. I think you landed on some of the negative points about it. Regulation can be looked at in a much broader perspective, bringing in things like standards and raising the quality of standards and that sort of activity within the industry. Why do you object to that?

Andrew Wilson: I do not object to it; I just say that it is not necessary in the case of the High Court. The association's view is that we are neutral about it. We do not see that it will be of any great advantage in our sector of civil enforcement.

Chair: Thank you all very much for your time and your evidence. It has been very helpful to us and we are very grateful.

Examination of witnesses

Witnesses: Dr Hobley, John Kruse, Barrie Minney and David Platts.

Q160 **Chair:** Good morning, gentlemen. Thank you very much for coming to give evidence to us. You have heard, because you have been sitting at the back of the room, a lot of the nature of what we are interested in.

Perhaps you could briefly introduce yourselves and your organisations, and then we will go straight to the questions.

Barrie Minney: I am Barrie Minney. I am employed as a technical enforcement officer in the corporate debt department of Brighton and Hove City Council. I have been a certificated bailiff for nearly 30 years. Until two years ago, I used to run the in-house bailiff team at Brighton. We still have one. In 1997, I founded LACEF, which is the Local Authority Civil Enforcement Forum. It is a forum consisting currently of just over 1,000 members from 80% of local authorities dealing with debt collection, mostly in revenues. It is a free forum for advice and, if you like, a centre of excellence.

David Platts: I am David Platts. I am the head of service at Stratford-on-Avon District Council. I am responsible for the administration and collection of council tax and business rates. I have worked at a number of local authorities over the years. I have about 20 years' experience dealing with in-house bailiffs and external bailiffs.

Dr Hobley: I am Andrew Hobley. I am an assistant ombudsman with the Local Government and Social Care Ombudsman. I have been with them for about 18 years. Our role is to investigate complaints about local authorities and private adult social care providers. We deal with everything that local authorities may do. In the context of today, we deal with local taxation and parking debts. Bailiffs are in our jurisdiction if they are employed directly by a local authority or are acting as a contractor for them in collecting those debts.

John Kruse: I am John Kruse. I am here in a number of different roles. I think I was invited because I helped to establish an organisation called the Campaign for Enforcement Reform with a number of people who worked in the industry. My background is as a debt adviser, which I have done since 1986. I became an author and trainer in that field. For about the last 30 years, bailiff law is where I have specialised, both contemporary bailiff law and the history of bailiff law, which is pretty important in understanding the situation we have now.

Q161 **Chair:** Thank you very much. What is your take on the reforms we have had since 2014? You heard that we asked the previous panel. By and large, as the local authority sector, you are their principal clients.

Barrie Minney: I think it has been a success. It has been a long time coming. I was involved with the Lord Chancellor's Department back in 1999 when it all started. It has been very welcome. The three-year review, which is ongoing as part of it, has been very welcome because there are some issues that need looking at.

We have seen a big change in the business model for in-house and for the private sector, where they will now have their business at the compliance stage, which, as you know, is when they collect their £75 fee, and means that they pick the low-hanging fruit. Therefore, the work goes out later to enforcement agencies and is probably of a poorer quality. That may cause some issues, particularly if some of those enforcement agents are self-employed, as some of them are, or if they are on commission.

Q162 **Chair:** What percentage of people are in-house in the local government world or are self-employed?

Barrie Minney: That is a very good question. Even though I run LACEF, it is very difficult to find that out. I imagine that it is about 25% or 30%, but there has been very slow movement to in-house—probably about 10% or 15%—over the last four years, for various reasons, not just because of the fee structure. There is also a movement towards corporate debt among local authorities, where you see a customer of your authority owing debts to different departments. With modern software, you can now look at those people and say, "Right, you owe debts in different departments; therefore, we can offer you one payment plan to cover those debts."

David Platts: I echo Barrie's comments around the fact that it is welcome. To echo his point, we have an agreement with Bristow & Sutor, and all their agents are directly employed by them, so there are no self-employed agents.

There is a real issue around the Welfare Reform Act that came in. That has developed and we see customers who have housing benefit debts. They also have council tax debts. Over time, when we get our own staff, who are extremely professional and diligent, working with those people, we see that they have fuel debt, water debt and considerable personal debts as well. It is trying to bring it all together, but the way we work with people is to try to make contact as early as we possibly can and avoid having to forward any cases we can deal with ourselves to the enforcement agencies.

Q163 **Chair:** Logic says that, if you have a council tax, business rates or parking debt, you want to sort it out yourself to start with, ideally.

David Platts: Absolutely.

Q164 **Chair:** It is after that that it gets passed on.

David Platts: Indeed.

Q165 **Chair:** Dr Hobley, what do you think?

Dr Hobley: We can only speak about it from the point of view of the complaints we receive. Pre and post reform, there was a drop in the number of complaints. It is not enormous, but what has changed is the number of upheld complaints that we have, particularly around the area of costs. There used to be a lot of issues with costs pre-reform. Now it is very simple. The complaint may be, "The bailiff charged me £75 to send me a letter," but that is what the law says the bailiff can do.

Q166 **Chair:** Rightly or wrongly, that is what it says.

Dr Hobley: Yes. That is what Parliament has decided and that is what the law says.

On the behaviour of bailiffs, with body-worn video cameras, we now have evidence of what happened, as opposed to the "I said, they said" type of argument. That evidence is very useful. Generally, where we have seen it, it does not uphold what the complainant is saying, but we had a case where we issued a public report against Bury Council in 2015. It was a pre-reform case, but the video evidence proved conclusively that what the complainant was saying was right. We get the odd one or two.

Chair: Mr Courts, do you want to come in on body-worn cameras?

Q167 **Robert Courts:** Thank you for raising body-worn cameras. I want to pick up that point. In written evidence, the ombudsman told us that "since 2014, we have not found fault with the agent's behaviour in any case where there was video camera evidence available." Why is it not always available?

Dr Hobley: Sometimes the agents do not have them. They just do not have them.

Q168 **Robert Courts:** Whose responsibility would that be?

Dr Hobley: That would be the agent, I imagine.

Q169 **Robert Courts:** The individual.

Dr Hobley: Yes, or the firm. We just know that the evidence is not there. We have had a couple of cases where the evidence was not there because the agent had not turned the camera on properly. We found fault with the fact that the agents had a policy, and the individual agent was not following that policy. As I said, since 2014 we have not had a case that has been upheld where we have had body-worn video camera evidence that supports what the complainant is saying.

Q170 **Robert Courts:** Would you like to see all agents wearing body-worn cameras?

Dr Hobley: It would make our lives so much easier. The "I said, they said" type of argument is very difficult to deal with. You have two people giving a totally different version of events, and you honestly do not know which one of them is right. With the camera evidence you can say, "Well, that is what happened."

John Kruse: One thing I found as a caseworker was that the nature of the casework changed from about 2012 because people were starting to film incidents themselves on their own phones. That made life quite a lot easier as a caseworker. Body-worn video is an excellent advance. The problem is that it is not recognised by the legislation as it stands at the moment. It would be helpful to at least have something in the national standard providing good practice guidance.

As Andrew was saying, not all firms use it at the moment because the IT burden is substantial. It probably should be required of most agents, but then we would need specific guidance on how it should operate in the enforcement sector.

Q171 **Ms Marie Rimmer:** Mr Platts, what does your council look for when contracting with an enforcement agency to operate on its behalf?

David Platts: The current agreement we have is with Bristow & Sutor. It is a three-year agreement. It was done with a transparent procurement process. Some of the issues have already been touched on this morning and are really key. They are around the fact that the agents are all directly employed by Bristow & Sutor. That was key. There was not a range, with some people who were self-employed.

As you have just been speaking about, another thing was the fact that bodycams were to be worn at all times by all the agents. We have regular dialogue with them. There are formal three-monthly meetings where we can discuss cases. The agreement is across five separate Warwickshire authorities, so we have the ability to draw best practice from all of those councils to decide what we want included. There is the ability for exchange visits between staff. I have my own good team at Stratford, and they go over and spend time in the contact centre. Likewise, staff from the agency can come over and spend time with us so that we can try to understand and appreciate each other's problems.

One of the key things we pulled out of that was that we wanted regular meetings with debt advice, whether it be CAB or other local advice agencies. That happens with our staff, and independently with Bristows as well, so that any issues can be picked up quickly and dealt with so that they do not escalate, and we are able to nip in the bud any trends that may develop. For us, it was about a customer-focused approach, understanding the needs of our residents but also understanding the requirement to try to collect the debts.

Q172 **Ms Marie Rimmer:** Would you allow any flexibility in service level agreements?

David Platts: Yes, absolutely. We have a formal service level agreement, but it could even be on a case-by-case basis. I have personally been involved in the last two weeks with a gentleman, where the case had been referred to Bristows. We had had some discussion. He was fairly threatening to the staff at the council. I asked him to come in. We sat down and had a face-to-face talk. He said that when the enforcement agent was at the house he was very pleasant. We are very flexible about calling those accounts back on a case-by-case basis and removing the fees. There has to be flexibility in the service level agreement.

Chair: That is very helpful.

Q173 **Ellie Reeves:** Citizens Advice tells us that 850,000 people in the last two years have experienced bailiffs breaking rules, giving them cause to complain. That figure does not seem to sit with some of the things we have been told today about complaints made to local authorities or to bailiff companies. Why do you think there is a big discrepancy in the figures?

Barrie Minney: I am not going to criticise the way they got to their figures because it is quite easy to do. However, I have some figures from Brighton and Hove City Council's customer feedback, not the complaints team. We issue something like 12,000 liability orders a year for council tax. About 14% of those are for people on benefit under the council tax reduction scheme that came in just before the regulations changed.

We found that our complaints were starting to drop in 2012. I have no idea why that happened. Year on year, our complaints have fallen; not drastically, but they have fallen. Since 2014, we have had 45 complaints. Five of them were upheld. We had four go to the local government ombudsman and none of them was upheld. There is not a big increase in complaints; in fact, they are actually falling.

As I said earlier, LACEF has 1,000 members, and we have the ability to do what we call a straw poll and contact them almost immediately. Last week, I did such a poll to see the effects in different authorities in England and Wales. We found that 63% had seen a considerable reduction in complaints since 2014; 14% had seen a small reduction; 14% had seen the same level; and 5% had seen an increase in complaints. Another 5% said they had seen an increase in unfounded complaints. The evidence I have is that complaints have not been increasing; in fact, they have definitely gone down.

There is a reason for that. It is that almost everything is prescribed now. The fee structure and the letters that are left or sent are all prescribed. We have to do the same thing, so there are no more complaints about fees being added on or notes left or not left when something has happened.

David Platts: Over the previous five-year period, we had around 10,000 cases referred, of which there were 12 complaints. Only one was upheld, so it is about one complaint for every 1,800 pieces of correspondence that we deal with. That would echo what Barrie said.

Dr Hobley: Perhaps to put it into some sort of context, we deal with all local authority actions. We get about 20,000 complaints each year about everything local authorities might be doing. Those are not the ones upheld; it is just the complaints we receive. The debt advice sector has come up with a figure for a particular area. It is difficult to make comparisons, although I saw that a couple of weeks ago the BBC reported that there were 1.8 million complaints about unemptied bins. We had 522 complaints and upheld 76, so again there is a big disparity.

Some of it might be that people make a complaint but it is dealt with and resolved along the way. There are obviously cases where people do not want to pursue the complaint any further, for whatever reason. Our figures do not suggest a huge increase in the number of complaints about bailiffs or in the number of complaints that are being upheld. That is evidence based on what we get as complaints.

John Kruse: A big part of my work as a caseworker, and what I came across when I was going around the country doing training, was to do with fees under the old regime, because the fee structure was such that it gave considerable latitude to individual agents. Since 2014, within the non-High Court sector, that has disappeared as an issue. There are still complaints in other areas, particularly those where there is discretion, such as whether goods ought to be treated as exempt or not, or maybe whether somebody should be regarded as a vulnerable person.

I suspect that possibly part of the explanation may be that, in a sense, the Government are the victim of their own success. By creating a clear code of rules for enforcement agents, there is little scope for people to say, as used to be the case, "It's a bit of a grey area and we don't know. There is a case from 1837 and another one from 1776." Now we know what the law is, and to that extent it may be easier for advice agencies to say, "Actually, we think you've got it wrong because you didn't do what you are supposed to do and this is what paragraph so-and-so says." The big area of complaint was fees, and that has pretty much gone.

Q174 **Ellie Reeves:** The debt advice sector says that the system has fundamental problems. From casework that I have done in my own constituency, I know about numerous complaints and issues of enforcement agents behaving inappropriately. Would you agree that the system is fundamentally flawed?

John Kruse: There are still gaps to fill in the legislation, probably in a lot of technical areas, but I regard it as work in progress. Having had the experience of operating in a lot of these areas, you start to see that it could be refined. There is probably still some work to do on fees. There is a lot more we could do overall in the regulation of the sector itself and in the training of agents. We do not aspire high enough for the educational standards agents ought to achieve.

A lot is demanded of an agent on the doorstep. They have to assess vulnerability. They have to access a person's ability to make payments. They have to assess the ownership of goods and whether goods should be treated as exempt. I think Andrew said earlier that it is a GCSE pass, and that is probably not the sort of level we should be aiming at. We ought to be aiming for greater professionalism, and we are still some way from that.

Q175 **Ellie Reeves:** Are there any other comments about the system being fundamentally flawed?

Dr Hobley: One of the previous speakers mentioned that we publish the evidence from our investigations on our website. You can read our decisions and they are evidence based. We talk to the complainant. We talk to the local authority. We talk to the bailiff. We look at the evidence we have and we present it to both parties for their comments. We then come to an evidence-based decision. That is published and available for people to read.

The evidence does not support that there is a fundamental flaw in the system. Almost certainly, more can be done about complaints handling. Our view has always been that the simpler a complaints process, the more people will use it. In 2013, we produced a focused report looking at a particular sector about bailiffs. Obviously, part of that is out of date because it was pre-reform, but we said there that if people have a complaint about bailiffs they should approach the bailiff first because the firm might be able to resolve it. If they are not happy, they should approach the local authority, and then they should come to us. There is a clear, simple, signposted route for people to bring complaints to us. Too complex a complaints system means that people just get lost and give up.

Q176 **Chair:** Is there enough independence in the system for complaints? You start with the firm—I grant that—and you have your own internal processes. Mr Wilson gave some evidence about that. Do you have any independent process in your local authority structure, for example, Mr Platts?

David Platts: Certainly. When the complaint first comes in, it will go to the team itself to see whether or not there has been an issue there. The complaint then comes to me, so there is some independence there, because, although I am in daily contact with the team, obviously I cannot know the nature of all the accounts that are going on, so there will be some independence for me to have a look at it and see whether we have made a mistake. The beauty of the service level agreement is that, if it is escalated to Bristow & Sutor, we can actually discuss it with them at the time. If we have found something that we think is inappropriate or has been poorly handled, we are able to deal with it on a case-by-case basis.

Q177 **Chair:** What percentage of local authorities operate on service level agreements?

David Platts: The five in Warwickshire do, and I would think that most local authorities have something very similar.

Q178 **Chair:** Is that your experience, Barrie?

Barrie Minney: Taking the first point about the complaints procedure, we, like most authorities, have a three-stage system. In the first stage, the complainant is referred back to the enforcement agency to handle it to see if there are any lessons that can be learned and to see if it can be resolved. If not, they are encouraged to go to stage two, where we have a separate, independent team that investigates the complaint. If they are still not happy, the local government ombudsman gets involved. I would like to think that ours is a robust complaints procedure. We encourage people to complain.

Q179 **Chair:** One of the big issues raised with us is the question of vulnerable people and how you can tell if someone is vulnerable, how you pick that up. Dr Hobley, are you able to ascertain from the number of complaints that get to the stage of the ombudsman how many you would regard as being from vulnerable people?

Dr Hobley: I had a look. Since April 2014, we have seen about 48 or 50 complaints involving the reformed process where the complainants appeared to be vulnerable. In very few of the cases where we found fault was the agent at fault; it was more often the local authority. That was generally around failing to properly consider evidence that the person was vulnerable.

We have seen some good practice with agents, on finding that somebody is vulnerable or appears to be vulnerable, passing the debts back to the local authority. We also had a case where somebody said, "I am vulnerable because I have a blue badge." That was the only evidence they gave the local authority, and the local authority and bailiffs not unreasonably thought that just having a blue badge did not make you vulnerable on its own.

Q180 **Chair:** It was purely assertion.

Dr Hobley: Yes. We definitely see more good practice than bad practice in the complaints we investigate.

Q181 **Chair:** Where there is an error by the local authority, is that because it is quite early on and the identification has not been picked up properly?

Dr Hobley: Yes, sometimes you get that. The previous witnesses referred to the problems of engaging with people who will not engage.

Q182 **Chair:** Mr Platts, what do you say from your point of view?

David Platts: We would not even refer to the enforcement agency if we discovered anything regarding vulnerability, ill health or anything like that. Having said that, and confirming what the last speaker said, sometimes residents just will not engage with us at all. I have personally seen cases where the enforcement agent has been in contact and has referred them back to us when they detected vulnerability. From the local authority's view, we would not forward anything to enforcement agencies where we have managed to detect any signs of vulnerability at all.

Q183 **Chair:** Your people are very often on the ground, Mr Minney. What experience or feedback are you getting from your members?

Barrie Minney: I can only speak for Brighton. As I said earlier, we have quite a few people we class as financially vulnerable because they are now having to pay a level of council tax. We have several teams set up in Brighton. We have a debt prevention team we can signpost people to and they will then speak with the money advice people. We have a local umbrella called Moneyworks where all the advice people come together, and we have regular meetings with them. We have a welfare rights team. We have a discretionary housing payments team. We have all those internal teams. We have visiting officers in those teams who go out to see financially vulnerable people.

There are also people who are temporarily vulnerable. If we come across them, we can put a hold on any activity until that has passed. I am talking about people who have perhaps lost their job or have had a bereavement— that sort of thing. Then you get the extreme cases where the person is so vulnerable that there should be no enforcement whatsoever. We can give discretion on the council tax account to those people and take them out completely—you mentioned the severely mentally impaired—and we are doing that a lot these days.

Of course, we use things like debt relief orders to take people's debts away as well, but it is a problem because there is no definition of vulnerability at all. It is very subjective, and there are people who fall completely through the net. It is up to the person on the road who knocks on the door. They contact us, whether it is the external agencies or our own staff, and say, "This person should not be subject to a recovery at all," and then we take them out of the equation. It is a difficult problem.

Q184 **Chair:** It has gone quite a long way through the process by the time it has got there.

Barrie Minney: Absolutely. If people do not know the system because they are so vulnerable—we do find them—they will not know how to appeal or fill in forms.

Q185 **Chair:** What is your overview, Mr Kruse?

John Kruse: My personal experience was that firms were always very ready to accept individuals as vulnerable and to refer them back to the creditor, normally the local authority, when you pointed that out to them. But I did not tend to find agents being particularly proactive in that.

A lot of the problems we get are when there is a self-employed agent, who obviously has an interest in progressing a matter and being able to take control.

Q186 **Chair:** Because that is where his remuneration is.

John Kruse: Yes, exactly. There is reluctance sometimes to identify vulnerability. Sometimes, there may be resistance to displaying simple common sense. I had one client, a long time ago, who was so severely disabled that he could no longer get upstairs to his bedroom in his house. He was sleeping on the sofa in the front room. The bailiff came and seized the sofa. It must have been absolutely obvious that there was bedding on it and that it was being used as a bed. That kind of thing unfortunately happens under the pressure of the terms of employment they have.

Barrie mentioned the problems of defining vulnerability. In the last week, I have been looking at the national standard. It has a list of individuals, and there is an understandable wish to focus on that and say, "You are in one of those categories and therefore you are a vulnerable person," or, "You are not in one of those categories, so you are not." I do not think that is a particularly sophisticated way of defining it. The national standard also talks about social exclusion. A broader assessment of somebody's circumstances and their ability to engage with creditors and the benefits agency and so on is a better approach. Again, it is asking a lot of an agent on the doorstep to do that sort of work.

Q187 **Chair:** What percentage of agents are dependent on commission? How much of their remuneration is based on bonuses?

John Kruse: I cannot say. It is changing as a result of pressure from local authorities. It used to be very high indeed. Certainly a lot of the biggest firms were working on that basis. I am not entirely sure whether that is still the case.

Q188 **Chair:** Mr Minney or Mr Platts, do you have any views or experience?

Barrie Minney: Only anecdotally. You will hear that commission is round about 20% or 40%.

Q189 **Chair:** Of their income.

Barrie Minney: Yes, but John is quite right. A number of companies are now moving just to salaried staff.

David Platts: That was one of the key things when we engaged Bristows. It had to be the case that they were not employing any self-employed agents.

Q190 **Chair:** That was a term of your engagement, was it?

David Platts: Yes.

Q191 **David Hanson:** We have talked about regulation, and there are lots of discussions around how regulation can be undertaken. I want to get a sense from you of whether an independent regulator for the sector as a whole is a good or a bad thing.

Barrie Minney: When the Tribunals, Courts and Enforcement Act first came out, there was talk about training requirements for enforcement agents. I remember being at meetings where using the Security Industry Authority as a regulator for enforcement agents was discussed. I think at the time there was also discussion going on in HMG of doing away with the SIA, so that was a non-starter.

Today, certification in the courts still leaves a lot to be desired. Whenever my agents go up for renewal of certificates, I make sure that they take a copy of the regulations with them because often the judge does not know. We have had some issues over certificates being issued wrongly. Someone on the earlier panel made a comment about the cost. There is a cost to certification. If you took that cost away from the courts and gave it to somebody like the Security Industry Authority, which is doing a really good job with their staff, in my view it would be a much better place. The enforcement agencies would sit better with the SIA than with the courts.

Q192 **Chair:** How does the court process work for certification? Do you go up once?

Barrie Minney: It is every two years. There is a lot of form filling to be done beforehand. There are obviously background checks on you, and references. A bond has to be arranged. It is done through the Northamptonshire County Court. They vet your form and make sure that it is correct.

Q193 **Chair:** They do it for the whole country, do they—in England and Wales?

Barrie Minney: England and Wales. There are a number of courts in England and Wales where you can appear in front of a judge and get your certificate renewed. To be honest, it is a rubber-stamping exercise.

Q194 **Chair:** How long is the hearing? Is it a district judge?

Barrie Minney: It is just a few minutes. It is a district judge. It used to be a circuit judge but it is now a district judge. There is no requirement for any CPD, so you could have taken your level two exam in 2013-14 and never done anything to brush up your knowledge of the law. That is my experience of our local county court.

I would much rather that there was a requirement for CPD, so that every two years you could say, "I have done this amount of studying." You could move it from level two to a level three exam. A number are now doing that. Moving it away from the court would be much more efficient.

Q195 **Chair:** What is your experience of that process, Mr Kruse?

John Kruse: I would entirely support an independent regulator. Certification, with all due respect to county court judges and district judges, is not dedicated and it is not expert. Some district judges know about bailiff law. Most do not because there is no need for them ever to encounter it. At the same time, the regulation we have is very partial because it is solely regulation of an individual. In the non-High Court sector, there are a lot of large companies involved and they are basically unregulated; there is no statutory control over them, except indirectly through their staff and through the national standard and the recommendation it makes about how enforcement agencies should conduct themselves.

We need a comprehensive form of regulation that sets standards, licensing, training and, as Barrie was saying, continuing professional development, and can link that to monitoring and disciplinary procedures.

Q196 **David Hanson:** Out of interest, who pays for it?

John Kruse: As Barrie said, the individual enforcement agents are paying at the moment. Some colleagues recently estimated the cost, and the process of going through the court costs an applicant in the region of £750, so money is being spent that could be redirected. At the same time, as I said, companies are not regulated and I do not think it would be unreasonable to expect them to make some sort of contribution.

Q197 **Chair:** It works on the certification of the individual bailiff at the moment.

John Kruse: It does, yes.

Q198 **Chair:** Dr Hobley, what is your take on it?

Dr Hobley: Our view is that it is up to Parliament whether there should be an independent regulator or not. There has been a lot of talk about an independent complaints regulator. Again, that is up to Parliament to decide, but we think you should consider what our role is.

Roughly 90% of debts passed to bailiffs are local authority or parking. Those are already in our jurisdiction. We look at complaints and we find fault with bailiffs, if that is the case. We are also able to consider complaints as a whole. Often complaints could be, "The bailiff called for a debt I don't owe. They won't accept an arrangement, and they were horrible and rude to me." The debt argument is something they need to take up with the local authority. The arrangement might be that the authority said to their agents, "You should not accept anything less than whatever," and the "being horrible to me" complaint is a complaint for the bailiff. If that is not looked at holistically, you get complaints going off in different directions, and our experience is that that does not work.

There is before the House a draft Bill to create a public services ombudsman that would bring health and local and central Government under one ombudsman. It would also bring the court's jurisdiction under one ombudsman. There would be a lot more complaint handling of bailiffs and a lot more examination by the ombudsman of bailiffs.

In terms of our relationship with a regulator, if there was one, I draw your attention to our relationship with the Care Quality Commission. We investigate private adult social care providers. We investigate individual complaints about them. If we find bad practice, we report it to the Care Quality Commission so that they can use that to influence their inspections. In the same way, if there was an independent regulator of bailiffs who dealt with practice and so on, if we were dealing with complaints we could say to them, "Here is an example we found of bad practice and you should know about it."

Q199 **Chair:** Ultimately, you cannot enforce the decision; somebody else has to.

Dr Hobley: Our decisions are not enforceable, but 90%-plus of our decisions are upheld, and, as alluded to, local authorities do not like us getting involved. They do not like us finding fault and publicising it.

Q200 **Chair:** It is a sort of name and shame, in a sense.

Dr Hobley: Yes.

Q201 **Chair:** What is your take on it, Mr Platts?

David Platts: I agree with what Andrew has just said. We are used to working with the local government ombudsman anyway. Having said that, I see no objection to an independent regulator and why it would not work. It would probably draw out some best practice and consistent approaches. I took the opportunity to speak to Bristows before I came down today. They were in agreement as well. They shared the view that it is best to be involved from the start, with better alignment and working together. They had no objection to the process being considered.

Chair: That is very helpful. Gentlemen, thank you very much for the evidence. We very much appreciate you coming, and thank you for your time. We are very grateful to you. The session is concluded.