



## Fear and foul play - The case for bailiff reform to limit psychological harm

### Introduction

"Anytime there was a knock on the door I hid, usually on the floor. My heart pounds now still, at anyone at the door and I have developed a phobia of phones...Living like this for nearly two years caused me to be put on medication for depression and signed off work for first time in my life, it ruined my confidence and left me totally unable to deal with anything."

Half of people in problem debt have a mental health problem<sup>1</sup>. Mental health problems can make it harder to earn, to manage money and to control spending - as well as to engage with creditors - so there's no wonder people experiencing them are more likely to be in financial difficulty. Equally, the experience of being in debt, and particularly of being contacted by bailiffs, can cause and prolong periods of poor mental health. Despite clear evidence of harm, and the promise of the 2014 bailiff reforms, evidence from debt charities including StepChange, Money Advice Trust and Citizens Advice suggests that little progress has been made. This paper makes the case for fundamental bailiff reform, both to protect 'vulnerable' customers living with

mental health problems, and to reduce the mental health problems created by the collections industry itself.

### How mental health problems lead to bailiff action

As well as being more likely to get into problem debt, people with mental health problems are also more likely to struggle to engage with their creditors in a constructive way to find a resolution before debts are passed on to bailiffs. For example, conditions like anxiety can make opening the post impossible, paranoia can make telephone calls very difficult and depression can leave people without the energy or motivation to sort out their debts - if you don't think you'll be here in a month, paying your bills becomes a very low priority. In a survey of 5,500 people with mental health problems we found that 71% say they avoid dealing with creditors in a period of poor mental health, 74% put off paying bills and 92% found it harder to make financial decisions.<sup>2</sup> Amongst StepChange Debt Charity clients contacted by a bailiff,<sup>3</sup> 57% said they had depression and 66% stress or anxiety.<sup>4</sup> So it seems reasonable to assume that, amongst those whose debts are so out of

<sup>1</sup> Jenkins R et al. Mental disorder in people with debt in the general population. *Journal of Public Health Medicine* 2009; 6: 88-92.

<sup>2</sup> Holkar M and Mackenzie P. *Money on Your Mind*. Money and Mental Health Policy Institute. 2016.

<sup>3</sup> Bailiffs are now officially known as 'enforcement agents', but will be referred to here as 'bailiffs' as that is their most commonly used name.

<sup>4</sup> Johnson S et al. *Taking Control: The need for fundamental bailiff reform*. AdviceUK, Christians Against Poverty, Citizens Advice, Money Advice

control that they end up dealing with bailiffs, the prevalence of mental health conditions may be even higher than 50%. This means that when a bailiff makes a call or knocks at the door of a person in problem debt, **they are more likely than not to be dealing with someone who is experiencing poor mental health.**

“I tend to ignore letters that I know concern bills etc. It's like my brain saying "just ignore it, you'll only get upset" . The longer it goes on, the harder it is to open the letters and sort out the problem. If I have to phone the people I owe money to I usually get really upset and can't speak”

“I struggle to manage my finances and bury my head in the sand until the situation reaches crisis point. I feel sick and anxious every time the post is delivered or when there is a knock at the door in case it is a bailiff.”

## The challenge of disclosure

The primary responsibility for identifying and supporting customers with mental health problems must sit with creditors. It is essential that careful consideration is given to a customer's circumstances (including their mental health) when making the initial lending decision, managing communications regarding missed payments, and making the decision to pass unpaid debt onto a bailiff. We support the recommendation by the Money Advice Trust, Citizens Advice, StepChange Debt Charity and others<sup>5</sup> that all creditors should:

- Have a published vulnerability strategy
- Identify customers in vulnerable

circumstances (including who are living with mental health problems)

- Not pass these customers on to enforcement in any circumstances.

People who have experienced a financial crisis in the last six months are nearly eight times as likely to think about suicide;<sup>6</sup> the consequences of a bailiff turning up on the doorstep, entering the home or threatening to do so in these circumstances can be catastrophic.

However, it is essential to understand the limitations of this approach, and not set an expectation that every customer with a mental health problem can be 'screened out' before enforcement.

Disclosing a mental health condition is hard. It can be exhausting, embarrassing, and sometimes practically impossible if your mental health means you struggle to make telephone calls. In a survey of nearly 5,500 people with mental health problems, we found that 78% had not told the organisations that they owe money to about their mental health problem, with most saying it was either because they didn't think it would make any difference, or because they didn't think they would get a sympathetic response.<sup>7</sup> While creditors have a responsibility to challenge these beliefs, by demonstrating a caring approach and communicating the practical benefits of disclosure in these circumstances, we should be realistic that not all customers will be willing or able to share this personal information with a creditor.

There will also be some customers with

<sup>5</sup> Johnson S et al. Taking Control: The need for fundamental bailiff reform. AdviceUK, Christians Against Poverty, Citizens Advice, Money Advice Trust, StepChange Debt Charity, The Children's Society and Z2K. 2017.

<sup>6</sup> Mackenzie P. Tackling debt and financial distress: a new strand in suicide prevention. Money and Mental Health Policy Institute. 2016.

<sup>7</sup> Holkar M and Mackenzie P. Money on Your Mind. Money and Mental Health Policy Institute. 2016.

serious mental health problems who have disengaged completely from the process, not opening letters or answering the phone. Because creditors are unable to contact this group, they will not be able to identify them as vulnerable.

“My state of mind has prevented me from contacting creditors as my condition makes me feel ashamed.”

“It feels like an unbreakable cycle. You're too scared to answer the phone or open letters. You feel embarrassed. And the situation feels like drowning.”

“Because of the amount of debt I feel it's unmanageable and [it] makes me anxious all the time. Teary, withdrawn, I can't talk to anyone, ashamed and embarrassed”

Despite the best efforts of creditors, bailiffs are always going to come into contact with customers with mental health problems. It is therefore essential that all bailiffs have a reasonable understanding of mental health, know how to respond to someone who is unwell, and have straightforward processes to refer vulnerable customers back to creditors and out of the enforcement process.

## How bailiff action affects mental health

While half of people in problem debt are not living with a diagnosable mental health problem, we all have mental health - and being in financial difficulty can put it under strain. More people have anxieties and fears about money, finances and debt than about any other issue or concern.<sup>8</sup> People in

financial difficulty are twice as likely to develop major depression,<sup>9</sup> and our research found that the action of creditors, including bailiffs, was a significant part of the causal pathway from financial difficulty to mental health problems. Through our research we heard frequently about the fear of bailiffs caused by threats from creditors, the stress, anxiety, guilt and embarrassment caused by bailiffs turning up in the house, and the (often long-term) mental health impacts that result.

“Worrying about money and the possibility of losing my home or bailiffs seizing goods made my anxiety and depression worse. I thought I might commit suicide if I lost my home.”

“I cannot cope with bailiffs knocking for council tax arrears and telephone calls threatening [about] missed rent payments. I become very depressed and anxious, too scared to open my door or answer my phone to anyone, my eating disorder gets to the point where I starve myself and have constant panic attacks.”

As well as identifying and supporting customers with existing mental health problems throughout the collections and enforcement process, it is essential that bailiff practices do not in themselves cause greater levels of vulnerability.

A recent report from a coalition of debt charities, *Taking Control*, reviewed progress since the 2014 bailiff reforms and found countless examples of bad practice including bailiffs:

<sup>8</sup> In the face of fear: How fear and anxiety affect our health and society, and what we can do about it, Mental Health Foundation, April 2009.

<sup>9</sup> Skapinakis P, Weich S, Lewis G, et al. Socio-economic position and common mental disorders: Longitudinal study in the general population in the UK. *British Journal of Psychiatry* 2006; 189: 109-17.

- Insisting on a door-step visit even when reasonable offers of payment have been made
- Using aggressive and threatening behaviour
- Seizing goods inappropriately, particularly those belonging to third parties
- Failing to adhere to the correct rights of entry
- Visiting the home outside reasonable hours (6am - 9pm)
- And even entering the home when only children were in.<sup>10</sup>

In light of this continued poor practice, we support calls from advice charities for the bailiff sector to be subject to independent regulation to improve standards and protect people in debt from psychological harm.

### What needs to be done

For as long as we have a credit industry, there will be a need for debt enforcement. However, this industry has gone for too long without proper regulation, taking advantage of customers with mental health problems who are likely to find the system harder to navigate and causing significant psychological harm.

Along with many other voices in the sector, we believe that fundamental reform of the bailiff industry is needed, and that public sector agencies, including local authorities, the Department of Work and Pensions and HMRC, have a particular responsibility to protect vulnerable people from harm. Yet, when it comes to debt enforcement, the public sector are some of the worst culprits

and are subject to even less regulation than the private sector.

Local authority debt collection makes up half of bailiff use in the UK,<sup>11</sup> yet these bailiffs are likely to be collecting debts from some of the same people that the local authority is otherwise providing with social care or other support as a result of their mental health. Local authorities have guidance from the Department for Communities and Local Government (DCLG) on collecting council tax arrears, but there is no statutory requirement to comply with this, and performance against it is not monitored.<sup>12</sup>

The following recommendations focus specifically on the need to protect people with mental health problems and reduce psychological harm.

"A year and a half ago we had bailiffs turn up at our door at like 6.39am, all of us still in bed including my three children, over a payment of 25 pounds and we ended up having to pay just less than a grand in a space of two weeks or they'd take our belongings...Ever since then I couldn't sleep because I was scared of waking up to the chaos that happened...I lost my appetite, I've lost over 3 stone in this space of time, I've broken down so many times not thinking I can cope anymore with life."

### Recommendations

#### All bailiffs to receive mental health training

It is not reasonable to expect bailiffs to be mental health experts. However, given that a

<sup>10</sup> Johnson S et al. Taking Control: The need for fundamental bailiff reform. AdviceUK, Christians Against Poverty, Citizens Advice, Money Advice Trust, StepChange Debt Charity, The Children's Society and Z2K. 2017.

<sup>11</sup> Johnson S et al. Taking Control: The need for fundamental bailiff reform. AdviceUK, Christians Against Poverty, Citizens Advice, Money Advice Trust, StepChange Debt Charity, The Children's Society and Z2K. 2017.

<sup>12</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/210478/Guidance\\_on\\_enforcement\\_of\\_CT\\_arrears.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210478/Guidance_on_enforcement_of_CT_arrears.pdf)

majority of the people they contact will be living with a mental health problem, current levels of understanding are not acceptable. Mental Health First Aid training or similar would enable bailiffs to better understand the circumstances of many people in debt, the potential consequences of enforcement action, and how to respond when they identify someone who they believe might be unwell.

**Public sector agencies to have robust processes for identifying people with mental health problems, or who are in vulnerable circumstances, who must not be referred to enforcement.**

Public sector agencies must have robust processes in place to identify people with mental health problems, or who are in vulnerable circumstances, who should not be referred to enforcement. Where possible, this should include screening using other data that they hold, as is fairly standard practice within the private sector.

**Public sector agencies to use only bailiff firms with appropriate vulnerability policies in place.**

Understanding that it will not be possible to identify and 'screen out' everyone in vulnerable circumstances, the public sector has a responsibility to ensure that those who do end up in enforcement are protected from harm. The public sector should only use those enforcement agencies who have appropriate vulnerability policies in place and who can demonstrate best practice.

**The bailiff industry to be subject to independent regulation.**

For too long the bailiff industry has gone unregulated, and been allowed to cause real

psychological harm. Independent regulation by a statutory body will serve as a clear deterrent to aggressive, threatening behaviour and other poor practice. The regulator should also set standards for training of bailiffs, which must include mental health training, and for processes to identify and support vulnerable people. The regulator must monitor compliance and take robust enforcement action where necessary.