



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."

When a bailiff¹ calls on a person in problem debt, they are more likely than not to be dealing with someone who is experiencing poor mental health. Half of people in problem debt have a mental health problem.² Amongst StepChange Debt Charity clients contacted by a bailiff, 57% said they had depression and 66% stress or anxiety.³ People experiencing mental problems are three times more likely to be behind with their council tax payments and the use of bailiffs for council tax collection has been identified as particularly problematic.⁴

Despite the promise of the 2014 bailiff reforms, evidence from debt charities⁵ and from our own Research Community⁶ suggests little progress has been made. The recent government review of these reforms expresses concerns that some bailiffs act aggressively, particularly when collecting money from vulnerable people.⁷ 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

People experiencing mental health problems are more likely both to be in financial difficulty and to struggle to sort the problems out before debts are

passed on to bailiffs. While fewer than one in ten (8%) people without mental health problems are in problem debt, this rises to nearly one in four (24%) for people experiencing depression or anxiety, and one in three (33%) for people experiencing psychosis.⁸

Mental health problems can make it harder to manage money. 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, 71% of respondents said 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.⁹ If borrowers are not able to engage effectively with creditors to sort out problems, lenders are more likely to escalate debt collection.

"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."

The challenge of disclosure

Our research found that 78% of respondents had not told the organisations that they owe money to about their mental health problem. Disclosing a mental health condition can be exhausting, embarrassing, and sometimes practically impossible if your mental health means you struggle to communicate.

“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.”

There will be some people with serious mental health problems who have disengaged completely, 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. This can lead to firms instructing bailiffs, when they may not have done had they known about their customers' difficulties.

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

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“I ignored all letters, I ignored the problem prior to their visit.”

How bailiff action affects mental health

Our participants reported a variety of responses to bailiffs' action. They experienced panic attacks, insomnia and confusion, feelings of terror, and despair. All of these can make it much harder, if not impossible, to take the practical steps necessary to communicate effectively and sort the problems out, as well as causing and prolonging periods of poor mental health. We frequently hear about the negative impact of bailiff action on people's mental health, even to the point of triggering suicidal feelings and mental health crises.

“The stress and anxiety was immense and has since been at least partly responsible for me having to start taking medication for depression after many years without it.”

“They cause panic attacks and despair because you know you are not in a position to give them what they want so you instantly fall in to a ‘why bother trying’ mode and think what is the point of doing anything when this nightmare will go on.”

A number of people reported being terrified to leave the house, becoming isolated through fear of the bailiff knocking on the door. This can, in itself, be a factor in deteriorating mental health.

“I felt I didn't want to leave the house to have to deal

with it all and for fear of coming home to an empty flat despite having done nothing wrong.”

How bailiff action compounds financial difficulties

Bailiff action can make already serious financial difficulty even worse. Survey respondents told us they were sometimes intimidated into making repayment agreements that were unaffordable.

“They gave me no choice but to sign a contract saying I would pay £50 per month, even though I made it clear I could not afford that amount.”

“I didn't eat for the rest of the month except soup and beans on toast until I had paid the £350 back.”

A number of participants reported having to borrow money to pay bailiffs straightaway. Worryingly, several said this was for a debt they disputed.

“I was disputing both charges but in the end I was so depressed with the threatening nature and unhelpfulness of the companies involved that I just borrowed the money to pay them off. Had I fought the charges and won, I could have saved myself over £1,000 of debt.”

Isolation and worsening mental health can mean people are unable to work, blocking an avenue to repaying debts.

“I was unable to go to work or go out for three months because of the state it put on me.”

Bailiffs behaviour

Some participants reported bailiffs behaving considerately, which could greatly ease the situation for the debtor.

“We had failed to pay our Council Tax and my husband had been hiding this from me. A bailiff came to the house and explained that we would need to make immediate payment. I was horrified by this visit but the man was really sympathetic and helpful. He came back a couple of days later when I had found the money.”

However, survey respondents frequently told us of bullying, aggressive and manipulative bailiffs using the threat of their considerable powers of entry and distraint to intimidate debtors. They also sometimes threatened using powers they do not have and, at times, acted illegally. As in the Taking Control report, we found numerous examples of bailiffs' bad practice.

“They were very aggressive and threatening. Shouting very loudly and saying, ‘All your neighbours can hear that you don't pay your debts. If you don't pay all of what you owe within 24hrs we are coming back with the police to remove all your belongings’. I phoned a help line and they told me [the bailiffs] couldn't do what they were saying.”

“A bailiff came to my door. As soon as I opened it, he put his foot in the door and leaned on it so I couldn't close it. He said he wasn't leaving until I paid in full. He was very threatening and threatened I would lose my house even though it was an unsecured loan.”

Even when people disclosed their mental health difficulties, bailiffs sometimes failed to respond appropriately.

“When I explained that I had a mental health condition he told me ‘that's not my problem, you need to pay what you owe or your car gets taken away.’”

Problems with lenders who instruct bailiffs

The primary responsibility for identifying and supporting customers with mental health problems must sit with creditors. Creditors should always consider their customers' circumstances (including their mental health) when making the decision to pass unpaid debt onto a bailiff. However, our survey participants reported that those instructing bailiffs sometimes did so where the debt was disputed, without regard for their mental health problems and even by mistake.

“I was sent a letter by a bailiff claiming I owed money (which I didn't). There had been an admin mistake by the management company who were billing me for the debts of another property within the building.”

Local authority debt collection makes up half of bailiff use in the UK, so it is not surprising that our survey respondents most frequently reported local authorities sending in the bailiffs, particularly for Council tax debts and parking fines.

“I kept receiving letters threatening that my possessions would be taken even though I was paying my council tax and it was their mistake.”

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.

“My local council were aware of my illness but still referred it to the courts.”

Recommendations

Along with many other voices in the sector, we believe that fundamental reform of the bailiff industry is needed. Further, public sector agencies, including local authorities, the Department of Work and Pensions and HMRC, have a particular responsibility to protect people with mental health problems who are likely to find the system harder to navigate. In light of this continued poor practice, we call for public sector agencies, bailiffs and government to put in place effective measures to improve standards and protect people with mental health problems who are in debt from psychological harm.

Recommendations for the public sector

- **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**

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. 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.

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

The public sector cannot realistically hope to identify and 'screen out' everyone in vulnerable circumstances, so should therefore 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.

Recommendations for bailiffs

- **All bailiffs should have vulnerability policies to include identifying people with mental health problems**

Policies should include identifying vulnerable households and clear procedures for referring debts back to creditors when enforcement is not appropriate. These policies should be included with all notices issued by bailiffs.

- **All bailiffs to receive mental health training**

It is not reasonable to expect bailiffs to be mental health experts. However, as at least half 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 how to respond when they identify someone who they believe might be unwell.

Recommendations for government

- **The bailiff industry should 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 must monitor compliance and take robust enforcement action where necessary..

- **The Taking Control of Goods National Standards should be given statutory force**

The Taking Control of Goods National Standards are currently only offered 'as a helpful tool', in the hope that the enforcement industry and creditors

will use them. Clearly, they are not being implemented effectively or consistently. These standards should have the force of law.

- **The Taking Control of Goods National Standards should mention people experiencing mental health problems as a specific vulnerable group**

Whilst the standards acknowledge that their list of vulnerable groups is not exhaustive, it would seem sensible to include a particularly vulnerable group whose members are more likely than not to be behind the door when the bailiff calls.

- **The Department for Communities and Local Government (DCLG) guidance to local councils on good practice in the collection of council tax arrears should be made binding upon local authorities**

This guidance deals with the kinds of help and support that Local Authorities should be giving to vulnerable people, both in the run up to enforcement activity taking place and afterwards. As local authority debt collection makes up half of bailiff use in the UK, it would seem reasonable that they should be obliged to ensure good practice.

Footnotes

¹ Bailiffs are now officially known as 'enforcement agents' in England and 'sheriff officers' in Scotland, but will be referred to here as 'bailiffs' as that is their most commonly used name.

² Jenkins R et al. Mental disorder in people with debt in the general population. *Journal of Public Health Medicine* 2009; 6; 88-92

³ 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.

⁴ Stop The Knock: Mapping Local Authorities Debt Collection Practices in England and Wales, Money Advice Trust, 2017

⁵ 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

⁶ For this paper, we surveyed 79 people with lived experience of mental health problems who have encountered bailiffs action. We also examined responses from our main survey of 5,500 people with mental health problems, some of whom mentioned problems with bailiffs.

⁷ One year review of Enforcement Agent reforms introduced by the Tribunals, Courts and Enforcement Act 2007. Ministry of Justice. 2018

⁸ Jenkins R et al. Debt, income and mental disorder in the general population. *Psychological Medicine* 2008; 38: 1485-1493.

⁹ Holkar M and Mackenzie P. *Money on Your Mind*. Money and Mental Health Policy Institute. 2016

¹⁰ Ibid.

¹¹ Raheel Mushtaq et al, Relationship Between Loneliness, Psychiatric Disorders and Physical Health, *Journal of Clinical and Diagnostic Research*, vol. 8, 2014.

¹² Johnson S et al. *Taking Control: The need for fundamental bailiff reform*. 2017.

¹³ Ibid.

¹⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210478/Guidance_on_enforcement_of_CT_arrears.pdf ing, N et al. Do advertising and promotions for online gambling increase gambling consumption?. An exploratory study. *International Gambling Studies* 2014; 14, 3; 394-409.