

# CCR-PublicSector

May 2014



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## EDITOR'S LETTER

Hello and welcome to the May edition of *CCR-PublicSector*.

The Local Authority Civil Enforcement Forum's 17th annual LACEF conference will be held on 13 May in Leicester.

Jointly organised by *CCR-PublicSector* and LACEF, the event is almost full for delegates. If you are not a LACEF member but would like to come along, it is not too late.

Full details of the event are contained on pages 16-19 of this edition.

We look forward to seeing you there.

**National Standards**

Sheila Harding has written a particularly poignant article for us this edition (page 26) with regard to the history and development of the National Standards for Enforcement Agents.

The standards are fairly comprehensive and we understand that the Ministry of Justice (MoJ) is in discussion with various stakeholder groups, to further refine the standards.

But there has been little mention, within our hearing, of the guidance to local authorities, which was issued by the Department for Communities and Local Government last year.

That is a pity – and it would be more of a pity if two central government departments were not working as closely as they might to ensure that everyone in the collections and enforcement chain apply the same standards.

Perhaps one of the core areas, where all stakeholders could work well together, is on the issue of vulnerable debtors. The existing MoJ National Standards state: "Training and Certification: 42. Enforcement agents should be trained to recognise vulnerable debtors, to alert creditors where they have identified such debtors and when to withdraw from such a situation."

Given the research which has been freely shared by the Royal College of Psychiatrists and the Money Advice Trust (see page 20 of this edition), and the keen interest shown in the subject by the Local Government Ombudsman, perhaps vulnerability is a good starting point for collaborative advantage.

And if you have concerns about the legal position with regard to the charging of VAT and bailiff collections, John Kruse has contributed a very useful opinion piece (see page 37). The opinion actually began with a very experienced VAT professional, so it is well worth reading and understanding what should and should not attract VAT when enforcing liability orders.

**Roadside stop operations**

Finally, I would draw your attention to the article on page 30. It concerns joint "stop" roadside operations, mounted by the police and enforcement agents.

These have been common practice – and quite fruitful in collecting unpaid fines – over the past few years. But doubt with regard to their legality has now surfaced.

Enjoy the magazine!



Freddie Dawkins  
Editor



# *The knowledge you need for 2014!*

Now, when credit professionals need to be at the top of their game to achieve profitable results in a compliant way, knowledge, experience and understanding are at a premium. In 2014, CCR-interactive will, once again, feature the most informed speakers in the credit industry, experienced professionals who will share their unique insights into best practice and the key industry trends.

Do not miss your opportunity to hear from, and to learn from, the industry's thought-leaders.

## **Outstanding speakers announced**

A wide range of outstanding speakers have been named for this year's CCR-interactive, bringing understanding from the full range of the industry. A combination of some of the highest-rated speakers from previous years, and new speakers with fresh ideas, they include:

- ◆ Juliana Francis, ombudsman – banking and credit, FOS.
- ◆ Emma Foy, head of financial services, Maldon District Council.
- ◆ Lynette Hirst, head of debt management enforcement, HMRC.
- ◆ Joe Deville, senior researcher, Goldsmiths, University of London.
- ◆ Athol Abrahams, head of risk and compliance, D&D Leasing.
- ◆ Tim Sawyer, chief executive officer, the Start Up Loans Company.
- ◆ Jeff McAdam, NRAM debt management, UK Asset Resolution.
- ◆ Paul Harris, deputy director, Her Majesty's Courts and Tribunals Service.

**Early birds:  
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## **This year's event will allow you to**

- ◆ Learn how to take your team's performance to the next level.
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To book your delegate place and take advantage of the early-bird discount please contact Alison Lucas on 01702 341948 or [alison@ccrmagazine.co.uk](mailto:alison@ccrmagazine.co.uk).

For sponsorship opportunities and to get involved please contact Gary Lucas on 07785 268404 or [gary@ccrmagazine.co.uk](mailto:gary@ccrmagazine.co.uk).

# CCR-i

*Tuesday 7 October 2014*

*Guoman Tower Hotel, central London*



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# TOP-LEVEL SPEAKERS LEAD AT LACEF CONFERENCE

More than 140 members signed up to attend day of networking and knowledge for public sector professionals

By Ian Willcox

THE Local Authority Civil Enforcement Forum (LACEF) 17th annual conference, will be held on Tuesday 13 May in Leicester.

More than 140 members have signed up to attend the event at the Mercure Grand Hotel, and among the speakers will be Debbie Gibbons from Rushmoor Borough Council, chair of the Local Authority Investigation Officers Group, and Jeremy Frost, NAFN intelligence manager, UK South region.

From Whitehall, there will be Mark Babington, a director at the National Audit Office, and Alan Bryce, head of counter fraud, governance and counter fraud practice, audit policy and practice, at The Audit Commission.

Anne Marie Goddard, team leader, enforcement reform, Ministry of Justice, told *CCR-PS*: "As you would probably expect I will be in Leicester to listen, so I do not want to pre-empt what the audience want to tell me about their first six weeks of working in the new regime. I am looking forward to the day."

Mark Ransome, benefits specialist at the London Borough of Waltham Forest, will be presenting his paper *Welfare Reforms – Success or Failure*. Mr



Ransome told *CCR-PS*: "I will also be giving a little historical perspective, with a few key dates such as 1834, the minority report, 1911 and the first contributory pension, and the Beveridge reforms, I think there are some important analogies to be drawn.

"I can then link some of this to universal credit, and link it to the integration of benefits, housing security, contributions, conditionality, 'bedroom tax', and so on, and ultimately the relatively

few people that are actually receiving universal credit at the moment."

Andrew Hobley, assessment team leader at the Local Government Ombudsman will focus on *Improving and Monitoring Enforcement Services*.

This year's commercial sponsors include: Telsolutions, Intec, Dukes Bailiffs, Phoenix Collections, Bristow & Sutor, JTR Collections, Collect Services, Onestep Solutions, Julious Enforcement Agents, Clickdebt and PenhamExcel.

There will be at least one fully interactive presentation from Telsolutions – focusing on mobile webforms which are being adopted by many local authorities. LACEF members are being encouraged to bring their smart phones and take part in the demonstration.

Barrie Minney, LACEF's founder and chairman, told *CCR-PS*: "We are expecting the largest-ever member attendance this year. There are so many topical and vital subjects to debate and we have a packed programme with the very best, top-level speakers, giving their time free of charge to come along and share their knowledge."

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# BOOK EARLY FOR YOUR PLACE AT CCR-INTERACTIVE

Take advantage of early-booking discount to ensure your place at the credit industry's largest one-day conference

By Ian Willcox

SENIOR collections professionals are already taking advantage of the early-bird booking discount for CCR-interactive, as the delegate pack for the UK collections and credit national event has been launched.

A discount of 10% is available on all tickets purchased before 31 May 2014, and the delegate pack is now available to download at [www.ccr-interactive.co.uk](http://www.ccr-interactive.co.uk) or is available, upon request, from Alison Lucas on 01702 341948 or e-mail [alison@ccrmagazine.co.uk](mailto:alison@ccrmagazine.co.uk).

Speakers already announced for this year's landmark event, part of the CCR stable, which includes *CCR-PublicSector*, come from a broad range of the UK and international credit and collections industry, including speakers from government and the regulators, the banks, building societies, utilities and

telecoms, commercial credit, and alternative finance.

They include: Mark Watson-Gandy, member of the Bar Council's panel of Young Spokesmen for the Bar; Tim Sawyer, chief executive officer of government's The Start Up Loans Company; Athol Abrahams, head of risk and compliance at D&D Leasing; David Morpeth, operations director at Lloyds Bank Commercial Finance; Gary McCready, UK finance director of Carphone Warehouse; Robert Skinner, chief executive of the Lending Standards Board; and Sue Chapple, head of revenue management at EDF Energy.

Some of the key issues up for debate on the day will include best practice of how to increase profitable sales in improving economic times; the latest

thinking on the wider legislative and regulatory framework and how it will affect the industry; and advice on motivating staff to achieve ever-improved results.

Stephen Kiely, editor of CCR, said: "Once again, CCR-interactive is shaping up to be an outstanding day of knowledge and networking, so we have been very pleased with the levels of interest already shown by delegates.

"CCR-interactive provides a unique opportunity to learn from leaders in the collections industry. And as more budgets in the public sector are tightened, government officers are turning more to the commercial sector for advice and services, so I hope that readers will be able to take advantage of the early-bird discount to join us."

Last year, analysis of event feedback forms found that, on average, delegates rated their satisfaction with the day as 8.63 out of 10; value for money for the day conference was rated as 8.71 out of 10 and those who attended the awards dinner rated its value for money at 8.31 out of 10.

In total, 94% of delegates felt that the new streams and initiatives, introduced in 2013, had added to the day, with the sponsor focal points and panel debates each gaining widespread support.

Specific comments from the delegates included: "Very good conference, I took a lot of good ideas away"; "Very well organised, diversified and professional" and "Really interesting and up beat – a 'must attend' for any credit manager".

◆ CCR-interactive will be held on Tuesday 7 October 2014, again at the prestigious Guoman Tower Hotel in central London. To guarantee your place, please return the booking form on p46.

To be part of the day, please contact Gary Lucas on 07785 268404 or at [gary@ccrmagazine.co.uk](mailto:gary@ccrmagazine.co.uk).

## CREDIT EXCELLENCE AWARDS NOMINATIONS NOW OPEN

Applications are now open for The Credit Excellence Awards in eight categories:

- ◆ Newcomer to the Credit Industry Credit Excellence Award.
- ◆ Credit Excellence Award in Commercial Credit and Collections.
- ◆ Credit Excellence Award in Risk, Data, and Fraud Prevention.
- ◆ Credit Excellence Award in Collections.
- ◆ Credit Excellence Award in the Legal and Enforcement Profession.
- ◆ Credit Excellence Award in Export & International Credit and Collections.
- ◆ Credit Excellence Award in Compliance.
- ◆ Contribution to the Credit Industry Credit Excellence Award.

The awards are unique because applications for each category are open to the whole range of the industry in those sectors, across both the public and private sector. So you can apply if you are an individual credit, collections, or enforcement professional, a team, a consumer or commercial creditor or government agency, a supplier company, or a product.

Each Credit Excellence Award is rigorously judged by an independent panel of experts in that field. So you must be prepared to give significant amounts of relevant information to support your application. You must also be ready, if asked, to come before the judges so that they can ask you questions face to face.

Now in their fifth year, the Credit Excellence Awards bring together the brightest and best in both the public and private sector, collections, revenues, and enforcement services.

- ◆ Contact [awards@ccrmagazine.co.uk](mailto:awards@ccrmagazine.co.uk) to request the application pack.

# DWP UPDATES DISCRETIONARY HOUSING PAYMENT GUIDANCE

TO take account of the increased funding toward Discretionary Housing Payments (DHPs) in 2014/15 and on-going feedback from local authorities and stakeholders throughout the year, the Department for Work and Pensions (DWP) guidance issued in April 2013 has been revised.

Although much of the guidance remains relevant, the DWP said that changes were needed to take account of the increased funding and its intended purpose. The guidance includes an expanded good practice guide that offers advice on how DHPs can be used to support certain groups of people, and is available on [www.gov.uk](http://www.gov.uk).

The guidance is intended to act as an aid to assist in implementing and managing local DHP schemes. However, local authorities have overall responsibility for how DHPs are administered and paid in their area, in line with legislation.

As announced in the Autumn Statement 2013, the government contribution towards DHPs has been significantly increased to help local authorities support people affected by some of the key welfare reforms, namely:

- ◆ The benefit cap.
- ◆ Removal of the spare room subsidy (RSRS) in the social rented sector.



◆ Local Housing Allowance (LHA) reforms.

According to the DWP, this will give local authorities the confidence to make long-term awards to support those with ongoing needs.

It said that the funding has been allocated using a method that, as far as possible, targets resources according to need. Housing benefit (HB) circular S1/2014 contains details of local authority allocations and expenditure limits.

Reporting measures are continuing in 2014/15 to monitor how DHPs are supporting people affected by the welfare reforms. This year, the reporting measures will be based on the amount of DHP paid to a claimant. Further details of this change and examples are included in the DWP guidance. This means that from 1 April 2014 local authorities should record if a successful DHP claimant has been affected by one of the following:

- ◆ The benefit cap.
- ◆ RSRS in social rented sector.
- ◆ LHA reforms.
- ◆ Combination of reforms.
- ◆ No impact.

In addition, local authorities should record the broad or main outcome expected from that award:

- ◆ To help secure and move to alternative accommodation (for example, a rent deposit).
- ◆ To help with short-term rental costs until the claimant is able to secure and move to alternative accommodation.
- ◆ To help with short-term rental costs while the claimant seeks employment.
- ◆ To help with on-going rental costs for a disabled person in adapted accommodation.
- ◆ To help with on-going rental costs for a foster carer and to help with short term rental costs for any other reason.

## DWP STATISTICS SUPPORT UNIVERSAL CREDIT

NEW official statistics from the Department for Work and Pensions – which cover the first year of the universal credit policy – show that in almost 6,000 households previously subjected to the benefit cap someone has found employment.

Recent research by Ipsos MORI reveals that nearly half (45%) of those affected by the benefit cap planned to look for work as a result of the policy, providing further evidence that the benefit cap is

encouraging people to find jobs.

The new figures also show that, in total, more than 42,000 households had their benefits capped by March 2014, ensuring they no longer receive more in benefits than the average family earns.

Some 7,000 households that were previously subject to the benefit cap had a reduced benefit claim to below the weekly limit of the cap; and more than 1,000 households have been capped by more than £200 a week

CCR-PS

# PERMISSION FOR LIBERTY TO CHALLENGE 'BEDROOM TAX'

Human rights group set to bring judicial review on 'bedroom tax', as arguments deemed 'in public interest'

By Freddie Dawkins

HUMAN rights group Liberty has announced it has been granted permission to bring a judicial review of the government's controversial 'bedroom tax', based on the policy's impact on separated families with shared custody of children.

The scheme, which has affected the North East of England, cuts parents' housing benefit if they have a 'spare room', even if that room is used by a child who lives with them on a part-time basis. Liberty is challenging the lawfulness of the relevant regulations on the grounds they are irrational and a violation of articles 8 and/or 14 of the European Convention on Human Rights, which stipulate the right to a private and family life and no discrimination.

A High Court judge has now indicated that it is in the public interest for Liberty's arguments to be heard and has given permission for the case to go forward.

The human rights group launched the claim in April last year.

Rosie Brighthouse, legal officer for Liberty, said: "A child's bedroom is their sanctuary and these parents are providing stable and secure homes, not 'under-occupying' their properties.

"This one-size-fits-all rule discriminates against families outside a certain narrow mould, meaning that our clients represent thousands of parents who want to be part of their children's lives. A government which talks of prioritising families should know better."

Liberty is seeking a ruling that the relevant provision – Regulation B13 of the Housing Benefit (Amendment) Regulations 2012 – is incompatible with its clients' and their children's rights under article 8 and/or article 14 of the European Convention – and thus unlawful under section 6 of the Human Rights Act.



## STUDENT LOANS SALE COMPLETED

IN November 2013 the government completed the sale of the outstanding student loans owned by around a quarter of a million borrowers. The sale related to the remaining loans taken out by students who began courses between 1990 and 1998.

The loans were sold to Erudio Student Loans, and management of these loans was transferred to them on 1 March 2014. From Monday 17 February onwards, letters were issued to inform customers that their mortgage-style loans had been sold.

Erudio Student Loans was set up last year by the debt recovery specialist Arrow Global.

Erudio is trying to get ex-students to sign a note changing the conditions of the loan, allowing the deferral status and account to be reported on credit reports.

A company spokesman told CCR-PS: "Erudio is committed to ensuring customers get fair and efficient processing of their student loans and deferment applications."

"This is the first time that the private sector is operating the deferment process and Erudio is committed to working with all parties involved to help deliver a good service to customers."

## VICAR TAKES COUNCIL TAX CASE TO THE HIGH COURT

A VICAR who is refusing to pay his council tax will take his case to the High Court.

The Reverend Paul Nicolson, one of the founders of the Zacchaeus 2000 Trust, is refusing to pay the tax on grounds that it disproportionately affects benefits claimants and those on low income.

We have previously reported on the case here in CCR-PS: In August 2013, a liability order was issued against Reverend Nicolson for his refusal to pay council tax, which will cost him £125.

The clergyman will now ask judges in the High Court to order a judicial review of these charges.

A Haringey council spokeswoman told CCR-PS: "The authority has struggled to reduce council tax for those on low income due to the government's decision to abolish council tax benefit.

"This has left us facing a funding gap of almost £4m and the introduction of Haringey's council tax reduction scheme followed extensive consultation with residents.

"It would simply not be sustainable for the council to absorb the cost of the government's cut, especially when already faced with reductions in government grants of around £144m up to 2016."

# MORE PARKING FINES EXPECTED FROM CANTERBURY COUNCIL

To ensure consistent approach to enforcement, more officers will be needed, with more fines to pay for them

By Freddie Dawkins

MOTORISTS in Canterbury could be incurring more parking fines, as council officials try to raise cash to pay for more traffic enforcement officers.

Councillors are recommending civil enforcement officers (CEOs) take a stricter line with people who park on double yellow lines or flout loading bans, as part of a bid to ease congestion across the district. And they also plan to employ more CEOs, on the understanding they would fund the £25,000 each would cost by issuing penalty notices.

The suggestions came after a review of parking by Canterbury City Council's scrutiny committee, with evidence from traders, drivers and wardens.

The report urges "a robust approach" to enforcing parking restrictions, as well as increasing the number of wardens.

It says: "The council should expand existing enforcement activity by employing



more CEOs to be deployed in areas not currently targeted in order to ensure a consistent approach to enforcement across the district.

"Ideally, this expansion would be on the understanding that the additional CEOs would pay for themselves through increased volumes of penalty charge notices issued."

In eight months last year, from April 1 to December 1, more than 17,500 penalty charge notices were issued across the district and wardens spent much of their time patrolling areas known as "hotspots". Most tickets were issued in Canterbury and 70% of the patrols were on streets rather than car parks.

## COUNCIL TAX MISTAKE

LETTERS were sent out to 111,142 homes in Walsall after a mistake was made in a previous letter about the amount of council tax levied by West Midlands Fire Service and the West Midlands Police and Crime Commissioner.

The fire service and civil defence portion of the bill is £35.91 while the police portion is £69.65. But the amounts were listed the wrong way round.

The mistake occurred when the borough's council tax bills were first sent out to residents two months ago (March).

Walsall Council blamed human error for the mistake and said it was a legal requirement to send out fresh letters to inform taxpayers of the situation. It also

said the letter was posted along with a previously planned mailshot to promote its energy switching scheme and incurred 'no extra cost'.

Council leader Mike Bird said: "This was an operational matter caused by human error by a member of staff. The figures were correct, but unfortunately were wrongly transposed on the council tax bills.

But the council's deputy Labour opposition group leader, Councillor Sean Coughlan, criticised the decision to post the letters.

In a response comment on social network Twitter, council spokeswoman Tina Faulkner tweeted: "The cost was £32,841, but we combined letters with a planned fuel switch mail shot so there was no extra cost."

## DOJ ASKS FOR PARKING VIEWS

NORTHERN Ireland's Department of Justice (DoJ) is seeking views on vehicle immobilisation on private land in the country. This may be clamping, towing away, or blocking in.

The views expressed will "help the department to determine how vehicle immobilisation on private land in Northern Ireland should be regulated in the future".

The DoJ welcome comments from anyone who has experience of vehicle immobilisation as a method of parking enforcement in Northern Ireland. The consultation paper is available at the DoJ website, [www.dojni.gov.uk](http://www.dojni.gov.uk).

The closing date for feedback is Friday 16 May 2014.



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# 'THE CORRIDORS OF POWER'

This month 'The Insider' looks at the launch of the new regime and asks if it is time to revisit the need for an independent regulatory body for enforcement agents?

WITH the long awaited implementation of the new Taking Control of Goods (TCOG) regulations having finally taken place, now is probably a good time to take stock of where we are, how far we have come and what may be yet to come in the near future as far as enforcement agent law and regulation is concerned.

The launch of the new regime was not accompanied by tremendous fanfares or mass publicity campaigns, it has to be said. It was almost as if the government was embarrassed about these changes in the law finally taking place.

Perhaps they were worried that drawing attention to them would only lead to comments about the length of time it had taken for these changes to finally be brought forward, the gaps that still existed despite these changes and the fact that these reforms were not really their idea anyway but something they inherited from a previous administration and felt compelled to carry forward without any real desire to do so.

There was also the risk associated with putting the relevant minister forward for a public grilling that he almost certainly would not be able to cope with, if past performances are anything to go by.

The enforcement industry itself was also very quiet on the matter. Only one High Court enforcement company (you can probably guess which one) really gave any prominence on its website to the changes, and although they did give a lot of useful advice and information on a range of subjects on their website they were a lone example.

The 'professional' bodies remained largely silent on the launch and their websites remain as singularly unhelpful to the average member of the general public looking for help and information as they always have been.

One thing we did see was the launch of another new version of National Standards. To what extent it differs from

previous versions or accurately matches up to the requirements of the new regulations is something that is no doubt already being picked over by brains far more advanced than our own, but one would hope that they do this more than adequately.

It remains a source of concern that the guidance contained in National Standards has absolutely zero force in law, and there remains little if anything that can be done if an enforcement

## Even with the new regime, should some space have been made available within the new structure for an independent statutory regulator for all enforcement agents?

agent does not abide by it – but it does act as a useful tool for benchmarking purposes and gives a general indication of the sort of behaviour one should expect from an enforcement agent. For that, at least, I suppose we ought to be grateful.

### Independent regulator?

A subject that has continued to crop up, however, is whether there is a continuing need for an independent regulatory body for enforcement agents.

It has been a popular subject for discussion on various websites and has even been raised within the pages of this magazine. It leads one to think whether, even with the new regime we now have in place, should some space still have been made available within the new structure for an independent statutory regulator for all enforcement agents? And, if your answer to that question is 'yes', what form should it take and, perhaps more importantly, why does one not exist already?

Because those who know the history of the whole epic saga that has been the 15-year story of the civil enforcement review will know that over a decade ago

the structure for just such an organisation was proposed, widely supported, and was then scuppered for what will now seem the most bizarre of reasons.

Those of you with long memories may recall the Green Paper issued by the then Lord Chancellor's Department called *Towards Effective Enforcement*. It was published in July 2001 and looked at a range of matters including enforcement agent law, fee structures and regulation. And its plan for regulation of the industry was based around the creation of a new statutory regulatory body for all enforcement agents, a non-departmental public body to be known as the Enforcement

Services Commission (ESC).

This body was to do all those things you would expect from a regulatory body and more. It would licence those who worked in the industry. It would deal with complaints against licence holders and ensure redress was made to those whose complaints were upheld. It would advise on the setting of the fees that could be charged by those working within the industry. It would make suggestions as to changes in the law to make the enforcement system more effective and proportionate.

It was to have its own offices and be staffed by the appropriate number of members of staff to successfully carry out all these functions – at least 20 being the proposed number. It was to be headed up by someone of suitable gravitas and experience to command the respect of all licence holders and stakeholders. It would have to seek representations from the industry and the advice sector on key issues as a matter of course.

### What could possibly go wrong?

Of course – the funding. Now one could argue that it could easily have

## CCR-PS

been funded by licence fees or a levy on enforcement agents based on the number of writs or warrants issued to them or their employer companies. (The High Court Enforcement Officers Association, for example, is funded in a similar way, so it is not unknown for that method of funding to work in this sector quite well.)

A combination of methods could be used and would no doubt have worked quite successfully for ongoing running costs. But the costs of setting up the ESC were another matter.

Not long after the Green Paper was published, the then government got itself rather bogged down in issues surrounding 'better regulation'. It would appear that a number of influential people and groups who did not like what they perceived as intrusive and excessive regulation coming out of Whitehall got the prime minister's ear. Quangos were proliferating unnecessarily, they said. Regulation was getting too expensive. Regulatory structures were disproportionate. There needs to be a lighter touch, they argued.

And so it came to pass that edicts regarding better regulation principles were issued from the Cabinet Office. No more new regulators was the new rule. No new money available for new regulatory bodies, no matter how worthy they might be and what good may come as a result of their being established.

If you want to regulate, you must find an existing body to take the job on rather than create a new one. Yes, an ESC may be a great idea and something that a lot of people would support – but you cannot have one, because we will not make the money available to set it up.

And so it came to pass that the idea of an ESC bit the dust. By the time the *Effective Enforcement* White Paper came out in 2003, the idea was no more. Instead, a whole new merry-go-round of ideas were presented – mainly involving either getting enforcement agents taken under the wing of the Security Industry Authority, or trying to improve judicial oversight of those working in the industry.

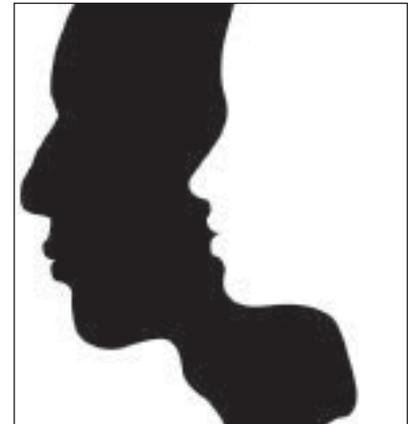
For a decade we went round and round, trying to come up with a new regulatory regime – and it could be argued that in reality recent governments of all persuasion have still failed to deliver even after all this time. Is the new regime really any different to that which had existed before the supposed brave new world of April 2014? Many would say not.

And yet it could have been so different. The ESC could easily have been celebrating a decade overseeing the industry by now, and no doubt it

## The Enforcement Services Commission could easily have been celebrating a decade overseeing the industry by now, and it could have made a real success of the job

could have made a real success of the job. But it has not. Because money would not be made available to set it up and run it, at least until other income streams had been identified to make it self-funding.

And the amount of money that could have set it up and run it will astound you. It was calculated at the time (and these figures, it has since been admitted, were probably over-estimated at the time) that it would have taken about



£1m to set up and about £1.4m a year to run. That is all it would have taken to have a properly-structured regulatory body for the entire industry in place, delivering everything that one would expect from an effective, efficient regulator and more.

In the grand scheme of things, that is not even peanuts. It is not even the salt on the peanuts. It is barely the salt left

over in the bottom of the packet after you have eaten the peanuts. It is less than 50p per writ or warrant, and that would have been reduced even further with appropriate charges for licences.

And a decade on, one can only look back at this sorry tale and think what an opportunity was missed when the idea of the ESC was consigned to the dustbins of Selborne House.

The Insider

# CCR-PublicSector

The monthly online magazine for all who work in the areas of revenue management, collections and enforcement in the public sector is available online, free of charge at

[www.ccr-publicsector.com](http://www.ccr-publicsector.com)

If you are a supplier to the public sector and would like to know more about what we will be covering over the next few months, contact Gary Lucas on 07785 268404 or e-mail: [gary@ccrmagazine.co.uk](mailto:gary@ccrmagazine.co.uk).



CCR-PS

# IDENTIFY YOUR GOALS AND SET YOUR PLAN IN MOTION

By taking a close look at how your operations run, and what you want to achieve, you can identify your strengths and weaknesses, and make substantial improvements

By Janet Chapman

implementing quite a few new ideas and systems:

◆ Credit policy – for the first time we formalised who was responsible for what. A soft start was required as our business was not used to thinking about credit checking up front and planning.

◆ Credit management module in our accounting system – for the first time we could see the exposure of the business and prioritise those debtors who had exceeded their limit.

◆ Paperless direct debit – this is a must for all businesses who operate direct debit to remove the need for paper mandates and speed up your collection of unpaid items, so we wrote a telephone script which is approved by Bacs. The result is that we now have no more paper mandates floating around the postal system with precious personal details written down and open to risk. The speed of setting up the direct debit over the telephone, with our customers, has improved, resulting in better cashflow and improving morale for the team.

◆ Voice recording – we needed to fully understand what was happening on our calls, call volumes, analyse trends and success rates. Also, to protect our team from abusive callers. We recorded calls for our credit control team and monitored the results. The result is that we have become more professional – yes, surprisingly, we upped our game and, as a result, there have been fewer customer complaints in the past two years. We use the recorded calls for training and have call-sharing sessions where team members can share their best, and worst, calls and learn from each other. The team put together best practice for ongoing situations and current issues and, as a result, feel

more empowered to do their job. Yes they actually say that!

◆ Auto-allocation software for incoming cash – we needed to reduce the time spent manually allocating cash from repeat payers, so we looked at the products available and, as a result, we are eight months in and 50% of our incoming customer payments now allocate to customer accounts without manual intervention.

◆ Collections and disputes management in our accounting system – we needed to provide a list of priority chase calls for credit controllers on a daily basis.

## We left no stone unturned in our search for streamlined processes which would result in the holy grail: improved cashflow

So we worked with accounting to tailor make the system. As a result, each controller now has a daily work list which they log onto and work through without having to 'look' for priority calls. The system allows you to create a promise to pay and the credit controller only sees that account again if the payment fails to arrive. Other benefits are the reports can be used for cashflow purposes and chasing up promises that fail to come in on time. The overall result has been a more focused team, which speeds up cash coming in.

◆ E-mailing bills – we wanted to provide improved customer service by e-mailing invoices to customers and to make cost savings on postage and stationery. This has resulted in the ability to populate e-mail addresses and have the billing documents e-mailed directly to the customer. This speeds up the authorisation process and has led to reduced calls for copy invoices, and

there is potential for even more cost savings as more customers get onboard.

### Conclusion

Obviously it is not all plain sailing – great improvements never are – but I honestly do not think I have experienced a time that was more exciting, driven, and full of energy in my working life.

What is next? With another financial year end upon us, we already know that we have had our sixth consecutive annual reduction of over-90-day debt and it feels good, I can tell you.

But we will not be spending too much time celebrating – well, go on then, we may congratulate ourselves on another job well done, but at the same time we are already looking to the future and have plans afoot to make even more changes and improvements in the coming year.

Going back to what I said earlier, this is our time to shine, and now they are telling us we are coming out of the recession, which is absolutely fantastic. However, there is one big 'but' – I do not feel inclined to go back into the shadows and quietly keep the business running – and neither should you! **CCR-PS**



Janet Chapman is sales to cash manager at The Canal & River Trust [janet.chapman@canalrivertrust.org.uk](mailto:janet.chapman@canalrivertrust.org.uk)



# Local Authority Civil Enforcement Forum 17th Annual Conference

Mercure Leicester The Grand Hotel

13 May 2014

LACEF 2014 – Best Practice in Collections and Enforcement



## CCR-PublicSector

The LACEF Annual Conference is quite unique, as it is free to attend for all full members. The day features all the learning and networking opportunities that will help you progress in your work. Learn from the experts in the field, both working within the public sector and offering innovative solutions to it.

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*Credit Collections & Risk* is the leading editorial publication in the credit industry, aimed at a readership of key decision-makers in this most important sector. We offer the most experienced editorial team in credit; the highest level of reader in the industry; proven solutions with a track record of success; and an innovative, solutions-driven approach. Our readership is proven by ABC audit – the only trade publication in the sector to be so. Google Analytics are available for the website. We give the facts that you can trust.



**“The whole event appeared to run very well and was testimony to LACEF’s efforts.”**

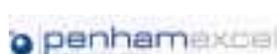
*Chris Brain, relationship manager, Rates Retention Team, Valuation Office Agency*

- |       |   |       |  |
|-------|---|-------|--|
| 8.00  | Registration open<br>Networking breakfast and exhibition  | 11.30 | Commercial presentation: Intec   |
| 8.45  | LACEF welcome<br><i>Barrie Minney, chairman, LACEF</i>  | 11.40 | Re-establishing committals as a successful recovery tool following dialogue with the local court when increased court fees were introduced<br><i>Howard Kilby, recovery specialist, Sheffield City Council</i> |
| 9.00  | Welcome to Leicester – and why we are pleased to welcome LACEF back for the third successive year<br><i>Alison Greenhill, director of finance, Leicester City Council</i>   | 12.15 | Buffet lunch break and exhibition  |
| 9.10  | CCR-PublicSector welcome<br><i>Freddie Dawkins, editor, CCR-PublicSector</i>  | 13.15 | Improving collections performance<br><i>Emma Foy, head of finance, Maldon District Council</i>   |
| 9.15  | Progress in launching the Single Fraud Investigation Service<br><i>Alan Bryce, head of counter fraud, The Audit Commission</i>  | 13.45 | Bailiff reform – we’ve got it – so how is it working after 6 weeks?<br><i>Anne Marie Goddard, team leader, enforcement reform – Tribunals, Courts and Enforcement Act, Ministry of Justice</i>                 |
| 9.40  | Commercial presentation: Telsolutions   | 14.15 | Coffee break and exhibition  |
| 10.00 | Morning break and exhibition  | 14.30 | Improving and monitoring enforcement policies<br><i>Andrew Hopley, assessment team leader, The Local Government Ombudsman</i>  |
| 10.20 | The challenge of reducing fraud at local and national level<br><i>Mark Babington, director, energy &amp; climate change, decommissioning, regulation &amp; fraud, money laundering reporting officer, the National Audit Office</i> | 15.15 | The work of investigating officers in countering fraud<br><i>Debbie Gibbons, chair, the Local Authority Investigation Officers Group</i>   |
| 10.40 | Welfare reforms – progress and pitfalls so far<br><i>Mark Ransome, benefits specialist, London Borough of Waltham Forest</i>  | 15.45 | How to use NAFN’s services for tracing and identifying debtors<br><i>Jeremy Frost, team leader, NAFN Southern Area</i>   |
| 11.10 | The local collections challenge and seamless legal services<br><i>Paul Jennings, finance manager (corporate finance), Resources Directorate, Coventry City Council</i>  | 16.10 | Chair’s closing remarks<br><i>Barrie Minney, chairman, LACEF</i>   |

**“Really useful presentations. We downloaded them and shared them around the team.”**

*Julie Barker, head of exchequer services, Finance & Corporate Resources, London Borough of Enfield*

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# Local Authority Civil Enforcement Forum

## 17th Annual Conference

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- ◆ Helping vulnerable debtors
- ◆ A missed opportunity?
- ◆ Fighting tenancy fraud
- ◆ Local government surpluses



Major creditors are working in partnership with the Royal College of Psychiatrists to improve the service offered to customers with mental health problems.

New guidance published at the start of May by the Royal College and the Money Advice Trust sets out advice to help creditors offer the right assistance to these customers.

The measures highlighted in *Lending, Debt Collection and Mental Health: ten steps for treating potentially vulnerable customers fairly*, will help train thousands of front-line staff working for banks and other creditors.

More than 2,000 employees from 50 bank and creditor organisations have already undertaken the training provided by the Royal College. The report encourages more organisations to follow their lead.

As part of the ten steps, the report recommends that creditors:

- ◆ Build confidence amongst customers that they can disclose a mental health issue and trust that this information will be handled both appropriately and sensitively.
- ◆ Develop and share a policy which explains how a customer's disclosure of

a mental health problem will be used.

- ◆ Provide mental health awareness training that reflects the lending or collections situations that staff undertake at work.

The report features case studies of good practice from major creditors that have adapted the way they treat these customers, including HSBC, Nationwide and Co-operative Bank.

Significantly, the report is endorsed by leaders from across the creditor, advice, and health sectors, including Anthony Browne, chief executive of the British Bankers Association; Stephen Sklaroff, director general, the Finance and Leasing Association; Melanie Johnson, chair, The UK Cards Association; Leigh Berkley, president, Credit Services Association; Paul Smee, director general, Council of Mortgage Lenders; Professor Dame Sue Bailey, president, Royal College of Psychiatrists; and Joanna Elson, chief executive, Money Advice Trust.

Developing policies that appropriately handle mental issues can mean the difference between successful and unsuccessful recovery of a debt, the report says.

Mr Browne said: "Offering the right support for customers experiencing

mental health problems is vital, but not necessarily easy. Banks and creditors have to balance a respect for customers' privacy with the importance of offering those who have mental health problems the right help.

"This report shows that creditors are already making great strides to give customers with mental health problems the appropriate support when it is needed. But more can always be done. That is why the ten steps and other helpful advice written in this report by some of the world's leading experts in mental health will be so valuable."

Chris Fitch, research fellow at the Royal College and lead author of the report, told *CCR-PS*: "Financial difficulties can make living with a mental health problem far, far harder.

"We therefore welcome those leading banks and creditors that have taken positive action to support customers with mental health problems.

"However, mental health is not yet a 'job done' – all creditors now need to take mental health into account, and ensure that best practice becomes part of everyday business."

- ◆ Copies of the report can be downloaded at [www.mhdebt.info](http://www.mhdebt.info)



# IMPROVING SERVICES FOR VULNERABLE CUSTOMERS

New guidance from the Royal College of Psychiatrists and the Money Advice Trust is offering creditors help in training their front-line staff to improve interactions with customers with mental health problems

By Freddie Dawkins

## Ten important steps

The 'ten steps' that creditors are recommended to take are to ask themselves:

- ◆ When lending, are you really complying with law and regulation on mental capacity?
- ◆ Do you have a written policy on working with customers with mental health problems (as required by the implications of fully complying with the Data Protection Act 1998)?
- ◆ Does your mental health policy address dealing with more difficult situations including emotional distress, suicide threats, and other 'learning events'?
- ◆ When a customer discloses a mental health problem, do your staff handle

this effectively and legally?

- ◆ When a carer discloses a mental health problem, do your staff handle this effectively and legally?
- ◆ When asking more in-depth questions about mental health, are your specialist staff covering the key points?
- ◆ When working with customers with different mental health problems, are your staff taking these differences into account?
- ◆ Are you collecting medical evidence when you really need to?
- ◆ Are you using the medical evidence you collect?
- ◆ Do you use routine data and monitoring to improve performance, and prevent problems?

The Royal College of Psychiatrists says that one in four adults will experience a mental health problem in any given year, according to the Health and Social Care Information Centre. Importantly, these adults will probably be customers of banking and creditor organisations – where creditor staff have a better understanding and appreciation of these customers' health circumstances, they will be able to treat these customers fairly and sensitively.

In 2010, 59% of frontline staff told a survey by the Royal College of Psychiatrists that if they could take a customer's mental health into account they would be more likely to recover a debt. **CCR-PS**

# BAILIFF REGULATION: A MISSED OPPORTUNITY?

The government's new bailiff regulations are a step in the right direction, but fail to go far enough

By Sam Ashton

THIRTY years ago it had seemed that bailiffs and their aggressive tactics were to become a thing of the past. In the late 1960s, judge Lord Denning described them as an 'archaic remedy' and in 1986 the Law Commission recommended the abolition of distress for goods.

It was the poll tax that breathed life back into the bailiff industry in the 1990s. The principle of personal liability that came with the poll tax continued with its replacement council tax, and every year hundreds of thousands of people find bailiffs knocking at their door when they fail to keep up with payments. Indeed the Money Advice Trust has revealed that local authorities referred 1.8 million debts to bailiffs in a single year.

In our work supporting vulnerable debtors we have found that aggressive behaviour and bad practice is systemic in the private bailiff industry. Bailiffs continually overstate their powers, seize goods they are not entitled to, charge fees for activity they have not undertaken and act in an aggressive and threatening manner towards debtors.

For example a single mother lost her job and fell behind on her council tax payments. A few months later she began to be harassed by a bailiff. Even though she offered to agree a manageable repayment plan with the council the bailiff refused and demanded the entire amount, though she clearly did not have the money. One day he pushed past her into her flat and, finding nothing of value to seize, sat down in her living room and refused to leave until she paid him. Our client was understandably distraught and yet she was unable to achieve any meaningful redress.

English bailiff law might well have been the worst in the world. It was a labyrinthine patchwork of antique

regulations, statutes and case law and offered little protection for the debtors we support. No area of the law was more ripe for reform, yet there were decades of inaction on the issue from successive governments.

The last Labour government eventually announced plans for regulation but these were a disaster as they gave bailiffs the power to use force and even seize domestic pets. Fortunately, these plans were abandoned and the bailiff sections of the Tribunals Courts and Enforcement Act 2007 were not implemented.

In 2010 the coalition government promised action and the coalition agreement included a commitment to "provide more protection against

## In our work supporting vulnerable debtors we have found that aggressive behaviour and bad practice is systemic in the private bailiff industry

aggressive bailiffs". The results of this process finally came into force on 6 April this year.

The new regulations have a lot to commend them. For example, bailiffs will have to undergo mandatory training and certification and a clear set of rules governs what fees they can charge. However the regulations also fall short in a number of key areas.

There is no independent regulator of the bailiff industry to provide control and oversight of both individual bailiffs and firms to tackle the systemic bad practice that exists in the industry. And there is no free, clear, transparent and accessible complaints procedure to an independent complaints body.

Without such measures in place, the rules remain open to abuse by bailiffs



and we expect to see many bad practices continue. This is particularly true with the abolition of council tax benefit, meaning over two million families are now being forced to pay more council tax. Most of those families are already struggling with soaring food and energy costs, so being hit with

another bill is the last thing they need. Those unable to pay will soon find themselves at the sharp end of debt enforcement.

With social security cuts pushing low-income families ever further into debt, tough regulation and scrutiny of those entrusted to collect those debts is more important than ever. The government's new regulations are a step in the right direction, but ultimately fail in this regard.

**CCR-PS**

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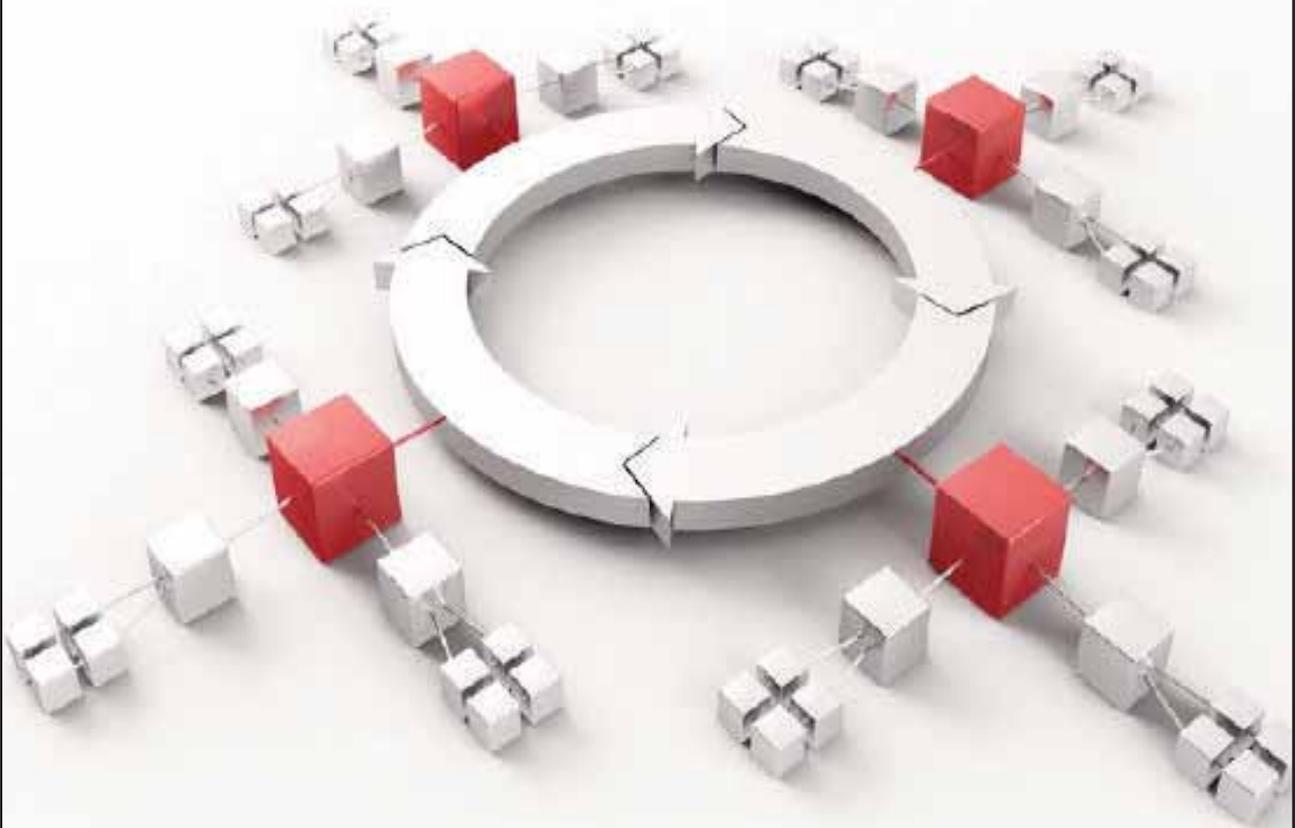


CCR-PS

# USING THE 'FRAUD HUB' TO FIGHT TENANCY FRAUD

Ensuring that local authorities can share information with each other is a key step in fighting housing tenancy fraud

By Peter Mansfield



MORE and more local authorities are turning to specialist service providers to help them reduce costs and maximise revenues, particularly in the area of fraud. So it is no surprise that we are working with a broad spectrum of clients from across the public sector.

Organisations operating within the public sector span across a wide spectrum – each facing their own challenges, whether that be in central or local government, social housing, education, emergency services or health and leisure.

Some of the common challenges faced by the sector are the continual battles with spending cuts and policy changes.

For local authorities in particular one of the main challenges is how to combat tenancy fraud. The Audit Commission estimates that approximately 98,000 social homes in England could be subject to tenancy fraud, compared to just 50,000 in 2009. The cost of tenancy fraud to the public purse, across local authorities and housing associations, has now risen to an estimated £1.8bn a year.

Clearly tenancy fraud is still prevalent and will continue to be a challenge in the future. Even though our own research has revealed a 70% increase in the number of detected tenancy fraud cases in 2012, there is still work to do to shut the door on the problem.

The findings, which used data obtained from local authorities under the Freedom of Information Act, built on previous research the firm published in 2012 which highlighted that, in 2011, 90% of all tenancy fraud cases went undetected.

Whilst the 2013 report does show some improvements in detection rates for tenancy fraud, it highlights the scale this type of fraud has reached. Over 80% of local authorities still do not have a dedicated fraud team in place, and the number of fraud cases detected for non-occupation as principal home has increased to 43%. The number of unlawful sub-letting fraud accounted for 32%, and 5%

>>

>> of cases accounted for wrongful succession.

As with all types of public sector fraud, the key to tackling it is to understand the scale of the problem and the inherent risk, work to prevent fraudulent activity occurring and put in place a zero tolerance approach to dealing with identified cases

One significant change the firm has helped to implement is developing ways in which councils share information. We

(winners of the recent *Local Government Chronicle* Fraud Awards).

The 'Fraud Hub' is also called the 'ThreeSixty Hub'. Some of the other founder members include Ealing, Hammersmith and Fulham, Brent, Barnet and Hounslow.

The rationale behind the 'Fraud Hub' is that not only can local councils share data between each other, but Callcredit can also help match their data with its own extensive data sets – helping to

'blueprint' to establish other 'Fraud Hubs' across the UK.

We are using housing waiting lists, housing allocation lists and council tax support data used to prevent, detect and investigate housing tenancy fraud.

By sharing data, knowledge and adopting a more collaborative approach with neighbouring authorities, housing associations and where applicable, central government departments, local authorities can work to reduce the risk of tenancy fraud and increase the detection rate, thereby reducing monies lost and ensuring more social housing is made available to those who need it.

We hold regular meetings of the founding members to guide future direction of the solution. **CCR-PS**



Peter Mansfield is managing director of Callcredit Information Group  
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## Fraud undermines the financial health and stability of companies and diverts resources from the provision of quality public services

now have 16 London Borough members with a further five in the pipeline,

The idea for the 'Fraud Hub' came about by an initiative led by Ealing Council, supported by the then National Fraud Authority and in conjunction with seven other founding members, including the Royal Borough of Kensington and Chelsea and Southwark

provide greater insight and in turn help target fraudsters more effectively, saving time and money – money which can be used to much greater effect elsewhere.

The councils have already seen some significant results as a consequence of the 'ThreeSixty Hub' being formed and the plan for 2014 is to use this as a

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The online resource for public sector professionals in finance, revenues, collections and enforcement. Check it daily to stay informed with all the latest news and analysis.



For more details contact Gary Lucas on 07785 268404 or email [gary@ccrmagazine.co.uk](mailto:gary@ccrmagazine.co.uk)

CCR-PS

# LOCAL GOVERNMENT RUNNING SURPLUSES

Central government borrowing higher than forecast, but balanced by local government running surpluses

By Rowena Crawford

THE Office for National Statistics and HM Treasury have published Public Sector Finances March 2014.

We now have details of central government receipts, central government spending, public sector net investment, borrowing and debt for the whole of financial year 2013-14.

## Headline comparisons

Public sector net borrowing, excluding the impact of transfers related to the Asset Purchase Facility, totalled £107.7bn in 2013-14.

This is essentially as forecast by the Office for Budget Responsibility (OBR) in their March 2014 Economic and Fiscal Outlook (£107.8bn), and is £7.5bn lower than the £115.1bn borrowed in 2012-13.

Public sector net investment was £24.9bn in 2013-14, which was £0.8bn higher than was forecast by the OBR in March 2014.

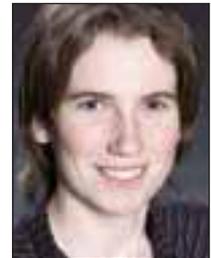
The public sector current budget deficit in 2013-14 was £82.8bn, excluding the impact of transfers related to the Asset Purchase Facility, which is £0.9bn lower than the £83.7bn forecast by the OBR in March 2014.

Underlying public sector net debt at the end of March 2014 stood at 75.8% of national income, which is higher than the 74.5% forecast by the OBR in March, and the 74.2% of national income in March 2013. Including the impact of the financial interventions raises headline public sector net debt to 132.4%.

The figures provisionally show that

the government borrowed £107.7bn in 2013-14, which is essentially what the OBR forecast a month ago.

However, the borrowing by central government was actually £1.9bn higher than the OBR forecast, with disappointing receipts and higher than expected investment spending only being partially offset by lower than forecast non-investment spending. It is only as a result of local government running higher than anticipated surpluses that public sector borrowing was in line with the forecast. **CCR-PS**



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The full analysis can be downloaded from: [www.ifs.org.uk/publications/7177](http://www.ifs.org.uk/publications/7177)

## PUBLIC PAY FALLS AS PRIVATE PAY RISES

TAKE-HOME pay in the public sector has fallen in real terms over the last year, an analysis published last month has found, despite official figures showing that wages across the economy are catching up with inflation.

VocaLink's Take-home Pay Index, which measures changes in the real value of wages across a number of sectors, found monthly wages for public sector staff in the three months to the end of March were £15.39 lower than the same period in 2013. In addition, pay was £127.31 lower than the same period in 2008, before the coalition government introduced public sector pay restraint, including a two-year freeze and subsequent 1% caps on rises.

The firm uses bank transaction data to measure wages, and confirms real pay remained below the level before the financial crisis for private and public sector employees.

The drop in consumer price index inflation to 1.6% has helped stimulate real year-on-year wage growth for private sector workers, according to the latest Index.

However, while real take home pay growth has returned for private sector workers, some caution is required – as real wages remain much lower than at the start of 2008. Real pay remains below pre-financial crisis wage levels for private and public sector employees.

FTSE 350 workers were, on average, £21.73 per month better off in the three months to the end of March 2014 compared to the same period in 2013. They were however, £113.38 – roughly equivalent to an average household's weekly expenditure on food and transport – per month worse off when compared to the same period in 2008.

According to the data, employees in the manufacturing and services sectors

were £31.72 and £21.17 respectively better off in real terms compared to a year ago. However, when considered against the same period in 2008 they were £58.06 and £119.14 respectively worse off.

Our latest Take-home Pay Index shows real year-on-year wage growth across the private sector. Having said that, the latest data shows there is a lot of catching up to do after years of weak income growth. Real pay remains down on early 2008 levels.

Compared to a year ago, real take home pay on the FTSE 350 index was 1.4% higher, 1.7% higher on the manufacturing sub-index, 1.4% higher on the services sub-index and 1.0% lower on the public sector index.

By David Yates, chief executive officer, VocaLink  
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- ◆ Recent changes to the National Standards
- ◆ LACEF progress
- ◆ CIVEA news

With the recent changes to enforcement law the National Standards have been updated – but what has changed?  
By Sheila Harding

# LATEST CHANGES TO THE NATIONAL STANDARDS

The National Standards for Enforcement Agents (NSEA) remained unchanged for nine years until 13 January 2012 when the then justice minister, Mr Jonathan Djanogly, issued a surprise press release announcing that the National Standards had been “updated”.

With the announcement coming just eight weeks after the bailiff industry had been subject to an undercover TV programme which appeared to show serious examples of malpractice by a bailiff working for a large enforcement firm, many people considered that this document had been hastily cobbled together.

The ‘2012’ NSEA consisted of 10 pages and, at first glance, appeared detailed and improved. However, on closer inspection this was not the case at all and it was only when I had ‘cut and pasted’ the original NSEA and compared it with the ‘revised’ edition that it was realised that only minor changes had been made. I wrote an extensive article for *CCR-PS* in 2012 regarding this.

Not surprisingly, following the release of the ‘updated’ NSEA there was a lot of criticism from both the advice and enforcement sectors and, thankfully, under Chapter 3 of the consultation paper on bailiff reform the government sought views from the public on proposed amendments to the NSEA.

On 6 April this year the Taking Control of Goods Regulations 2013 was implemented and, to coincide with this, the Ministry of Justice (MoJ) released the *Taking Control of Goods: National Standards 2014*, which can be downloaded from the following link: [www.justice.gov.uk/downloads/courts/enforcement-officers/taking-control-of-goods-national-standards.pdf](http://www.justice.gov.uk/downloads/courts/enforcement-officers/taking-control-of-goods-national-standards.pdf).

In contrast to the 2012 ‘standards’, the 2014 edition appears to be improved – but could I be missing something?

In the April 2014 edition of *CCR-PS*, Dr Steve Everson wrote his last article for the publication before his retirement from the role as director general of the Civil Enforcement Association (CIVEA), and I was most surprised (as I am sure many others were) at his following extraordinary comment: “It is with immense disappointment that, after many years of working with the MoJ to bring about the new regulations and secure a modern civil enforcement

Inland Revenue being replaced with “HMRC”.

In addition there is a word change from ‘will’ to ‘must’ and there are a number of additional welcome sentences confirming that enforcement companies/agents must be willing to deal with any ‘third party’ (such as an advice agency) nominated by the debtor. A further addition under the heading of Complaints/Discipline is the requirement that a debtor should be notified of the outcome of disputes.

Of huge significance is a sentence that has been added under the heading of Creditor’s Responsibilities – and one

## A large proportion of the 2014 edition is almost identical to the 2012 version, but with obvious changes such as reference to VAT and Inland Revenue being replaced with “HMRC”

process, they now seem intent upon dismantling it through their unilateral proposed amendments to the National Standards. Obviously CIVEA will strenuously resist such retrograde proposals”.

Harsh words indeed – so what can be so bad in the amended NSEA? I decided to undertake the challenge and once again, I have carefully compared the 2012 ‘standards’ with the new 2014 version and it is noteworthy that there are indeed many changes.

### Changes to the 2014 NSEA

A large proportion of the 2014 edition is almost identical to the 2012 version, but with the obvious changes such as the previous reference to “levying upon goods” which has been replaced with the phrase “taking control of goods” and reference to VAT and

that I am surprised that Dr Everson failed to comment on – whereby if a creditor agrees to the suspension of a warrant or agrees to allow a debtor to make direct payments to them (as opposed to the enforcement agent) that the creditor should “pay the appropriate fees due to the enforcement agent for the work that they have undertaken”.

A further important change under the heading of Times and Hours has been made to amend the previous sentence that had read as follows: “It is recommended that enforcement should only be carried out between the hours of 6.00am and 9.00pm or at any time during trading hours, existing legislation must be observed.”

The 2014 standards have been changed to read as follows: “Enforcement action should only be carried out



between the hours of 6.00am and 9.00pm, or at any time during trading hours, unless otherwise authorised by a court. Existing legislation must be observed.”

Under the heading of Creditor’s Responsibilities I was surprised to see the following sentence from the 2003 and 2012 editions missing and I would assume that the reason for this

is that the guidance is now provided under the Department for Communities and Local Government Guidelines published on 17 June 2013: “Creditors must not seek payment from an enforcement agent or enforcement agency in order to secure a contract.”

In addition to the minor changes outlined above, the *Taking Control of Goods: National Standards 2014* have

included the following twenty new additions.

#### **Creditors' responsibilities**

◆ The creditor’s responsibilities should be observed and set out in terms of agreement with their enforcement agent/agency. They should consider carefully any specific requirements for financial guarantees so >>

>> that these are adequate, fair and appropriate for the work involved.

- ◆ Creditors should remember that enforcement agents are acting on their behalf and that ultimately they are responsible, and accountable, for the enforcement agents acting on their behalf.
- ◆ Creditors should act proportionately when seeking to recover debt, taking into account debtors' circumstances.
- ◆ Creditors must consider the appropriateness of referring debtors in potentially vulnerable situations to enforcement agents and, if they choose to proceed, must alert the enforcement agent to this situation.
- ◆ Creditors should ensure that there are clear protocols agreed with their enforcement agents governing the approach that should be taken when a debtor has been identified as vulnerable.
- ◆ Should a debtor be identified as vulnerable, creditors should be prepared to take control of the case, at any time, if necessary.
- ◆ Creditors should inform the enforcement agency if they have any cause to believe that the debtor may present a risk to the safety of the enforcement agent.
- ◆ Creditors should have a clear complaints procedure in place to address complaints regarding their own enforcement agents or external enforcement agents acting on their behalf.

#### Professionalism and conduct of the enforcement agent

- ◆ Debtors must not be pressed to make unrealistic offers and should be asked to consider carefully any offer they voluntarily make and where possible refer to free debt advice.
- ◆ Where a creditor has indicated they will accept a reasonable repayment offer, enforcement agents must refer such offers onto the creditor.
- ◆ Where enforcement agents have identified vulnerable debtors or situations, they should alert the creditor and ensure they act in accordance with all relevant legislation.
- ◆ Enforcement agents must not seek to enforce the recovery of fees where an enforcement power has ceased to be exercisable.

#### Training and Certification

- ◆ Enforcement agents should be trained to recognise vulnerable debtors, to alert creditors where they have identified such debtors and to know when they should withdraw from such a situation.
- ◆ The debtor should be able to easily find out how to make a complaint and obstacles should not be placed in their way.

#### Goods

- ◆ Enforcement agents should not take control or remove goods clearly belonging solely to a third party not responsible for the debt. Where a claim is made, the third party should

## Sadly, in the past creditors and enforcement agents have largely ignored the NSEA and, when challenged, will state that the 'standards are merely guidance'

be given clear instructions on the process required to recover their goods.

- ◆ Enforcement agents should be aware of circumstances where a "no goods" valuation may be appropriate – for example where no goods of sufficient value have been identified, or where the removal of goods would lead to severe hardship for the debtor. In such instances the enforcement agent should make the creditor aware of this situation.

#### Vulnerable situations

- ◆ If necessary, the enforcement agent will advise the creditor if further action is appropriate. The exercise of appropriate discretion is needed, not only to protect the debtor, but also the enforcement agent, who should avoid taking action which could lead to accusations of inappropriate behaviour.
- ◆ A debtor may be considered vulnerable if, for reasons of age, health or disability they are unable to safeguard their personal welfare or the personal welfare of other members of the household.
- ◆ The enforcement agent must be sure that the debtor or the person to whom they are entering into a controlled goods agreement understands the

agreement and the consequences if the agreement is not complied with.

- ◆ Enforcement agents should be aware that vulnerability may not be immediately obvious.

#### Will creditors and enforcement agents abide by the new NSEA?

Sadly, in the past creditors and enforcement agents have largely ignored the NSEA and, when challenged, will state that the 'standards are merely guidance'.

The new enforcement regulations were implemented only one month ago and, over the coming few months, it will be seen whether the NSEA need improving or amending – and it is my

understanding that during this period the MoJ will be seeking to further strengthen the NSEA by having them endorsed by all stakeholder groups. If correct, this would be a sensible and welcome move.

I would assume that any amendments to the NSEA would include the removal or change to the following new item 31: "Enforcement agents must not seek to enforce the recovery of fees where an enforcement power has ceased to be exercisable"

Predictably this paragraph has been quickly picked up by websites associated with the Freeman on the Land movement (and other debt avoidance sites) as 'apparently' meaning that if a debtor were to pay the amount only of the original debt (council tax, parking charge notice or court fine) direct to the local authority or Magistrates Court that the enforcement agent cannot seek recovery of their fees.

Taking all of the above issues into consideration, I regret that I am still struggling to understand Dr Everson's statement. **CCR-PS**

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CCR-PS

# LACEF PROGRESS AND CONFERENCE PREPARATIONS

OUR annual conference is just two days away – and I can hardly believe it has been a year since we last met in Leicester!

I circulated a special note on our forum last week and hope members who are coming along to conference

## Our forum has been burning with questions about VAT and enforcement of liability orders

will be prepared with their comments and questions for one of our guest speakers, Anne Marie Goddard of the Ministry of Justice, who has played such an important role in the introduction of the new Taking Control of Goods Act.

Mrs Goddard has had to balance so many stakeholder views over the past few years, while endeavouring to ensure

that the new law is fair and equitable to all parties. Not an easy job!

We are very fortunate to be able to welcome Mrs Goddard back to LACEF this year, and she has indicated that she is more than happy to take this opportunity to listen to your views on

how the new enforcement regime is working after its first six weeks – and she wants to answer as many questions as possible.

### VAT questions

And our forum has been burning with questions about VAT and enforcement of liability orders.



I think we have got to the bottom of the matter, and I know John Kruse has penned some sage advice on page 37, so I would advise you to use his article when briefing colleagues – and I am quite sure we will be talking about the subject in Leicester.

See you there!

**Barrie Minney is LACEF chairman and senior bailiff, Brighton & Hove City Council**  
barrie.minney@brighton-hove.gov.uk



## CIVEA: LATEST NEWS

DR Steve Everson will retire as director general of CIVEA at the end of May, and I have been appointed as his successor. As Steve sails away towards the broad sunlit uplands of his well-deserved retirement, I would like to thank him for his characteristic kindness and consideration as he has shown me the ropes.

Under his stewardship the Association has made great progress, notably in successfully integrating two separate and distinct organisations in the successful merger which created CIVEA, and in recent years in engaging with successive governments in shaping the new legislation.

Together with Paul Caddy as president and the other members of the executive, the case for effective enforcement which safeguards the interests of vulnerable debtors has been successfully advanced.

The media interest which greeted the implementation of the new legislation was a strange mixture of tabloid headline seeking and a genuine attempt to understand what was new. Demand

for comments, responses and speakers (including Steve's impressive debut on *BBC Breakfast*) was incessant until the great eye of the media turned elsewhere. We knew the feeding frenzy was over when we were advised that a prospective peak time interview had been "bumped" in favour of the views expressed by the Princess Royal on the benefits of consuming horsemeat!

The final consultation paper leading up to the new regime was of course entitled *Transforming Bailiff Action*. The resulting legislation has certainly effected a transformation, with even the term 'bailiff' being replaced (in legislation if not in common parlance).

In many ways the desired policy objectives of clarity and transparency have been brought into being. But compliance with the detailed procedural requirements, including a variety of prescribed notices and valuations, is unlikely to make enforcement more straightforward for enforcement agents.

The fixed scale of fees across all types of debt, coupled with the new notice requirements, certainly allow



debtors a clearer sight of the fees which could be incurred. But the new provisions also bring with them their own elements of uncertainty.

Large swathes of long-established decisions about the law of distress have been swept away, along with the accepted practices which flowed from them. New considerations have become relevant. These include the circumstances in which a public car park can also be a 'highway', or whether commercial premises include any residential element.

We will not have to look far for our challenges in the months to come.

**Stephen Caven is the incoming director general of CIVEA**  
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On 6 April new regulations were introduced on bailiff reform, and time alone will tell whether or not the regulations go far enough to 'curb aggressive bailiffs'.

In the December edition of *CCR-PS*, I wrote extensively about the introduction of Part 6 into the regulations (Third Party Claiming Controlled Goods) and my concerns that such 'interpleader' applications by 'third parties and debtors' have the serious potential to damage the regulations and expose local authorities, the Information Commissioners Office, DVLA and the Local Government Ombudsman to complaints at a level never seen before ("Should bailiffs be allowed to use ANPR?", p10-11).

A little known fact was that just a few days after the regulations took effect on 6 April, the court fee for filing an 'interpleader' suddenly almost doubled, going from £80 to £155! Also, it would seem that as a direct consequence of introducing the 'interpleader' procedure, the Ministry of Justice deemed it 'necessary' to allow enforcement agents to apply 'storage fees' when removing goods. This was not, of course, revealed during the consultation paper and again, only time will tell whether allowing this 'additional' fee to be charged will lead to enforcement agents immediately removing goods. I suspect that in time it will.

With third parties (and debtors) now being exposed to increased application fees, and the further risk of costs resulting from any subsequent trial, it must surely be time that the serious subject of bailiff and police roadside operations is looked at – and, hopefully, immediately banned.

These operations, many of which are shrouded in secrecy, have been ongoing for more than 10 years, mainly in London, and mainly with the assistance of the Metropolitan Police. In fact, for the past three weeks these operations have featured in the BBC television series *Parking Mad*, attracting more than five million viewers each week.

#### How do these 'roadside operations' work?

As viewers to the TV series will have seen, a bailiff will upload details of



warrants in relation to unpaid parking tickets onto an ANPR-equipped vehicle. The warrant will have upon it the name and address of the debtor and the vehicle registration number of the vehicle that had been driven by the debtor on the day of the contravention – possibly as much as two years earlier and, in the case of one local authority, seven years earlier.

If a vehicle with the same registration number passes the ANPR vehicle a signal will be given to another bailiff at a nearby location alerting them that the vehicle is driving in the direction of the roadside operation. The bailiff will then alert the police, who then force the driver of the vehicle to pull over.

The driver will be questioned by the police officer, normally concerning insurance or 'number plate irregularities', and once the officer is satisfied with his enquiries he will then 'introduce' the driver to a bailiff to 'discuss' the matter of an unpaid parking ticket'.

In each case shown on the TV programme the bailiff is seen advising the driver that his or her car has been stopped by the police as 'the vehicle has an unpaid parking ticket against it'. This statement is clearly utter nonsense given that a parking ticket is registered against the vehicle keeper and not the vehicle.

It would seem that many local authorities (in particular those in London) have independent contracts with the police in relation to these operations.

#### Are these police and bailiff 'roadside operations' legal?

It would seem that His Honour Judge Cryan (sitting at Clerkenwell & Shoreditch County Court in 2011) had severe doubts as to their legality when he was cross-examining a bailiff during a complaint hearing.

During the intense questioning the bailiff confirmed that he had played a part in such operations (mainly with the Metropolitan Police) approximately once a month for at least 10 years. He also stated that such operations had, in the past, been a 'familiar feature' in Manchester but had ceased in 2008.

HHJ Cryan stated that he had himself observed such a police/bailiff roadside operation at Heathrow and asked the bailiff whether it had ever occurred to him that "what might be happening could be of doubtful legality"?

After questioning the bailiff as to the accuracy of the information held on the warrant and how often the computer was updated, HHJ Cryan stated: "Some people might be sceptical about whether what you are describing to me is the real world, or not. What actually happens is that, as a motorist, you are stopped by a police officer, who shows you his warrant card and says he is carrying out checks. 'Here is the bailiff. He is going to carry out checks as well.'

"The entire impression that is given is that this is some lawful stopping with which the motorist has no right to

CCR-PS

# SHOULD THE POLICE BE WORKING WITH BAILIFFS?

With increased fees facing debtors and third parties, it is surely time to consider bailiff and police roadside operations – as their legality is in serious doubt  
By Sheila Harding

object, even after the police have finished their business.”

Most importantly, HHJ Cryan stated that: “Here is a bailiff who is going to ask you more official questions... the overall impression of the whole of this is that the engagement of the bailiff is no less involuntary – in other words, the obligation on the motorist to remain is no less present when the bailiff takes over as when the police officer was there.”

During the intense questioning the bailiff confirmed that the ‘protocol’ for such operations is clear in that it is the Metropolitan Police who will force the driver to stop and it is the police who will introduce the driver to the bailiff.

Keeping to the subject of the ‘legality’ of these operations, a major important development arose in April when the Metropolitan Police finally responded (after five months) to a Freedom of Information (FOI) request about their part in such operations.

Initially, the FOI request was rejected as it was not considered to be within the ‘cost threshold’ (of £450). Further excuses were made and the individual seeking the information sought an internal review and wrote to her MP.

The response in April was extremely worrying, not least because from the reply it would appear that the Metropolitan Police realised that their ‘assistance’ in these ANPR roadside operations’ should not be given to private sector bailiffs and instead, should only operate in partnership with either Civilian Enforcement Officers (CEOs) – employees of the Magistrates Court – enforcing non-payment of criminal fines (distress warrants) or with the execution of judgments under Section 85 of the County Courts Act 1984.

Crucially, under Part 3 of the FOI response the Metropolitan Police outlined the legal position and it is here that they ‘drop their bombshell’ by stating as follows: “It has been often quoted that police officers have a duty to assist officers of the court executing these warrants by virtue of Section 85(4) (of County Courts Act 1984) which states ‘It shall be the duty of every constable within his jurisdiction to

## The entire impression that is given is that this is some lawful stopping with which the motorist has no right to object

assist in the execution of every such warrant’.

“However this section has been restricted by virtue of Statutory Instrument 1993/2073 – The Enforcement of Road Traffic Debts Order 1993 (article 6).

“This section does not afford police officers with a power to execute the warrant and there is no power for police officers to detain a person in order for CEOs to execute the warrant.

“Police officer powers in relation to these warrants would be limited to the common law power to prevent a breach of the peace.”

Having finally realised that they should not be ‘assisting’ private sector bailiffs to enforce unpaid local authority issued parking charge notices the Metropolitan Police then attempt to absolve themselves from any wrongdoing by using their old chestnut excuse of Section 163 of the Road Traffic Act.

On 30 April 2014 the home secretary Theresa May announced a major package of measures to reform the way in which the police use “stop

and search” powers and she confirmed that this review would include similar powers used by the police under Section 163 of the Road Traffic Act – with a view to eliminating any unfair or inappropriate use.

### Conclusion

The ANPR vehicle is not seeking to locate the debtor named on the warrant. Instead, the ANPR equipment is seeking to locate the vehicle that had been driven by the keeper on the day of an alleged contravention.

With the frequency in which vehicle owners sell or trade-in their vehicles (in particular in London) it is common for

the new vehicle owner to be forced to pay the previous owner’s debt during these operations in order to avoid their car being removed.

Worryingly, many vehicle owners stopped by the police have no knowledge of the PCN as statutory notices had either been wrongly addressed or had been sent to a previous address. Accordingly, they are deprived of the legal right to either appeal the ticket or to make payment at the discounted rate.

The use of ANPR technology in this way raises wider concerns about data protection and privacy issues such as transparency, fairness, accuracy of data, and the proportionality of using a surveillance technology.

It beggars belief that these operations have ever been allowed. They must stop... now. **CCR-PS**

Sheila Harding is the founder and principal of Phoenix Consulting [phoenix.consulting@btconnect.com](mailto:phoenix.consulting@btconnect.com)

If anyone requires a copy of the transcript of HHJ Cryan’s cross examination, please e-mail the above address

# SPEED OF PROCESSING BENEFIT CLAIMS

New figures are out showing the speed of processing for new and updated housing benefit claims

By the Department for Work and Pensions

The Information, Governance and Security Directorate of the Department for Work and Pensions has issued its first official statistics on Speed of Processing (SoP) of housing benefit claims.

These show the average time taken to process new claims and changes of circumstances for housing benefit in calendar days for each local authority, rounded to the nearest day.

The statistics were released on 23 April, according to the arrangements approved by the UK Statistics Authority, and contain new statistics relating to quarter 3 of 2013/14 (October 2013 to December 2013).

There are no longer any council tax benefit statistics to produce alongside those for housing benefit, as council tax benefit was abolished in April 2013 and replaced by a system of localised support.

### Key findings

The average time taken to process new housing benefit claims for quarter 3 of 2013/14 is 22 calendar days, compared with 23 calendar days in quarter 3 of 2012/13.

The average time taken to process

change of circumstances to housing benefit claims for quarter 3 of 2013/14 is 12 calendar days, which is the same processing time as quarter 3 of 2012/13 (see Table 1).

### Related housing benefit statistics

The Department for Work and Pensions (DWP) also publish housing benefit monthly caseload national statistics – the statistics detail the number of people in receipt of housing benefit and the amount of benefit received.

They also include breakdowns by local authority, tenancy type, passported benefits, family type and age group. See: [https://www.gov.uk/government/organisations/departments-for-work-and-pensions/series/housing-benefit-and-](https://www.gov.uk/government/organisations/departments-for-work-and-pensions/series/housing-benefit-and-council-tax-benefit-caseload-statistics--2)

[council-tax-benefit-caseload-statistics--2.](https://www.gov.uk/government/publications/housing-benefit-and-council-tax-benefit-statistics-on-speed-of-processing-2012-13)

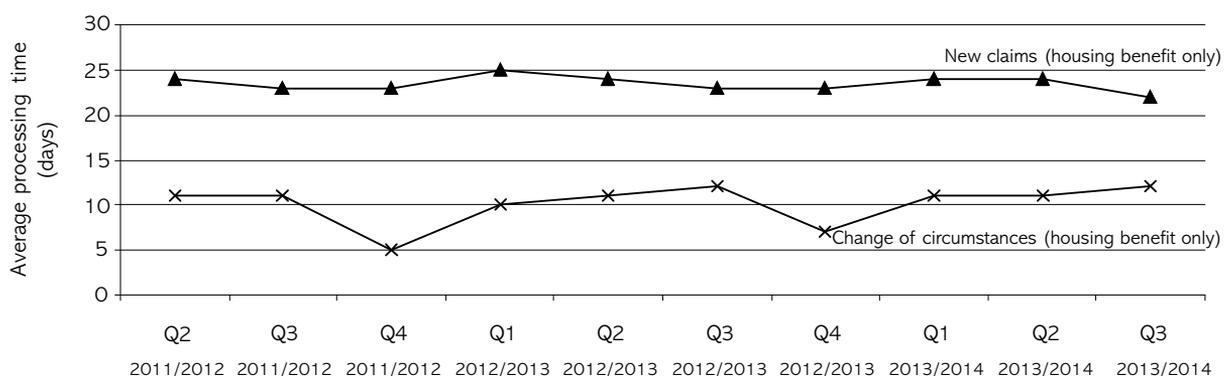
◆ The historical housing benefit and council tax benefit claims administration quarterly performance data, which is available to 2007/08, are based on clerical returns made by individual local authorities. Breakdowns of new claims and changes processing times are available historically, and the new claims processing times are broadly comparable over time. However, a change in definition for changes of circumstances between 2007/08 and 2009/10 means that direct comparison of this element with SoP statistics is not meaningful. See: [https://www.gov.uk/government/publications/housing-benefit-and-council-tax-benefit-statistics-on-speed-of-processing-2012-13.](https://www.gov.uk/government/publications/housing-benefit-and-council-tax-benefit-statistics-on-speed-of-processing-2012-13)

Table 1. Average housing benefit speed of processing for quarter 3, 2013/14

	Average number of days to process (Great Britain)	
	New claims	Change of circumstances
Quarter 3		
October	23	12
November	22	11
December	22	11

Source: Single Housing Benefit Extract (SHBE)

Figure 1. Average Processing Time per Quarter



- How fast are housing benefit claims processed? ♦
- Facing our challenges ♦
- UC expansion planned ♦



♦ In addition, users can find links to DWP additional statistical analyses that have not been included in our standard publications at [www.gov.uk/government/organisations/department-for-work-pensions/series/ad-hoc-statistical-publications-list](http://www.gov.uk/government/organisations/department-for-work-pensions/series/ad-hoc-statistical-publications-list).

**National statistics code of practice**

DWP complies with the national statistics code of practice and supporting principles. Detailed policy statements and statement of compliance with the pre-release access to official statistics

order 2008 are available via: [research.dwp.gov.uk/asd/index.php?page=policy](http://research.dwp.gov.uk/asd/index.php?page=policy).

The department would like to hear your views on our statistical publications. If you use any of our statistics publications, we would be interested in hearing what you use them for and how well they meet your requirements.

Please contact DWP via e-mail at [stats-consultation@dwp.gsi.gov.uk](mailto:stats-consultation@dwp.gsi.gov.uk). If you would like to receive occasional e-mails from DWP to directly inform you of documents seeking the views of

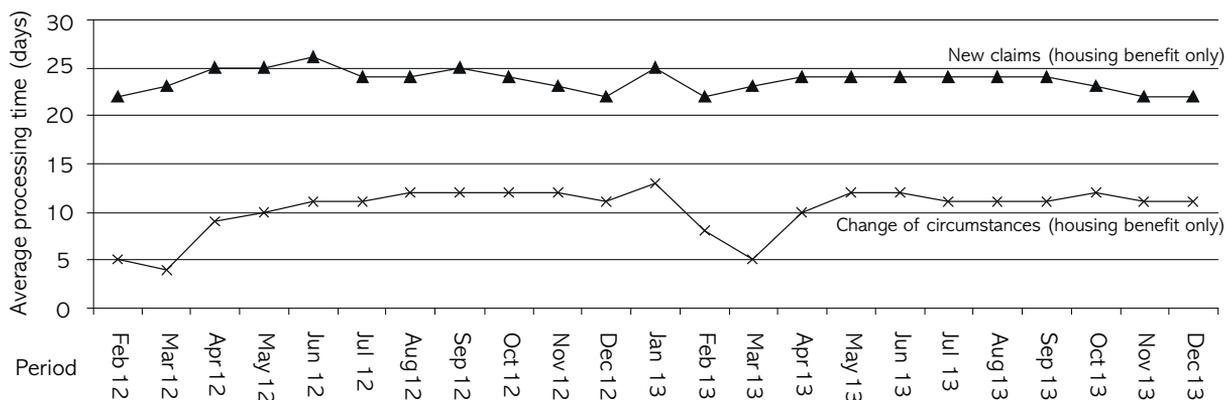
users, join the 'Welfare and Benefits' community at [www.statsusernet.org.uk](http://www.statsusernet.org.uk).

**Notification of future changes to SoP statistics**

The department plans to improve the presentation and content of this statistical summary in future publications.

Users are invited to send any related comments or requests via e-mail to [stats-consultation@dwp.gsi.gov.uk](mailto:stats-consultation@dwp.gsi.gov.uk) or by completing the questionnaire at [www.gov.uk/government/publications/housing-benefit-statistics-on-speed-of-processing-questionnaire](http://www.gov.uk/government/publications/housing-benefit-statistics-on-speed-of-processing-questionnaire). **CCR-PS**

Figure 2. Average processing time per month



# FACING OUR CHALLENGES

Local authorities face many challenges when it comes to debt recovery, but centralising systems can help

By Chris Buckard

A QUESTION: what do you think are the main challenges facing local authorities in recovering sundry debt? Reduced funding from central government? Increased personal indebtedness? Political and legal factors?

Certainly, councils are facing escalating external challenges, whilst seeking to maintain a customer-focused service. However, surprisingly, when it comes to debt recovery, the challenges are often internal and relate to decentralised responsibility to service areas and the sundry debt accounting system – being that you can show the benefit of the income generated from raising an invoice, even before receiving payment.

Service areas must, quite rightly, prioritise service delivery, but with limited resources, it is understandable that debt recovery can easily get overlooked – particularly when it is not incentivised.

Prior to 2008, a devolved structure operated in Walsall Council, resulting in:

- ◆ Few dedicated specialist staff.
- ◆ Incorrect customer details and no credit checks or risk assessments.

- ◆ Inconsistencies in approach and infrequent activity.
- ◆ The same customers being chased by different areas.
- ◆ Inappropriate credit periods.
- ◆ No prioritisation or targets.
- ◆ Minimal internal data sharing.
- ◆ Unresolved customer and internal queries.
- ◆ Unapproved legal costs and credit and write-off requests.
- ◆ An increasing annual average receivables ledger.

To resolve these problems, we decided to centralise collections and create a dedicated income team providing an end-to-end service. Over the last six years this, coupled with the introduction of new systems and a programme of development, has resulted in:

- ◆ Specialised staff that are well trained, empowered and motivated.
- ◆ Positive engagement with service areas – promoting best practice and providing training and support.
- ◆ A cohesive credit policy and structured debt recovery process.

- ◆ Equitable customer management.
- ◆ Responsible credit terms.
- ◆ Targeted collections based on value and risk.
- ◆ Internal data sharing to trace goneaways and support vulnerable customers.
- ◆ A proactive query-management system with automatic credits after a fixed period.
- ◆ Prompt and informed approval on legal expenditure and write offs.
- ◆ A 50% reduction in the annual average receivables ledger.

The change benefits are clear, but we have always been aware of the need for continuous improvement. Given this, in 2012 we applied for QiCM accreditation, which, we are proud to say, was awarded to the income team last September.

The next few years are very likely to present a number of challenges – both internal and external, but whatever happens, we can at least be confident that we are well placed to identify improvements and contribute towards ensuring delivery of essential front-line services. **CCR-PS**

Chris Buckard is income team manager at Walsall Council  
E-mail: [BuckardC@walsall.gov.uk](mailto:BuckardC@walsall.gov.uk)

## UNIVERSAL CREDIT EXPANSION PLANNED

THE expansion of the full universal credit (UC) benefit to the whole of the north west of England will start in June.

Minister for welfare reform Lord Freud has set out plans for the next steps of UC – marking the first anniversary of the full new benefit becoming available.

UC has a number of elements which have already been rolled out across the country, including a claimant commitment, where:

- ◆ Jobseekers agree what they will do to find work.
- ◆ There is an expectation that jobseekers search for work 35 hours a week.
- ◆ There is more equipment for jobseekers to search for work online.
- ◆ There is a transformation in the relationship between claimants and their

Jobcentre adviser to focus their search for work.

On top of that, the Department for Work and Pensions (DWP) has said that claimants in 10 parts of the country are benefiting from the better work incentives of the full benefit – this ensures work pays, allows them to move in and out of work more smoothly, and gives Jobcentres instant access to HMRC earnings data so they can make sure people are receiving the right amount of benefit.

In a step change, from June more Jobcentres across the north west of England will gradually come online each week until the whole region is covered. During the summer the new benefit will also be made available for new claims from couples in a number of Jobcentres

that already deliver the full UC, expanding to all the current live sites over time.

The DWP currently has ten sites running UC in England, Scotland and Wales, and the next step is to open the new benefit to claimants across the north west.

The first year of UC has seen a series of reforms to the welfare state and 26,300 members of staff have been trained to provide job coaching, help and advice to encourage and motivate claimants in their search for work

The roll-out of digital Jobcentres will be complete by Autumn – placing wi-fi and computers in all Jobcentres.

By Ian Willcox, reporter, CCR-PS  
E-mail: [ian@ccrmagazine.co.uk](mailto:ian@ccrmagazine.co.uk)

## CCR-PS

More and more members of the public are finding it harder to make ends meet – but help is at hand

By Karen Holmes

Benefit advice is available ♦  
for the public  
Clarification on charging ♦  
VAT on enforcement fees

# BE AWARE OF THE BENEFITS HELP AVAILABLE



**N**ew research released by the national charity Turn2us has found that almost three-fifths (57%) of low income working households feel their financial situation has worsened in the last year.

Despite signs of an improving economy, half of all people surveyed are worried about their financial situation as they struggle with a combination of falling wages, shorter working hours and rising living costs.

The survey has found that, on average, working households are forced to spend half of their monthly income on utility bills and food. Worryingly,

nearly two-fifths (39%) say their outgoings now outweigh their earnings.

Households are also facing barriers as they try to improve their situation. With 1.4 million in part-time jobs nationally – 46,000 higher than a year ago (ONS Labour Market Statistics, 2014: [www.ons.gov.uk/ons/dcp171778\\_350998.pdf](http://www.ons.gov.uk/ons/dcp171778_350998.pdf)) – over half (57%) say they want to work more hours but they cannot get the work. While a quarter of those surveyed (25%) have seen a fall in their income in the last year.

Over half of the 13 million people living in poverty in the UK are now from working households (Joseph Rowntree

Foundation research December 2013: [www.jrf.org.uk/sites/files/jrf/poverty-disadvantage-exclusion-summary.pdf](http://www.jrf.org.uk/sites/files/jrf/poverty-disadvantage-exclusion-summary.pdf)). Turn2us' research found that over three-fifths (62%) are not claiming the benefits and tax credits they may be entitled to. Even more alarming, a huge 60% had not even checked their eligibility for this support, or did not know how to check what help may exist.

The toll this is taking on lives is severe. Over two-fifths (43%) have had no choice but to cut back on food and other essentials. Health is also being put at risk, with almost a >>

>> third (30%) unable to sleep and over a quarter (27%) experiencing depression.

#### Benefits Awareness Month 2014

Turn2us, a charity that helps people in financial need to access the financial support available to them, has released this new research to coincide with its annual Benefits Awareness Month, running until 16 May.

In response to the problems identified through the research, this year's campaign 'Be Aware' is focusing on

## The stranglehold on pay, underemployment and the climbing cost of living all show no signs of easing

the huge numbers of people who are in work yet struggling to make ends meet.

Throughout the campaign, Turn2us is encouraging everyone to check what financial support could be available by using its free and easy-to-use benefits calculator, which can be found at [www.turn2us.org.uk/BeAware](http://www.turn2us.org.uk/BeAware). The charity wants as many people as possible to take a few minutes out of their day to carry out a quick benefits calculation and see what they might be entitled to.

The Turn2us website also features information pages on support for different employment groups, so that people can access further help, whether they are employed full-time or part-time, self-employed on zero hour contracts or on long-term leave.

As part of the campaign, Turn2us wants people who are in work and struggling financially to share their experiences to help build a picture of what life is really like for those on low incomes. Anyone who wants to take part can complete the simple 'Share

Your Story' form on the campaign page of the website.

A number of charities and organisations across the UK, including Gingerbread, Family Lives, Grocery Aid and Retail Trust, are supporting the campaign to help increase awareness of the support available.

Commenting on the launch of the research and the campaign, my colleague Alison Taylor, director of Turn2us, said: "The stranglehold on pay, underemployment and the climbing cost of living all show no signs of easing,

and any economic improvements are failing to reach the UK's poorest people. It is clear that more needs to be done to combat poverty, especially for those people in work.

"Help is available in the form of working tax credit and other welfare benefits and it can make a huge difference. We found that 85% of current claimants in work said benefits have had a positive impact on their lives and helped with housing costs, bills and even avoiding debt. The Turn2us 'Be Aware' campaign brings together our free benefits calculator and information so others can access this vital support.

"Our message is clear. Being in work does not mean the end of help. We want everyone to know they are not alone and to 'Be Aware' of the support that is available."

#### Supporting intermediaries

As well as helping people in financial need through its free website and helpline service, Turn2us also works through a wide range of intermediary

organisations that provide face-to-face advice and support.

There is an advanced version of the benefits calculator available to anyone working in a front-line adviser role which can be accessed by registering for a free intermediary account on the Turn2us website.

Turn2us also provides free training workshops for intermediaries to learn about using the benefits calculator and other Turn2us tools with service users. The half-day workshops take place at venues across the UK, with upcoming dates in Birmingham, Bradford, Brighton, Derby, Leeds, London, Maidstone, Nottingham and Reading, amongst others.

If you would like your team or department to become confident in using the Turn2us tools with your service users then contact Turn2us to discuss an in-house workshop, specific to your needs. For more information or to book places, please e-mail Megan at [training@turn2us.org.uk](mailto:training@turn2us.org.uk).

Intermediaries who would like to be involved in the 'Be Aware' campaign or would like to request free Turn2us leaflets or posters can e-mail [emma.lamberton@turn2us.org.uk](mailto:emma.lamberton@turn2us.org.uk) for further details.

Intermediaries can also sign up for the Turn2us monthly e-bulletin on the intermediaries section of the website to receive updates on the charity's campaigns and other news.

#### CCR-PS

Karen Holmes is a welfare benefits specialist at Turn2us  
E-mail: [karen.holmes@turn2us.org.uk](mailto:karen.holmes@turn2us.org.uk)  
The 'Be Aware' campaign runs until 16 May. For more information, please visit [www.turn2us.org.uk/BeAware](http://www.turn2us.org.uk/BeAware)



## CCR-PublicSector

The monthly online magazine for all who work in the areas of revenue management, collections and enforcement in the public sector is available online, free of charge at

[www.ccr-publicsector.com](http://www.ccr-publicsector.com)

If you are a supplier to the public sector and would like to know more about what we will be covering over the next few months, contact Gary Lucas on 07785 268404 or e-mail: [gary@ccrmagazine.co.uk](mailto:gary@ccrmagazine.co.uk).

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# CLARIFICATION ON THE CHARGING OF VAT ON FEES

Despite clear guidance issued recently by HMRC on the issue, there appears to be reports of HCEOs and bailiffs charging debtors VAT on fees

By John Kruse

REPORTS are already being received of High Court enforcement officers (HCEOs) and certificated bailiffs charging debtors VAT over and above the fees that they are entitled to recover under the 2014 Regulations.

HM Revenue & Customs (HMRC) issued guidance on this matter ("The correct charging of VAT in enforcement", April 2014, p18) which seemed very clearly to state that this should not be the practice in the vast majority of

cases. I would not pretend to offer expert opinion on the law relating to indirect taxation, but guidance has been received on this matter from a person qualified to speak.

Value added tax is, of course, a tax on goods and services provided in the course of business. For that reason alone, there seems little obvious justification for it to be charged to debtors. They are required to pay a debt that is due – and to pay certain

charges by statute – but they have not contracted for the supply of any service nor made any purchase as such. The contract is between principal and agent, between creditor and bailiff. This is the foundation upon which the guidance issued by HMRC is based.

One of the less clear aspects (for the uninitiated) of the HMRC guidance was the reference to 'irrecoverable VAT.' A little time spent searching on the internet reveals that this is a >>

>> term with a well established meaning. 'Irrecoverable VAT' in general arises:

- ◆ Where VAT has been charged to a person not registered for VAT (a very common problem for charities).
- ◆ Where recovery of the VAT is specifically blocked (for example, buying goods for personal use through a business account).
- ◆ Where VAT has been charged to a business which makes only exempt or partly exempt supplies.

became insolvent. Even so, in these cases, bad debt provisions exist in VAT and in wider tax law.

If the enforcement agency is registered for VAT (as the vast majority will be), any VAT paid to suppliers (input tax) is recovered by offsetting it against the 'output tax' (the VAT charged to customers). The company accounts quarterly to HMRC and balances up input and output tax on the return. Debtors will simply be required to pay the scale fees and expenses.

'VAT-only' invoice to their clients in respect of the services supplied under the contract. The invoice was 'VAT-only' because the actual scale fees (without any VAT added) were demanded from and paid by the debtor. The creditor paid the VAT element to the bailiff and was entitled to recover that sum under their VAT returns. There is no reason to suppose that this situation has changed with the transition.

HMRC's recent guidance restates the former position. Any VAT invoice must be addressed to the creditor and any paperwork for the debtor needs to be clear that it does not constitute a VAT invoice. The debtor is simply required to pay the debt plus the fees and expenses for which s/he is liable under the 2014 Fees Regulations. S/he is not being 'invoiced' for an amount or service and the bailiff is not entitled to issue a VAT invoice to the debtor.

Any statement of the amount due made to the debtor should clearly not be a 'VAT invoice'. The debtor (even if trading as a VAT-registered business) cannot make a claim to recover 'input VAT' for any element of the amount paid. This will include the VAT on disbursements paid by the bailiff to suppliers such as locksmith and auctioneers.

**CCR-PS**

John Kruse is founder and editor of *Bailiff Studies Bulletin*  
E-mail: [bailiff.bulletin@gmail.com](mailto:bailiff.bulletin@gmail.com)



## The contract is between principal and agent, between creditor and bailiff. This is the foundation upon which the guidance issued by HMRC is based

In enforcement cases irrecoverable VAT is therefore most likely to arise with bailiffs not registered for VAT (or an employee of a county court, who has incurred expenses with VAT). Amongst private bailiffs, this will not be an issue for the large national companies and it is probably only sole traders or small partnerships who might have this problem. They would be entitled to recover VAT they had been charged by suppliers from debtors as part of the total fees charged to them.

It seems that VAT might also become irrecoverable if it became impossible to recover a liability including VAT from a customer. This might happen for HCEOs or for those bailiffs collecting commercial rent arrears where a judgment creditor or small landlord

It is clear that the fees charged by enforcement agencies are liable to VAT, because they are charged in respect of services made by way of business. Those services are supplied under contract to a client – the creditor. They are not supplied to the debtor of the client.

Nonetheless, the agency will be liable to charge VAT and to add this onto the cost of the invoiced services. A VAT invoice must be issued to the creditor who has contracted with the bailiff company for the service. In turn, that creditor will generally have the right to reclaim the input VAT charged to them. This VAT would therefore not be 'irrecoverable' VAT and could not be passed on to a debtor.

The former practice was for enforcement agencies to issue a

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## CCR-PS

The president of the Convention of Scottish Local Authorities says that latest watchdog report is not helpful  
By Freddie Dawkins

Watchdog report 'not helpful' ♦  
Councils need improvement ♦  
South Ayrshire concerns ♦

# ACCOUNTS COMMISSION REPORT 'TELLS US NOTHING'

**C**OSLA president councillor David O'Neill has responded to the Accounts Commission's Yearly Overview Report as doing nothing apart from stating the obvious and being extremely bland.

Councillor O'Neill said: "It is very disappointing that this year's Overview Report is nothing more than a tick box exercise. It gets full marks for blandness and for stating the obvious but delivers nothing in terms of moving things forward or offering real, constructive proposals. In a nutshell, it tells us nothing that we are not already aware of.

"As each year passes it seems that getting a headline is more important than the content of the report – however this year I think it will even struggle to achieve that.

"There are two examples that really annoy me and fall into the category of stating the obvious. Firstly, that councils "need to look at innovative ways of saving money". We have been doing that for years and do we really need to be told that from them?

"Secondly, and the one that takes the biscuit is, that when times are tough and cuts have to be made political coalitions in councils become more difficult. I can also assure them that we do have an open mind as to how we organise services.

"I would also tell the Accounts Commission that councils' engagement with the public they are elected to serve has never been greater and I find it more than a little galling to be pulled up by them on this when they were one of the few public sector organisations who refused to come and give evidence to the Commission on strengthening Local Democracy, which I chair – which smacks to me of do as we say, not as we do."



In the report, the Audit Scotland authors say that more new thinking is needed as councils face tougher choices, and that councils "need to keep an open mind in deciding how to best deliver services".

The Accounts Commission also says councils need to look at other options to reduce costs in the longer term and

the need for strong governance and leadership and decision-making based on good cost and performance information.

"Councillors need to have an open mind on how they organise the services they provide. That means looking afresh at what people need, how it can be delivered and who can best deliver it.

## Councils face rising demand for services alongside managing major reforms in welfare and health and social care

that: "Savings have been made in recent years largely by reductions in staff."

While the financial position across councils remains relatively stable this year and next, councils have identified medium-term funding gaps and need to make substantial savings, at least over the next four years. As choices on how to address funding gaps become increasingly difficult, councils need to focus on making the very best of the resources they have available, according to the report.

Accounts Commission chair Douglas Sinclair said: "Councils face rising demand for services alongside managing major reforms in welfare and health and social care. This underlines

"Councils face increasingly difficult choices as budgets continue to tighten. So they need look at all the options available, and engage openly with the public so that they make the best decisions."

Last year Scotland's 32 councils spent nearly £21bn, employed 204,500 staff and used buildings and other assets with a value of around £38bn.

Although total reserves held by councils rose again last year, most of this was already allocated for future spending. The level of money set aside as a contingency fell for the first time in recent years, as councils used reserves to reduce funding gaps. **CCR-PS**

# COUNCILS HAVE IMPROVED, BUT COULD DO BETTER

Continuing to improve the management of procurement systems could help councils save even more money

By Douglas Sinclair

SCOTTISH councils have improved how they manage procurement, but they can achieve further benefits and savings.

Every year Scotland's councils spend £5.4bn (around £1,010 for every person) on procurement – buying goods and services they need, ranging from construction materials to IT and social care. Procurement savings of £71m were reported in 2012/13.

In our latest report, published on 24 April, we say councils have made progress since the Scottish government launched new initiatives in 2006 and councils established Scotland Excel, a body which pools purchasing power to buy more services collaboratively.

Councils' use of collaborative contracts has increased by 80% over

the last three years and total annual spending on such contracts is now £503m. According to the report, however, councils could achieve more savings while maintaining or improving service quality. Moving from paper to electronic payment systems, for example, could yield £9m alone.

Councils also use procurement spending to support local economic development, and some have begun to use it to deliver other local benefits such as apprenticeships and environmental improvements.

Progress has been slow in some councils. Better performers have invested in qualified staff and systems to improve service quality and achieve savings.

Councils need to secure maximum value for the money they spend as budgets continue to tighten. Better use of procurement can improve quality and bring benefits to their local communities.

Some councils have done well by looking at all the options, investing in the right skills and systems and learning from each other.

But there is scope to do a lot more and the pace of improvement must increase. **CCR-PS**

**Douglas Sinclair**  
is chair of the  
Scottish Accounts Commission  
E-mail: [dsinclair@audit-scotland.gov.uk](mailto:dsinclair@audit-scotland.gov.uk)



## CONCERNS ABOUT SOUTH AYRSHIRE

The Scottish Accounts Commission is still seriously concerned about South Ayrshire Council's lack of progress in addressing long-term weaknesses.

Its findings are in response to a report from the controller of audit, which found significant failings in strategic direction, leadership, performance management and scrutiny at the council.

It is claimed that the council has not fulfilled agreed recommendations from previous reports in 2009 and 2010. The Commission said it was seriously concerned about the council's inability over a number of years to fulfil and sustain its statutory 'Best Value' responsibilities for continuous improvement in these areas.

The council has also lacked a corporate plan for the last 18 months. This is only likely to be resolved with a new plan to be agreed next month. The Commission said: "Without a plan, there is no clear statement of the council's priorities for

services and improvement. Nor is there clear information about how it will address significant national issues, such as health and social care integration, in the context of other priorities and challenges"

The audit report said that overall scrutiny at South Ayrshire was ineffective. Scrutiny panel meetings were often cancelled due to lack of business. A performance management system had been introduced but lacked consistent implementation across the council. Senior managers frequently did not attend meetings of the corporate management team or did not engage effectively with its procedures.

There were recent signs that the council was aware of the issues and was beginning to address them. The Commission said despite these signs, improvement should have been established much earlier.

The Commission recognised that there were currently no significant

concerns about the performance of council services. The Commission is requiring progress to be made as a matter of urgency. Otherwise, the weaknesses identified by the targeted audit of 'Best Value' will increasingly have a negative impact on the services that the council provides for people and communities in South Ayrshire and on the public's confidence in the council.

According to the Commission, the challenges the council faces in establishing and sustaining effective leadership and improvement are substantial and deep rooted and it urges the council to seek external assistance in this through, for example, peer support. The Commission has ordered a follow-up report by December this year to measure progress against its recommendations.

By Ian Willcox, reporter, CCR-PS  
E-mail: [ian@ccrmagazine.co.uk](mailto:ian@ccrmagazine.co.uk)

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# CCR-DIRECTORY

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For more information contact Gary Lucas on  
 07785 268404 or e-mail [gary@ccrmagazine.co.uk](mailto:gary@ccrmagazine.co.uk)

## EVENTS

### Local Authority Civil Enforcement Forum Annual Conference

13 May 2014

Mercure Leicester The Grand Hotel  
 With a packed speaking programme (see pp16-19), including senior officers from the National Audit Office and The Audit Commission, there will be an emphasis this year on tackling fraud, understanding the new regime for enforcement officers, addressing problems with the introduction of universal credit and best practice methods and case studies for collections teams.

For more details e-mail Gary Lucas at [gary@ccrmagazine.co.uk](mailto:gary@ccrmagazine.co.uk), or call 07785 268404.  
[www.CCRPublicSector.com](http://www.CCRPublicSector.com)

### Money Advice Scotland's 25th Annual Conference & Exhibition

5 June 2014

Creiff Hydro, Perthshire  
 '25 years on, Common Wealth – an achievable dream?' In the year Glasgow hosts the Commonwealth Games, Money Advice Scotland is also celebrating its 25th anniversary. Since 1989, it has been highlighting, and tackling,

consumer issues in credit and debt.

Money Advice Scotland acknowledges that wealth is important for people and knows that many people in Scotland today are suffering from the issues of joblessness, living on a very tight budget and, in some cases, relying on food banks for their next meal.  
[www.moneyadvicescotland.org.uk](http://www.moneyadvicescotland.org.uk)

### Scottish Federation of Housing Associations Annual Conference 2014

5 June 2014

The Hilton Hotel, Glasgow  
 The theme is 'Leading Change' and the focus is on strong leadership, and how effective direction helps in tackling the many challenges facing the sector.

The conference features a revamped programme and will focus on the strategic rather than operational issues through the two-day programme. Highlights of this year's programme include Thursday morning's ministerial address from deputy first minister Nicola Sturgeon; Friday's closing session will hear from Anton Colella of ICAS, Linda McDowell of Scottish Enterprise, Alexander MacKenzie of Carnegie University and Alastair McKee of Glen Oaks Housing Association, discussing their experiences of 'Inspiring Leadership and Welfare Reform – How Can We Move the Agenda

On?' a discussion group with Claire Archibald of Scottish Homeless Network and Laurie Russell of the WISE Group.  
[www.sfha.co.uk](http://www.sfha.co.uk)

### CCR-interactive

7 October 2014

Gouman Tower Hotel, central London  
 CCR-interactive is the largest and leading one-day conference in the credit industry's diary, from the publishers of *CCR-PS*, *CCR* and *CCR World*.

In 2014, CCR-interactive will, again, feature the most informed speakers in the industry, experienced professionals who will share their unique insights into best practice and the key industry trends.

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# APPOINTMENTS & UPDATES

## COUNCILS SIGN NEW DEAL WITH CIVICA

South Hams District Council and West Devon Borough Council (SHWD) have signed a £1.5m shared ICT services deal with Civica, to enable the authorities to digitise, cut costs and create a sustainable customer-facing model.

This follows the news earlier last month from the Local Government Association, that shared services have saved councils across the UK upwards of £357m. These two councils have worked closely together for some time, and this agreement will see their ICT departments transformed as part of the latest step in their integration. It forms part of a strategy to modernise technology in line with the government's Digital Default scheme. As part of the agreement:

- ◆ Civica will supply the councils with its electronic document management, telephony, workflow, payment, CRM and mobile workings solutions.
- ◆ An online portal will be created, whereby members of the public can create an account to interact with the authority and use services.

The two authorities, which manage a rural area of over 700 square miles, have worked together for eight years and merged management structures in 2007. This new agreement is the latest step in their integration and journey to modernise; and forms a part of its Transformation Project Software Procurement.

Darren Cole, head of ICT and customer services at SHWD, said: "We recognised that, with ever-increasing financial challenges and the changing needs of our customers, a more transformational approach was needed. It became clear that technology should play a key role in this. We wanted a trusted ICT partner with the skills and knowledge to help us achieve our goals with minimal disruption to our customers and staff."



*Darren Cole, head of ICT and customer services, SHWD*

## MIDDLESBOROUGH FRONT LINE DEAL

Local government supplier Coactiva, part of the Callcredit Information Group, has forged a partnership with business services group Mouchel to recover historic council tax debts on behalf of Middlesbrough Borough Council.

Mouchel will use Coactiva's ThreeSixty Online system to trace 'aged' council tax debtors, understand ability to pay and identify the most effective course of debt recovery action as part of Mouchel's 'Service Middlesbrough' division at Middlesbrough Borough Council.

Initial findings suggest that Mouchel, which also operate revenues & benefits units on behalf of Oldham Metropolitan Borough Council and Bournemouth Borough Council, will recover in excess of £100,000 before the end of the financial year using Coactiva intelligence.

## DALTON & DALTON WOUND UP

A business in Bury which misrepresented its ability to obtain council tax rebates for customers has been wound-up.

Dalton & Dalton Tax Consultants was wound-up in the High Court following an investigation by the Insolvency Service.

The court heard the company made unsolicited calls to arrange appointments for its sales agents to visit prospective customers at home, where agents invariably told prospective customers that they were likely to be successful with an application for council tax rebanding and hence a rebate of council tax paid in previous years.

An agreement was signed and the customer was required to pay an upfront fee of £165 if they wished to instruct Dalton & Dalton Tax Consultants. In the event that the company achieved a council tax rebate for a customer, it was able to retain a 'success fee' of 25% of the rebated amount.

The investigation established that the company had no meaningful expertise or success in challenging council tax banding on behalf of its customers.

Analysis of the company's income showed that it had banked receipts totalling £1.085m, of which £1.045m represented the upfront fees paid by customers and just £17,688 of the company's income was from success fees. Only 1% of the 2,750 concluded council tax banding challenges made by the company had been successful.

The court found that Dalton & Dalton Tax Consultants had traded with a lack of commercial probity by making misleading and unfounded statements and selling a service which provided no commercial benefit to the overwhelming majority of its customers.

Colin Cronin, an investigation supervisor with the Insolvency Service, said: "Dalton & Dalton Tax Consultants grossly overstated its ability to achieve council tax re-banding and rebates for its customers, thereby inducing customers to pay an advance fee of £165 for this service. It is telling that the company's income was derived almost entirely from these advance fees and very little was from the success fees to which it was entitled if it achieved financial rebates for customers."

## LIVERPOOL TAX DODGERS

Five people from Liverpool have been arrested on suspicion of failing to pay any personal or business taxes. The three men and two women, who ran a bar and a garage in Liverpool, are also believed to have received over £250,000 in unemployment benefits.

One of the women, the mother, was arrested at Manchester airport as she returned from a trip to the US. Three other family members and a friend

## CCR-PS

were arrested just beforehand, after an investigation into tax and benefit fraud by HM Revenue and Customs (HMRC) and the Department for Work and Pensions (DWP).

The five are suspected of fraudulently claiming £250,000 in benefits while running a licensed bar and MOT garage and renting out properties but failing to pay any VAT, income tax or national insurance.

HMRC officers searched six premises in Liverpool and seized business and personal records and cash.

Sandra Smith, assistant director, criminal investigation, HMRC, said: "HMRC investigators, DWP and Liverpool City Council are working together to identify benefit fraud and associated tax evasion by individuals and businesses who think they can live and operate outside the law. These people failed to pay any taxes but had no issue claiming benefits they were not entitled to, at the expense of honest taxpayers."

The five arrested have been bailed until August.

### NEW DIRECTOR OF MARKETING AND COMMUNICATIONS FOR MARSTON

Marston Holdings has announced that Rima Awad has joined the group as director of marketing and communications. She will be responsible for defining and implementing the marketing and communications strategy across the Marston businesses.

She said: "I am excited by the Marston vision, and by the opportunity to market a uniquely integrated recovery approach to central and local government, and to commercial clients.

"Now that Part 3 of the Tribunal, Courts & Enforcement Act is implemented, I will also be looking to support and extend the Group's thought leadership agenda."

### CITY & GUILDS FOR JBW TRAINING

Six years after it began, JBW's training programme is still achieving the City & Guilds accreditation.

COO Lee Brown said: "With the changing landscape of the enforcement industry and the ever growing need to highlight and help the vulnerable in society, we feel our enforcement agent workforce needs the best possible

training and development to achieve the correct results. City & Guilds helps us accomplish this."

### LEXISNEXIS RISK SOLUTIONS

#### ACQUIRES TRACESMART

LexisNexis Risk Solutions has acquired Tracesmart. "Tracesmart brings to LexisNexis a robust set of UK consumer records, allowing us to extend our capabilities beyond the US in order to better serve our customers," said Rick Trainor, CEO business services, LexisNexis Risk Solutions.

"They are a leader in identity management and fraud solutions in the UK, and will be a natural complement to our core competencies."

#### AWARD SHORTLIST FOR THE CSA

The Credit Services Association has been shortlisted in the Best PR Campaign category in the MemCom 2014 Awards – for its submission 'The journey to the FCA'.

Chief executive Peter Wallwork said: "It is a testament to all the hard work of everyone at the CSA, and our communication partners Gravity London, that we have been shortlisted for these prestigious awards."

### NEW CERTIFICATE FOR ENFORCEMENT AGENTS COURSE

EndeavourUK has launched its new Level 3 Certificate for Enforcement Agents Course. Developed over 18 months, this training programme is compliant with all new legislation and aims to lift standards within the industry.

Chris Lucas-Jones, founder of EndeavourUK, said: "Reading body language, managing conflict and hostile situations and identifying the 'can't' payers from the 'won't' payers are all crucial aspects of the job."

### 1,000TH PORTFOLIO FOR CABOT

Cabot Credit Management has purchased its 1,000th debt portfolio. These portfolios derive from a variety of sectors including banking, retail credit, credit cards, mail order, motor finance, telecoms, and other more niche sectors, and the largest portfolio purchased to date had a face value of £471m.

Chief executive officer Ken Stannard said: "By reaching this milestone we

demonstrate our scale and strength in this marketplace. We are continuing to evolve our business and look forward to further growth in the future."

### SHROPSHIRE TOWNS AND RURAL HOUSING CRACKDOWN

Coactiva, local government supplier and part of the Callcredit Information Group, has partnered with Shropshire Towns and Rural Housing (STRH) to help tackle social housing tenancy fraud.

Coactiva's ThreeSixty Online solution will be used by STRH to investigate individuals that are suspected of sub-letting their home, providing false information at the point of application or not using their social housing address as their main place of residence.

STRH is an arms-length management organisation (ALMO) formed in 2013 which manages 4,200 social homes owned by Shropshire Council, spread across the Bridgnorth and Oswestry areas of the county. The organisation will also seek to minimise rent arrears by tracing 'gone-away' former tenant debtors and then determine the most effective course of debt recovery action required.

Martin Whitelegg, Bridgnorth senior neighbourhood officer for STRH said: "We take a zero-tolerance approach to tenancy fraud and we are keen to use all available tools to help ensure that our homes are only allocated to those who are eligible.

"This new solution has allowed us to identify and take action against the minority of our tenants that commit fraud by providing false information at the point of application or failing to use our property as their main place of residence."

Joanne Cosgrove, Oswestry senior neighbourhoods officer at STRH's Oswestry site said: "We have only been using ThreeSixty Online for a short time; however, two would-be tenancy fraudsters have already been stopped in their tracks with the help of Coactiva. In one of these cases the prospective tenant owned another property and had not declared this during the application process.

"The system provides us with access to previously unseen intelligence but is easy to use and highly cost effective."

# RECYCLING LIABILITY ORDERS

THERE has been much discussion of this subject in the context of fees. A local authority is entitled to reissue a liability order for enforcement by taking control of goods as many times as it wishes under regulation 52(3) of the Council Tax (Administration & Enforcement) Regulations 1992.

This may be done entirely at the local authority's discretion, but based upon the reasonable prospect of another bailiff discovering assets not found by the previous one.

Fees are only recoverable from the proceeds of enforcement so if an agent is completely unsuccessful and returns a liability order to the council, no fees remain on the account and a new agency may start again.

More of an issue is where a bailiff is partially successful and raises some money from the debtor – at least enough to pay all or part of the compliance fee. The prospect emerges of repeat compliance fees being charged and paid, without benefit for the creditor.

There are perhaps two solutions to this problem. The local authority may impose contractual rules upon

proportionate and appropriate recoveries in such cases; secondly, regulation 4(1) of the Fees Regulations states that fees "may" be recovered, so that there is at least the theoretical option for a subsequent agent to forego collecting duplicate fees.

The second suggestion regards the 'recycling' of instructions between individual enforcement bailiffs employed by a company, and whether this permits multiple or repeat fees to be charged to an individual.

This may seem objectionable in principle but it may derive some sanction from the unfortunate fact that the Regulations only discuss enforcement agents, never agencies. This creates a potential loophole for separate bailiffs, as certificated enforcement agents, to argue that they are each entitled to recover charges under the new scale.

This is an unintended consequence of the form of the Regulations and is permitted by a too literal reading of them. As the possibly regrettable decision was made not to licence companies, the rules can only refer to certificated bailiffs. However, a council will contract



*John Kruse, founder and editor of Bailiff Studies Bulletin*

with an agency, not with an agent, and will issue liability orders to that body. The Fee Regulations must be interpreted in light of these arrangements, substituting 'agency' for 'agent' throughout.

If this is done, reflecting the facts of the situation, any scope for successive fee charging by successive individual bailiffs is excluded, as must have been the intention of the government in so clearly seeking to cap and fix fees.

*John Kruse, founder and editor of Bailiff Studies Bulletin*

## VAT AND LOCAL AUTHORITY DEBTORS

READERS might like to take a look at: [www.hmrc.gov.uk/manuals/vatgpbmanual/VATGPB8620.htm](http://www.hmrc.gov.uk/manuals/vatgpbmanual/VATGPB8620.htm)

Under the heading 'Other local authority activities: miscellaneous (A to E): bailiffs', HM Revenue & Customs (HMRC) says that local authorities have a statutory duty to collect council tax and normally use their own resources to do so. However, if they are unsuccessful in obtaining payment from defaulters they may use bailiffs to collect the arrears plus any statutory charges.

Bailiffs supply their services to the local authority and should invoice the authority, not the debtor. If they retain any of the payment from the debtor this forms part of the consideration for the taxable service they supply to the local authority. The same applies to any other payments they retain and net off against the total charge. In addition to

the statutory charges, consideration for a bailiffs services may include a commission based on the amount of the arrears due or collected.

The local authority can recover the VAT it is charged under section 33 (see VATGPB4000) because it relates to its non-business activity of collecting the council tax.

As far as I was aware, VAT used to be charged to the debtor on parking fees when the action was being taken by a bailiff company, that is not a council employee.

The new guidance brings this practice into line with council tax and business rates and that the VAT on council tax, NNDR and parking is now payable by the local authority, who in turn claim this back.

I have been told that at least three local authorities have amended their



*Barrie Minney, senior enforcement agent, Brighton & Hove City Council*

parking bailiff contracts to allow the bailiff to charge the VAT on fees to the debtor and not the council. The reason given is that the guidance issued by HMRC fails to mention parking fees.

*Barrie Minney, senior enforcement agent, Brighton & Hove City Council*

**LACEF – the Local Authority Civil Enforcement Forum – was founded in 1996 and promotes best practice for council debt recovery staff**

**The LACEF online web forum helps keep members up to date with all that is happening in the local government workplace with free, practical support, sharing best practice and advice with members from over 220 local authorities in the UK.**

**The LACEF website and forum has recently migrated to the Knowledge Hub, a much more advanced service provided by the Local Government Association, where there are a large selection of discussion areas, knowledge stores and libraries, covering such areas as case law and landmark judgments. Access to this information is completely free to LACEF members.**

**Visit the new website: <https://knowledgehub.local.gov.uk/>**

**What members have to say about LACEF:**

**“Without the free exchange of knowledge between LACEF colleagues, my daily work would be a lot harder.”**

***Barrie Minney, Senior Bailiff, Brighton & Hove City Council***

**“As a recovery officer of many years I find that, despite increased availability of information and legislation, it is sometimes difficult to know where and when to start to look for information, and as we all know practical solutions are often matters of interpretation rather than fact.**

**“LACEF not only provides up-to-date information on current and forthcoming legislation, it provides a forum in which problem cases can be discussed. Other members, including professionals from other bodies who have a wealth of experience, provide practical help, advice and support.**

**“The discussions that are not always relevant to me directly are often thought provoking and expand my knowledge. Advice provided can assist me in making my case to other bodies such as insolvency practitioners, rating consultants, magistrates courts and my own officers.”**

***Paula Robinson, Senior Revenues Officer (Recovery & NNDR), Chichester District Council***

**“I came to revenues enforcement work from a fraud role after a re-shuffle in the authority a couple of years ago. I obtained specific basic training easily enough from external trainers, and was quickly directed to LACEF by colleagues in adjoining authorities who were already members.**

**“I find it an invaluable source of knowledge, mainly from reading the questions and many answers on the forum, and I have asked a few questions myself.**

**“Members freely supplied their standard documentation and procedures so that I could compile my own version, drawn from existing good practice, and without this help I am sure it would have been a much harder job to get my own procedures set up and operating.**

**“I also find it a very useful resource for finding out what other authorities do, and to use their experience as persuasion when introducing new ideas to improve our collection rates.”**

***Nigel Adams, Enforcement Officer (Revenues), Fenland District Council***

**Membership of LACEF is free to all those qualified by working in the public sector**

**LACEF**



# 7 October 2014

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