

# OUTCOMES OF THE CAB CAMPAIGN ON

# BAILIFFS

The word "BAILIFFS" is rendered in large, bold, orange letters. The letters are filled with a pattern of smaller orange and white dots, creating a halftone effect. The letters are set against a background of a city skyline silhouette in orange and black.

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Citizens Advice is the operating name of the National Association of Citizens Advice Bureaux.  
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This briefing highlights the outcomes of the campaign, Putting Bailiffs on the Spot. Since the launch of the campaign more than 130 bureaux have got involved, in many cases working in partnership with local authorities, bailiff firms and sometimes both in order to achieve outcomes for vulnerable clients. This report looks at the impact of this local work, and draws together some of the experiences into a good practice format which others can apply to their own local circumstances.

One key message emerges from the campaign so far: the importance of agreeing a code of good practice and keeping this under regular review through effective and ongoing partnership. A model good practice protocol has been developed for use by all bureaux and local authorities.

Bailiffs enforcing arrears of council tax have long been in the sights of bureaux up and down the country amid tales of harassment, intimidation and exorbitant charges levied at often vulnerable clients.

The following cases reported by bureaux highlight the kind of behaviour which led to the launch of the campaign:

A disabled client seen by a bureau in Greater Manchester was left so traumatised by the visit of a bailiff that he moved out of the home he shared with his partner and two children. The bailiff kicked the door and shouted threats and abuse through the windows prompting the terrified client to pay £50 he could not afford towards a council tax debt that he in fact contested.

A bureau in Tyne and Wear saw two clients who were disabled and had retired from work on mental health grounds. The couple were plunged further into debt because they took out a high interest loan to pay off charges imposed by an aggressive and intimidating bailiff. The contact centre used by the bailiffs company refused to hold action on the council tax arrears even though the CAB promised medical evidence which would establish proof of vulnerability.

The campaign was necessary because the Government was about to change the law in relation to bailiffs' powers. Bailiff law is archaic, with some parts dating back to 1267. Over the centuries the law has developed in a piecemeal way, with different procedures relating to different types of debt.

In 1998, the Government initiated a review of methods of enforcing court judgments, including the use of bailiffs. The aim of the review was to identify ways in which enforcement could become more effective. As the result of the review, the Government commissioned independent research on bailiff law<sup>1</sup>, developed some standards for bailiffs to follow<sup>2</sup> and issued a White Paper<sup>3</sup> promising to bring forward legislation to modernise and simplify bailiff law and introduce independent regulation of bailiffs. Citizens Advice took every opportunity to influence the Enforcement Review by submitting responses to consultation papers, publishing a report, *Undue Distress*, and participating in stakeholder groups. We particularly welcomed the proposals to regulate the bailiff industry, and waited for the legislation to be introduced to Parliament.

Then in July 2006 the Government published a draft Tribunals Courts and Enforcement (TCE) Bill which included a single procedure for taking control of goods. However, proposals to regulate the activities of bailiffs were shelved, removing a potential source of protection for vulnerable debtors. At the same time the Bill would give creditors the right to apply to the court for the power to use reasonable force to enter debtors' homes. This discretionary power, if exercised, would have meant debtors no longer being able to refuse bailiffs entry. A high profile campaign was needed to lobby for changes to the Bill.

1. *An independent review of bailiff law*, Professor Jack Beatson, Cambridge University, 2000

2. *National Standards for Enforcement Agents*, Lord Chancellors Department, 2002

3. *Effective Enforcement White Paper*, Lord Chancellors Department, 2003

The launch of the campaign at Citizens Advice Conference in York coincided with a BBC Whistleblowers investigation that introduced to a wider audience the kind of practices which had been common knowledge to bureaux for many years. Indeed advisers at North Somerset CAB, which featured prominently in the campaign, were “thrilled” at the opportunity of securing long overdue change in the law to protect the most vulnerable members of the community from the excessive practices of some bailiffs.

Whilst bureaux deal with bailiffs collecting a number of different debts, the scope of the campaign was limited to bailiffs’ conduct in relation to the recovery of council tax arrears because the majority of enquiries to bureaux about bailiffs are about the recovery of council tax. As a result, the campaign was targeted and a set of discreet outcomes made possible.

From its launch in a welcome burst of national publicity in September 2006, the *Putting Bailiffs on the Spot* Campaign prompted widespread involvement of bureaux throughout England and Wales. As a result of the campaign, scrutiny of bailiff activity intensified. Bureau evidence sent to Citizens Advice increased threefold. Between them more than 130 bureaux sent in a combined 530 audit forms that were provided in the campaign packs for bureaux to monitor bailiff activity in their area. The audit form allowed bureaux to score bailiff behaviour against standards drawn from the Government’s National Standards for Enforcement Agents, legal requirements and industry codes. In addition, bureaux were able to call on a rich source of often harrowing case studies to demonstrate the impact of poor practice.

According to the audit forms:

- 39 per cent of bureaux said bailiffs misrepresented their powers of entry
- 41 per cent reported bailiffs overcharged the client
- 63 per cent of bureaux reported that bailiffs harassed or intimidated clients
- 79 per cent reported problems with negotiating with bailiffs
- 44 per cent of clients seen were vulnerable
- 50 per cent of the cases where vulnerable clients were involved, bailiffs failed to exercise discretion.

At local level there remains much to do to build on the promising start bureaux have made. Many bureaux reported face to face meetings with local authority members and bailiff company representatives. These meetings were often the starting point for more productive ongoing liaison between bureaux, bailiffs and local authorities. One clear learning point from this work is that such liaison, in order to be effective, needs to be regular and ongoing in order to overcome a break down in continuity caused by turnover of personnel.



Direct lines to fast-track complaints, revised and, in some cases, terminated contracts of bailiffs all featured as outcomes of meetings. Some meetings proved less successful, but nearly all of the bureaux who fed back to Citizens Advice reported something worthwhile; even if it was simply collecting evidence putting the case of vulnerable clients who had been visited by bailiffs.

Throughout the campaign, several bureaux have pointed to the wider benefits achieved in relation to its external partnership role. As Tonbridge CAB manager Margaret Hall reported: "Not only have we been able to make real progress regarding the bailiffs, but we have also managed to get an even better relationship with the LA senior staff."

The bureaux activity supported the work of Citizens Advice to persuade the Government to introduce effective regulation of bailiffs and influence the Tribunals, Courts and Enforcement Bill. Our lobbying activities included:

- Helping bureaux lobby their MPs. We produced standard letters for bureaux to send to their MPs asking them to support an Early Day Motion (EDM) calling for independent regulation of bailiffs. We also arranged opportunities at the 2007 Social Policy conference for bureaux to lobby their MP about the Bill.
- Briefing MPs and peers at every stage of the Bill, including drafting amendments to the legislation. Before the Second Reading of the Bill in the House of Commons, we held a drop in session in the House of Commons to talk to MPs about the Bill. The key Second Reading of the Bill in the House of Commons was dominated by evidence and arguments put forward by bureaux. Indeed, the Citizens Advice service was mentioned 32 times during the debate.
- Emailing MPs on the Bill Standing Committee with evidence from the constituents who had experienced problems with bailiffs.
- Meeting with Ministers and civil servants to discuss our concerns on the Bill.
- Meeting and corresponding with bailiff firms.
- Initiating a high profile media campaign. Our press release on the date of the second reading in the House of Commons gained wide coverage on local and national media.
- Responding to the consultation on the regulation of bailiffs.
- Providing Government with an analysis of the profile of people seeking advice from Citizens Advice Bureaux about problems with bailiffs, using statistics from CASE. This highlighted that bailiff action disproportionately affects people from lower incomes, lone parents and BME communities. Previously, the Government had no statistical information as to whether particular groups were adversely affected by bailiff action.

As a result of intensive campaigning by Citizens Advice and others:

- The Government published a policy statement on the Bill which included a commitment to exempt domestic pets from seizure by bailiffs.
- The Government agreed to reintroduce plans for bailiff regulation and proposals went out for consultation.
- The Government announced better safeguards on the extended power of forced entry. They also promised that the power would not come into force until regulation was in place.
- Efforts continue to ensure that the Security Industry Authority (SIA) – the body chosen by the government to be the independent regulator – has sufficient powers to tackle bad practice.