

Are increased council costs driving bad practice in the enforcement industry?

Councils are seeking additional revenues from suppliers due to budget constraints, but does this mean bailiffs will collect more aggressively?



Colin Naylor, managing director, *Dukes Bailiffs*

Bad practice in the enforcement industry is being driven by a number of things, not just volume. It is true that some councils are considering asking their contractors to pay them some of the fees recovered.

This is common practice for other outside contracts and it is not surprising that the notion has caught on with enforcement.

The truth is that we are all fighting for a portion of work that is growing but becoming more difficult to collect, and in competing for the same work our industry can be accused of cutting its own throat by offering services for next to nothing.

Councils believe that we can afford to do the work for less, but it defies common sense to believe that professional services can be provided free of charge.

Demands include asking for retrospective rebates of fees, free tracing of debtors, free training, collection of multiple debts for a single fee, free back room service, free correspondence and free void.

The companies that do offer so-called free services just use their own interpretation of fees, and councils are either unaware or turn a blind eye. The debtor, on the other hand, is the soft target until he gets help from the internet and then shouts foul.

There is always a company that will do it for less, but people must eventually recognise that best value does not always equate to "cheapest available".

● *Dukes Bailiffs is an enforcement firm.*



John Kruse, bailiff law expert

At an enforcement summit in July, delegates were addressed by Fern Silverio from Harrow Council, who advocated councils adopting a policy of 'profit sharing' in their contracts with bailiff service providers.

I immediately cautioned delegates against the proposal. First, if bailiff firms are asked to contribute a percentage of their profits, the money must come from somewhere.

There are two solutions open to them: one is to cut profits, but this is hardly a realistic option. The other – the one directors would favour – is to increase fees. In a drive for increased incomes, therefore, local authorities may be encouraging a fee increase of questionable legality as well as increasing the burdens on indebted individuals.

The second argument against profit sharing is very simple: it is prohibited by the National Standard for Enforcement Agencies. This document, issued a decade ago, states clearly that creditors should not seek payment from their agents.

The issue of profit sharing starkly highlights that most council officers are unaware of the standard, which the Local Government Association subscribes to. This is clearly unacceptable and, given that the Ministry of Justice is planning a review of the standard as part of its imminent consultation on the regulation of the bailiff sector, this is hopefully an issue which will be addressed.

● *John Kruse is an expert and author of several books on bailiff law.*



Gareth Hughes, deputy chief executive, *Marston Group*

Statutory enforcement fees for council tax and road traffic debt are set far below the economic cost of actually undertaking the work. Additional charges are therefore generally applied to generate a return, but these can create the misleading impression of companies increasing fees beyond those provided for in law. This can foster the

notion that bailiff firms are making strong profits from council tax and road traffic debt enforcement, whereas the facts prove otherwise.

Analysis of Companies House data shows that one third of bailiff companies are actually making a loss, and 2011 saw well-known companies go into administration. Average fees have fallen by 40% over the past few years, as more councils introduced fee capping.

Set against this background, recent moves to claim a share of bailiff income are misguided and counter-productive. It would punish ethical firms that are charging low average fees and would be unable to give a big enough cut to councils. As bailiff income is derived from debtor fees, nowhere else, debtors would ultimately pay for any council contribution in the form of increased fees.

Reputation risk for councils would increase, at a time the focus of the industry and the advice sector has been on reducing risk. Both have been pushing for a simplified fee structure based on a single compliance stage fee and a single enforcement stage fee. Forced fee sharing would undermine the economic basis for this reform.

● *Marston Group is an enforcement firm.*



Dr Steven Everson, director-general, *Civil Enforcement Association (CIVEA)*

It is undeniable that local authorities are under extreme pressure to cut costs and raise income from sources not previously considered. Do such pressures drive bad practice in the bailiff profession?

Of course councils seek to maximise their revenues. They have a duty of care to local residents/taxpayers. But it is a double-edged responsibility. They must seek to minimise the financial burden they impose on the general population yet also be sensitive to those experiencing problems in addressing their financial obligations, some of whom will be among the most vulnerable in their community.

The only source of income for bailiff companies is through the fees and charges recovered in the enforcement process. Improving the quality of debt referred to the agency is therefore essential.

Despite some rather hysterical media coverage, the profit margins for the profession are relatively modest when compared with the actual amounts collected and other outsourced services. Any initiative aimed at reducing such margins will either result in low profitability and business failure, or encourage 'creative' charges.

Surely the answer is for authorities to work closely with their contractors to seek ways in which collection rates can be improved, unproductive visits avoided, and costs minimised.

● *CIVEA is a trade association for the enforcement industry.*