

Response ID ANON-JYV9-XG5X-X

Submitted to **Review of enforcement agent (bailiff) reforms: call for evidence**
Submitted on **2019-02-15 16:58:04**

About you

A What is your name?

Name:
Sarah Greenslade

B What is your email address?

Email:
consultations@britishparking.co.uk

C What is your organisation?

Organisation:
British Parking Association

Enforcement agent behaviour

1 Have you, or somebody you know, had experience of action by an enforcement agent in the last 12 months?

Not Answered

1a Was the enforcement agent a High Court Enforcement Officer or civil enforcement agent? If you are not sure, please include details of what the debt was and for what amount.

type text in box:

1b Who was the creditor?

type text in box:

1c When did the enforcement activity take place (month and year)?

type answer in box:

1d How did the enforcement agency/agent behave during the enforcement process?

type answer in box:

2 (to advice sector organisations): Has your organisation seen any change to the volume and nature of calls/contact regarding enforcement agents since the reforms came into force?

Not Answered

type answer in box:

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3a (to the enforcement sector and creditors): What measures has your business taken to make sure that the enforcement agents that you employ operate within the rules introduced by the 2014 reforms?

type answer in box:

The BPA has a number of members that are Enforcement Agencies. Whilst we are not their Primary Professional Body (this is the Civil Enforcement Association (CIVEA), BPA members are required to abide by our Memorandum and Articles of Association and Code of Professional Conduct and to promote its objectives to the best of their ability.

Sanctions are available to us if members are deemed not to be complying with legislation and the interests of the BPA.

We have a number of Interest Groups that promote best practice including the:

- Local Authority Interest Group – through this Group members will cover all topical areas including the procurement, selection, performance monitoring and contract management of their Enforcement Agents.

- Enforcement Agent Interest Group – the Group will identify key issues and update members on these with the aim of improving best practice etc.

Monitoring effectiveness: Through the BPA governance arrangements Interest Groups report to the Council of Representatives and the Board – this will include any emerging issues.

BPA also has a procedure for complaints against members. However, we acknowledge that debtors will in the majority of cases complain directly to the Enforcement Agency; the relevant professional body (CIVEA); the Local Authority; and ultimately the Local Government and Social Care Ombudsman.

3b How do you monitor the effectiveness of these measures?

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4a Are you aware of, or do you have concerns about, violence towards enforcement agents when carrying out their duties in accordance with the regulations?

Yes

type answer in box:

a) Yes, we are aware of the issue of violence towards enforcement agents and at the BPA Annual Conference on 3rd October 2018 we covered this topic. It was also followed up at our Enforcement Agent Interest Group on 8th November 2019 we received a presentation/demonstration from Chris Chandler from Polarm International who explained the importance of Personal Safety Training for Enforcement Agents.

We also discussed how Assaults on Emergency Workers (Offences) Act 2018 had come into force and the hope it may be extended to cover Enforcement Agents (although covered in Schedule 12 paragraph 68 of TCEA 2007).

b) We recognise that police resources are under severe pressure and our Enforcement Agents advise that the police are not usually aware of the regulations but in the main are quick at assessing the situation and ensuring there is no breach of the peace.

c) We do not have such data – but no doubt this will be provided by our individual member organisations.

4b In your experience, do the police have adequate knowledge and awareness of the new regulations?

Not Answered

type answer in box:

4c Do you have any data on violence against enforcement agents or the number of times that the police are called out to attend?

type answer in box:

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Treatment of vulnerable debtors

5a If you or someone you know has been contacted by an enforcement agent in the last 12 months: Did you/they consider yourself/themselves to be vulnerable?

Not Answered

type answer in box:

5b How did you communicate your/their vulnerable status to the agent/creditor?

type answer in box:

5c Did the enforcement agent and/or creditor recognise your/their vulnerability?

Not Answered

type answer in box:

6 (to advice sector organisations): Has your organisation seen any change to the volume and nature of contacts regarding vulnerable debtors since the reforms came into force?

Not Answered

type answer in box:

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7a (to the enforcement sector and creditors): What steps have you taken to make sure that vulnerable debtors are protected?

type answer in box:

7b How do you assess a debtor as being vulnerable?

type answer in box:

7c What procedures do you have in place to deal with debtors who you have assessed as being vulnerable?

type answer in box:

7d Are there any other issues regarding debtor vulnerability you would like to raise?

type answer in box:

Complaints process and remedies

8a If you had a complaint against an enforcement agent in the last 12 months, how did you find out how to make a complaint?

type answer in box:

8b Was the information that you received about how to make a complaint easy to understand?

Not Answered

type answer in box:

8c If you made a complaint, who did you make it to?

type answer in box:

8d If you did not make a complaint, why did you not do so?

type answer in box:

8e Were you satisfied with the way in which the complaint was handled?

Not Answered

type answer in box:

8f If your complaint was upheld, were you satisfied with the sanction or remedy that was imposed?

Not Answered

type answer in box:

9 (to advice sector organisations, the enforcement sector and creditors): Do you have any recent statistics or other evidence about the number and nature of complaints that have been made against enforcement agents and whether these have changed since the 2014 reforms?

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10 Do you think that the sanctions that the organisation or court considering a complaint can impose are effective and proportionate?

Yes

type answer in box:

We believe that current sanctions that can be imposed by the Courts or other organisations are effective and proportionate.

The Certification of Enforcement Regulations 2014 provides under Regulation 9 for a procedure for a person to make a complaint to the County Court about the fitness of a person to hold an enforcement agent certificate.

Regulation 10 sets out the sanctions available to the court. Including cancelling or suspending certificates.

It is our understanding that the process is both free and simple to initiate by simply completing a one-page form (EAC2)

It should not be underestimated just how much power the local authority creditor has if it is deemed the Enforcement Agent contractor has acted illegally or in breach of contract.

Similarly, if the Local Government and Social Care Ombudsman finds in favour of a complainant then these findings are taken extremely seriously and in some circumstances can affect the company's ability to gain or retain contracts.

Training and certification

11 Have you encountered or are you aware of any practical difficulties with the procedure for applying to the court for a certificate to act as a civil enforcement agent?

No

type answer in box:

No - our members believe the process works reasonably well.

12 Do you think that the training requirements are sufficient to enable civil enforcement agents to perform their duties?

No

type answer in box:

We believe in the value of CPD and that training should be designed to develop with the individual and take account of society. With regards to the parking sector it would be useful for Enforcement Agents to have an awareness of the Penalty Charge Notice process from Notice to Owner; Charge Certificate for example.

We are currently developing our CPD offering to our individual members and are also working closely with our local authority members to change the perception of parking by encouraging and sharing good practice under the banner of the Positive Parking Agenda <https://www.britishparking.co.uk/Positive-Parking-Agenda>

Transparency and consistency of process

13 Within the last 12 months do you have any evidence of aggressive or misleading letters being left for debtors by enforcement agents?

No

type answer in box:

However, we would expect that local authorities would as part of contract mobilisation review and agree to content of letters and notices (and even SMS text messages) to ensure they are unambiguous and in Plain English.

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Fees charged

14a Do you think that the fee structure is working to encourage enforcement agents and debtors to settle at an early stage and to minimise the financial impact on debtors?

Not Answered

14b What evidence do have to support this view?

type answer in box:

We believe that the Compliance Stage and the Compliance Fee has provided an incentive to encourage Enforcement Agencies to optimise recoveries at the compliance stage. We have knowledge of our Enforcement Agent member organisations employing 'Nudge' tactics (behavioural insight) to encourage payment and/or communication from debtors.

However, we believe there is more that can be done and we are addressing this through our Positive Parking Agenda (PPA) with local authorities. We recommend you consider making it a requirement for local authorities to report on their collection rates by stage this way it would focus collections on not purely collection rates but early compliance.

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15a Are there any changes that could be made to the fee structure to encourage earlier settlement?

No

type answer in box:

Our local authority members and enforcement agency members will provide their statistics with their responses.

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Commercial rent arrears recovery

16a Do you think that the commercial rent arrears recovery procedure strikes the appropriate balance between providing protection against aggressive action by enforcement agents whilst ensuring that debts can still be collected effectively?

Yes

16b What evidence to you have to support your view?

type answer in box:

We believe CRAR works well. Our members will be responding individually on this.

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Further regulation

17 Do you believe that the current level of regulation of the enforcement agent industry is sufficient?

Yes

type answer in box:

Our civil enforcement members believe the current regulation via the County Court under the Certification of Enforcement Regulations 2014 are sufficient.

The Local Government and Social Care Ombudsman statistics reveals there were only 13 cases where the Enforcement Agent was found to be at fault.

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18 Do you think that enforcement agents should be regulated by an independent regulator?

No

type answer in box:

The industry/sector is not against regulation. However we acknowledge that the Advice Sector are campaigning for an independent regulator in which case we believe the Local Government and Social Care Ombudsman would be well placed to undertake the role of independent regulator. It is important that any regulation is a result of proactive and continuous consultation with the debt enforcement sector and CIVIA, as enforcement agencies have extensive first-hand experience of working both with EAs and vulnerable people.

Also there is the Draft Public Service Ombudsman Bill that could provide the scope for the Ombudsman to regulate all warrants issued to Enforcement agents in England.

While an independent regulator could be an effective way of improving standards, the burden of this must not fall unduly on the enforcement industry.

19 As an alternative to setting up an independent regulator, do you think that there are any other steps that the government should take to improve the regulation of enforcement agents?

Yes

type answer in box:

Our members believe The Local Government Ombudsman (LGO) could be extended to enable the body to effectively oversee complaints, monitor EA behaviour, and take action where necessary. The LGO currently oversees local councils, including their relationships with EAs. The LGO will usually handle complaints after a council complaints procedure has already been exhausted and has not been resolved. Its findings are made public and it has the powers to order councils to pay compensation.

The LGO would be well placed to ensure the industry operates in line with regulations.

Our members also believe a number of extra measures could be included:

- Mandatory use of Body Worn Video
- Mandatory vulnerability awareness training and
- Mandatory performance indicators for collection data to include Collections by Stage and Average Fees charged to debtors for example.