

JACOBS

Taking Control of Goods


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Introductions

- ▶ House Keeping
- ▶ Timings
- ▶ Introductions

 <p>Cymdeithas Gogledd a Chanolbarth Cymru</p>  <p>North and Mid Wales Association</p>	Llywydd President	Susan Plumb IRR V (Hons)
	Is Lywydd Vice President	Carwyn Jones IRR V (Tech)
	Taking Control of Goods Training	
	<p>Tuesday 14th November 2017 Bod Erw—St Asaph Delivered by Alyn Lewis, Client Development Director and Paul Kelly, Client Services Director from:</p> <p>JACOBS</p>	
	9:45am	Registration and Tea/Coffee
	10am	<ul style="list-style-type: none"> • The Background—TCEA 2007 • Taking Control of Goods Regulations 2013 • National Standards for Enforcement Agents (April 2014)
	11:30am	<ul style="list-style-type: none"> • Compliance stage • Enforcement stage • Sale stage
	1pm-1:45pm	Lunch
	1:45pm	<ul style="list-style-type: none"> • Taking Control of Goods (Fee) Regulations 2014—Fee structure • Focus on vulnerability, welfare advice and the LGO
	3pm	<ul style="list-style-type: none"> • Certification of Enforcement Agent Regulations 2014 • The role of CIVEA
	4pm	Close

Brief Overview of Bailiff Law 1



Common Law – right to seize and distrain all goods on the premises.

- ▶ The Statute of Marlborough 1267
- ▶ The Poor Relief Act 1601
 - Introduced Overseers of the Poor
- ▶ The Distress for Rent Act 1689 & 1737
- ▶ Law of Distress Amendment Act 1888; 1895 & 1908
- ▶ The Distress for Rent Rules 1988

None of the above applied to Council Tax; NDR or Parking!

Brief Overview of Bailiff Law 2

Most recent review commenced in 1998

- Green Paper - 2001 “Towards Effective Enforcement”

National Standards for Enforcement Agents (May 2002)

- White Paper - March 2003;
- Hampton Report 2005;
- Tribunals, Courts and Enforcement Bill 2006;
- TCEA2007 – Part 3 Enforcement by Taking Control;

Consultation Paper: Regulation of Enforcement Agents 2007

Consultation Process

- ▶ Consultation Period
 - 17th Mar 2012 to 14th May 2012
- ▶ Consultation Response
 - 25th January 2013
 - 30 Responses from Advice Sector
- ▶ 19 Recommendations

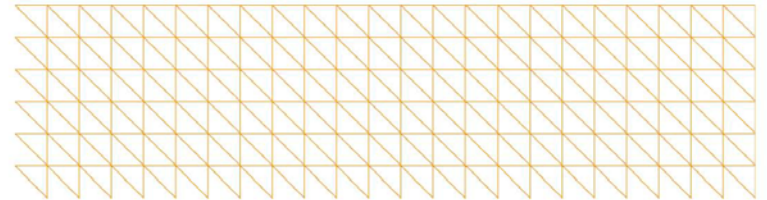


Transforming bailiff action

How we will provide more protection against aggressive bailiffs and encourage more flexibility in bailiff collections

The Government Response

Response to Consultation CP(R)12/2013
This response is published on 25 January 2013



Annex A – List of respondents

Category	No. of responses
Advice	30
Private creditor (<i>businesses, private landlords, property companies, legal services with clients who are creditors in the private sector</i>)	20
Public creditor (<i>local authorities, government agencies, courts service</i>)	96
Debtor (<i>individuals or companies who have identified themselves as having experiences of being debtors</i>)	6
Enforcement sector (<i>enforcement companies, individual enforcement agents, suppliers to enforcement sector</i>)	45
Judiciary	6
Members of Parliament	1
Members of the Public (<i>individuals who have not indicated whether they are either creditors or debtors</i>)	31
Ombudsman organisations (<i>ombudsmen services</i>)	4
Representative Bodies (<i>trade unions, lobby groups, professional associations for creditors, debtors, the enforcement sector and the public sector</i>)	15





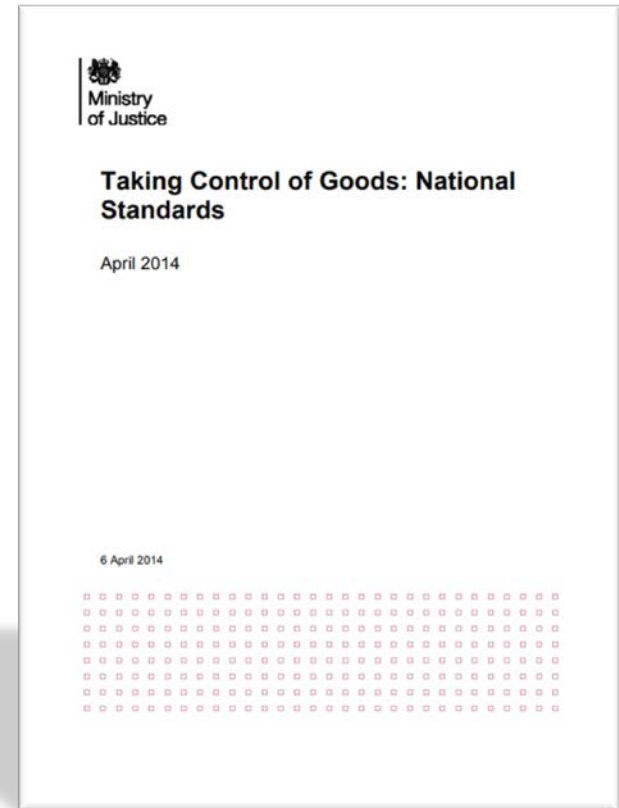
Tribunals Courts & Enforcement Act 2007 (p3)

- ▶ Effective 6th April 2014
- ▶ New Regulations
 - The Taking Control of Goods Regulations 2013
 - Clarification of Law
 - 3 New Stages – Compliance / Enforcement / Sale
- ▶ New Fee Structure
 - The Taking Control of Goods (Fees) Regulations 2014
- ▶ Certification and Competency Requirements
 - The Certification of Enforcement Agent Regulations 2014

MOJ – National Standards (Revised April 2014)

- ▶ The standards cover: (MOJ Web Site)
- ▶ what you should do if you want to use bailiffs
- ▶ your ethical and professional duties
- ▶ your complaints and disciplinary process
- ▶ times and hours of visits
- ▶ gaining entry to a property
- ▶ taking goods
- ▶ dealing with vulnerable individuals

These standards don't replace the law, codes of practice or local agreements.



- ▶ <https://www.gov.uk/government/publications/bailiffs-and-enforcement-agents-national-standards>



Compliance Stage

- ▶ Introduces a new approach to collecting debt
- ▶ Customer focussed
- ▶ Built in to stop “aggressive” action
- ▶ Maximises Customer Engagement
- ▶ Identifies issues – vulnerable/can pay, will pay/gone away
- ▶ Notice of Enforcement
 - Binds the Goods of the debtor
 - Prescribed content, to provide advise, how and where to pay, when to pay by and contact details.
 - Clearly details the consequences of failing to pay including additional enforcement fees
- ▶ Must be issued by Enforcement Agent

Minimum Period of Notice



- ▶ 7 Clear Days
 - Ignore Sundays
 - Bank Holiday
 - Good Friday or Christmas Day
- ▶ Court may order a shorter or no period of notice
 - If the debtor may move or dispose of goods to defeat the process

Regulation 6 of SI 2013/1894

Notice of Enforcement - Contents

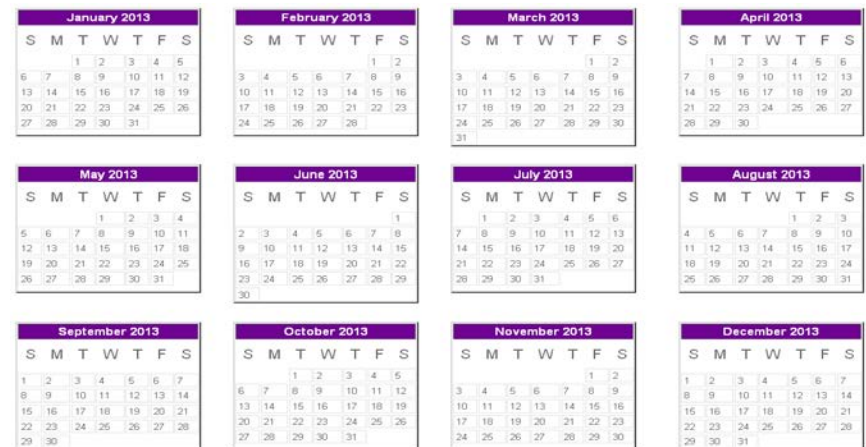
- ▶ Name and Address of Debtor
- ▶ The Date of Issue
- ▶ Reference Numbers
- ▶ Who we are acting for and how much they owe them
- ▶ Details of the warrant/liability order
- ▶ The Compliance Fee £75.00 and the New Total Sum
- ▶ The date and time they must pay the amount by
- ▶ Consequences of not paying
- ▶ How to pay
- ▶ How to contact the Agent
- ▶ The costs if the case progresses to enforcement stage
- ▶ Debt Advisory Information

Regulation 7 SI 2013/1894

Taking Control of Goods

Time limit for taking control of goods

- 12 months beginning with the date of service of the Enforcement Notice
- Or
- 12 months after the breach of any arrangement
- May apply to the Courts for an extension



Regulation 9 – SI 2013/1984

Enforcement Stage - How do you “Take Control”

There are **four** ways of taking control of goods

- ▶ Securing goods on premises
- ▶ Securing goods on a highway
- ▶ Removing the goods for sale or disposal
- ▶ Enter into a controlled goods agreement

Days and hours of entry

- ▶ The enforcement agent may enter, re-enter or remain on the premises on any day of the week

Regulation 21 SI 2013/1894

- ▶ The enforcement agent may only enter, re-enter or remain on the premises after 6:00am and before 9:00pm on any day
 - Exceptions for Trade or Business; or
 - Of commenced action in permitted hours (and reasonable to continue to search for or take control of goods)

Regulation 22 SI 2013/1894

Where can goods be taken control of

- ▶ An enforcement agent may take control of goods on premises that he has the power to enter or on a highway
- ▶ **Relevant premises** are where the enforcement agent reasonably believes that they are the place, or one of the places, where the debtor
 - Usually lives
 - Carries on a trade or business
- ▶ Subject to the above, they may take control of goods in England and Wales, provided they are not exempt

Tribunal Courts and Enforcement Act 2007, Schedule 12, Part 2, Paragraphs 9-11
Tribunal Courts and Enforcement Act 2007, Schedule 12, Part 2, Paragraph 14 (6)

Circumstances when the agent **cannot** take control of goods

- ▶ A child (under the age of 16)
- ▶ A child or vulnerable person (where more than one or a combination of both) is the only person present
- ▶ The goods are also premises in which a child or vulnerable person is the only person present.
- ▶ Where the item belongs to the debtor is in the hands of or being operated by any person at the time, the agent may not take such action if the action is likely to result in a breach of the peace.

Regulation 10 – SI 2013/1894

Exempt Goods



- ▶ Full details of Exempt Goods are contained within Regulation 4 SI 2013/1894
- ▶ Previous Exemptions listed still exist
- ▶ **Some new additions**

Exempt Goods

- ▶ a) items or equipment (for example, tools, books, telephones, computer equipment and vehicles) which are necessary for use personally by the debtor in the debtor's employment, business, trade, profession, study or education, **except that in any case the aggregate value of the items or equipment to which this exemption is applied shall not exceed £1,350 (except NDR);**

- ▶ (b) such clothing, bedding, furniture, household equipment, items and provisions as are reasonably required to satisfy the basic domestic needs of the debtor and every member of the debtor's household, including (but not restricted to) —
 - (i) a cooker or microwave;
 - (ii) a refrigerator;
 - (iii) a washing machine;
 - (iv) **a dining table large enough, and sufficient dining chairs, to seat the debtor and every member of the debtor's household;**

Exempt goods (cont.)

- ▶ one landline telephone, or if there is no landline telephone at the premises, a mobile or internet telephone which may be used by the debtor or a member of the debtor's household;
- ▶ any item or equipment reasonably required for—
 - (aa) the medical care of the debtor or any member of the debtor's household;
 - (bb) safety in the dwelling-house; or
 - (cc) the security of the dwelling-house (for example, an alarm system) or security in the dwelling-house;
- ▶ sufficient lamps or stoves, or other appliance designed to provide lighting or heating facilities, to satisfy the basic heating and lighting needs of the debtor's household; and
- ▶ any item or equipment reasonably required for the care of—
 - (aa) a person under the age of 18;
 - (bb) a disabled person; or
 - (cc) an older person;

Exempt goods (Cont.)

- ▶ **assistance dogs** (including guide dogs, hearing dogs and dogs for disabled persons), sheep dogs, guard dogs or domestic pets;
- ▶ a vehicle on which a **valid disabled person's badge** is displayed because it is used for, or in relation to which there are reasonable grounds for believing that it is used for, the carriage of a disabled person
- ▶ **a vehicle** (whether in public ownership or not) which is being used for, or in relation to which there are reasonable grounds for believing that it is used for, police, fire or ambulance purposes; and
- ▶ a vehicle displaying a valid **British Medical Association** badge or other health emergency badge because it is being used for, or in relation to which there are reasonable grounds for believing that it is used for, health emergency purposes.

Entering Premises

- ▶ Crime and Court Act 2013 – Section 25
- ▶ Amendments to Schedule 12 & 13 of the TCEA 2007
- ▶ Now amends the TCEA 2007 to permit Agents to use reasonable force to re-enter.....
- ▶ *This amendment to the Primary Legislation ensures that the Agent will still have the same “powers” to re-enter premises where they have previously taken control of goods and the arrangement has been breached.*

Entering Premises

- ▶ The Enforcement Agent has the power to enter relevant premises to search for and take control of goods
- ▶ If required, once goods are taken control, the agent can re-enter the premises to inspect or remove goods

Entering or re-entering premises

- ▶ Any door, or any usual means by which entry is gained to the premises (for example, a loading bay to premises where a trade or business is carried on)
- OR
- ▶ Any usual means of entry, where the premises are a vehicle, vessel, aircraft, hovercraft, a tent or other moveable structure

Regulation 20 SI 2013/1894



Minimum period of notice of intention to re-enter premises

- ▶ Notice of the enforcement agent's intention to re-enter premises must be given to the debtor **not less than 2 clear days** before the enforcement agent re-enters the premises.

Sunday, bank holiday, Good Friday or Christmas Day does not count in calculating the period.

- ▶ The court may order that a specified shorter period of notice may be given to the debtor.
- ▶ The court may only make an order where it is satisfied that, if the order is not made, it is likely that goods of the debtor will be moved to premises other than relevant premises, or otherwise disposed of, in order to avoid the goods being inspected or removed for storage or sale.

Regulation 25 SI 2013/1894

Securing goods of the debtor on premises where found

- ▶ An agent who is securing goods of the debtor on the premises on which they are found
- ▶ May secure goods in a cupboard, room, garage or outbuilding;
- ▶ By fitting an immobilisation device, provided by the Agent, and a Notice of Immobilisation is provided.
- ▶ Provide a written warning to the debtor.

Regulation 16 SI 2013/1894

Securing goods of the debtor on a highway or elsewhere

- ▶ Where goods are secured by fitting an immobilisation device, the agent must
 - Provide the immobilisation device; and
 - Provide a written warning to the debtor in accordance with regulation 16 (3)
 - The vehicle must remain immobilised for a period of **not less than 2 hours** from the time of immobilisation, unless the sum outstanding is paid, or an agreement to release the vehicle on part payment of the sum outstanding is made between the enforcement agent and the debtor

Regulations 17&18 SI2013/1894



Who can enter into a controlled goods agreement

- ▶ An Enforcement Agent and:-
 - A debtor who is not a child
 - A person over the age of 18, authorised by the debtor to enter into a controlled goods agreement on the debtors behalf
 - A person in apparent authority who is on the premises, where those premises are used to carry on a trade or business
- ▶ An agreement **CANNOT** be entered into if the debtor or other person who it appears to the Agent does not understand the effect of, and would therefore not be capable of entering into an agreement.

Regulation 14 – SI 2013/1894

Contents of the Controlled Goods Agreement

- ▶ In writing and signed by the Debtor and Bailiff
- ▶ The name and address
- ▶ Reference Numbers
- ▶ Contact Telephone Number
- ▶ Address and opening hours of the Company
- ▶ The terms of the arrangement agreement including amounts, date and frequency
- ▶ **An inventory of goods** (Regulation 33 SI 2013/1894)
- ▶ Where goods are co-owned a copy of the agreement will also be left with the co-owner

Regulation 15 SI 2013/1894

Inventory of goods

- ▶ The inventory required by paragraph 34 of Schedule 12 and Regulation 33 SI 2013/1894

- must be in writing signed by the Agent and contain the following:

- ▶ The Name and Address of the Debtor
- ▶ The Agents Name
- ▶ Reference Numbers
- ▶ Date
- ▶ Where applicable, the name and address of any co-owner
- ▶ The goods that have been taken control of have been specified in the inventory
- ▶ A list of the goods to be taken, including the manufacturer, model, serial number and colour.
- ▶ Where a vehicle is to be taken, the make, model and registration mark
- ▶ The material, colour and usage of the items, along with any other identifying marks

Commercial Rent Arrears



Commercial Rent Arrears Recovery (CRAR)

- ▶ Common Law right to distrain for arrears of Rent abolished
- ▶ Applied only to debts enforceable under Section 72 of the Act
- ▶ Still only applicable to demised premises
- ▶ Lease must be evidenced in writing
- ▶ Recovery only relates to rent and **not** service charges
- ▶ Commercial premises only

Regulations 50,51 & 52 SI 2013/1894

Notice of Enforcement - CRAR

- ▶ Notice of enforcement must be given
 - The date of authorisation
 - The landlord's name and contact details;
 - The name and contact details of the person agent;
 - Sufficient detail to identify the commercial premises;
 - The amount of rent owed and
 - The period in relation to which the rent is owed.
 - The minimum net unpaid rent is an amount equal to 7 days' rent

Sale Stage

Sale Stage - Valuation of Controlled Goods

- ▶ Valuation must be in writing, signed by the agent and include:
 - The agent's name and contact details
 - A separate estimated value for each item of goods of which control has been taken; and
 - Must provide a copy of the written valuation to the debtor and any co-owner
- ▶ If using an Independent Valuer:
 - As above
 - Can only instruct a qualified, independent valuer.

Regulation 35 – SI 2013/1894

Notice of Sale

- ▶ Minimum notice period – 7 clear days from removing controlled goods for sale.
- ▶ Sale may take place on the day after removing controlled goods for sale where, if the sale were to take place after the expiry of the period of 7 clear days the goods would become un-saleable, or their sale value would be extinguished or substantially reduce to the nature or characteristics of those goods.

Regulation 39 SI 2013/1894

Method, Place and Conduct of Sale

- ▶ Regulation 41 & 42 SI 2013/1894:
 - Public Auction:
 - Public Auction House
 - Online
 - Internet Auction Site
 - On the premises where the goods were found
- ▶ Otherwise must apply to Court for an alternative method which includes:
 - Private contract;
 - Sealed bids;
 - Advertisements and
 - Such other method as the court considers appropriate
- ▶ Regulation 43 Qualified Auctioneer
 - Member of NAVA or equivalent
 - Independent of the Enforcement Agent



Valuation of Controlled Goods (at Sale Stage)



Permissible disbursements recoverable from the debtor

- ▶ These are limited to:
 - Storage Fees following removal
 - Locksmith charges
 - Court Fees on application
 - Auctioneers fees
 - Auction
 - 15% of the sum realised on premises provided by auctioneer,
 - 7.5% on other premises
 - Internet Auction – 7.5% of the sum realised
 - Reasonable expenses incurred in respect of advertising
 - Out of pocket expenses
 - Exceptional costs – following application to court

Regulation 8, 9 & 10 SI 2014/1

Information to be provided

- ▶ Where the debtor pays the amount before the sale
 - A statement of disbursements recoverable
 - Any receipts
 - A statement of the fixed and/or percentage fees charged
- ▶ As soon as possible after the sale:
 - An itemised list of goods sold or otherwise disposed of
 - A statement of
 - The sum received in relation to each item
 - The proceeds
 - The application of the proceeds
 - The disbursements recoverable under these regulations
 - Copies of all receipts

Regulation 14 SI 2014/1

Intervening Claims

Remedies Available to the Debtor:

▶ **Third Party Claim – New Procedure:**

- Application to Court and Payment of FEE into Court
- *Replaces REPLEVIN*

▶ **Breach Procedure:**

- Claim damages and/or return goods
- Enforcement Agent not a trespasser due to any defect warrant
- *Replaces Irregular Distress*

Offences



Remedies Available to the Creditor:

- ▶ **Criminal Liability**
 - If the debtor obstructs the Enforcement Agent
 - Previously relief upon precedent from **Bibby v Chief Constable of Essex (2000)**
 - If the debtor intentionally interferes with the controlled goods (for example cutting of a clamp)
- ▶ A person guilty of an offence under this paragraph is liable on summary conviction to—
 - (a) imprisonment for a term **not exceeding 6 months**, or
 - (b) a fine not exceeding **Level 4** on the standard scale (£2,500), or
 - (c) both.

Schedule 12 Para 68

Fee Structure

Enforcement Agents Fee Structure Review
Alexander Dehayen (alex.dehayen@yemos-consulting.com)
November 2009



Enforcement Fee Structure Review

Proposal for a new Enforcement Fee Structure and analysis of the issues and options

A report by Alexander Dehayen for the Ministry of Justice

Taking Control of Goods (Fees) Regulations 2014 – (SI1)

- ▶ Replaces complex & multiple fee structure
- ▶ Payable by stage
- ▶ Chargeable by the Enforcement Agent
- ▶ Fees are recoverable under regulation 4
- ▶ Fees are designed to encourage early compliance and deter sale/disposal
- ▶ CIVEA – Code of Conduct

What are the fees and when are they payable

Stage	Fixed Fee	Percentage Fee	Allocation	Trigger
Compliance	£75.00	0%	Cleared First	Receipt of Instruction
Enforcement	£235.00	7.5% of debt > £1500	Pro-rata EA/LA	First Attendance to relevant premises
Sale	£110.00	7.5% of debt > £1500	Pro-rata EA/LA	First Attendance for purpose of transporting goods to place of sale

Schedule of Fees, Regulation 4, SI 2014/1

Enforcement under a High Court Writ (Reg 6)

Stage	Fixed Fee	Percentage Fee	Trigger
Compliance	£75.00	0%	Receipt of Instruction
1 st Enforcement	£190.00	7.5% of debt > £1000	First Attendance to relevant premises
2 nd Enforcement	£495.00	N/A	Second attendance....
Sale	£525.00	7.5% of debt > £1000	First Attendance for purpose of transporting goods to place of sale

Additional things to be aware of

- ▶ Fees are payable by the debtor
- ▶ Once the fee has been triggered, the fee is due even if it is not possible to complete the stage
 - Example:
 - Paid arrangement entered into at enforcement stage
 - Removal of good commenced, debtor pays balance
- ▶ Multiple cases should be enforced at the same time so far as reasonably practicable – separate compliance fees but only one set of Enforcement and Sale/Disposal Fees (Regulation 11)
- ▶ Other than permissible disbursements no other fees or costs are permitted, however the Enforcement Agent must minimise.
- ▶ VAT – HMRC Guidance

Pro-rata payment distribution

1	Co-Owners
2	Auctioneer's Fees
3	Compliance Fees
4	Pro-rata The sum to be recovered The remaining fees and disbursements

Regulation 13 SI 2014/1

Pro-rata payments Example

Average Council Tax Debt	£600.00
Compliance Fee	£75.00
Enforcement Fee	£235.00
Balance	£910.00
Payment Received	£350.00
Compliance Fee Cleared First	£75.00
Case Balance	£835.00
Payment Received Balance	£275.00
Pro rata to EA	$£235.00/£835.00 = 28\text{p in the }£$
Pro rata to LA	$£600.00/£835.00 = 72\text{p in the }£$
Payment to EA	£77.00
Payment to LA	£198.00

Direct Payments - LGO Decision

- ▶ **Harrow London Borough Council:**
- ▶ <http://www.lgo.org.uk/decisions/transport-and-highways/parking-and-other-penalties/16-008-073>
- ▶ Parking Penalty Charge Notice issued a warrant of execution and passed the debt to its bailiffs to enforce on 16 June 2016.
- ▶ Ms A made a payment of £97 for the PCN using the Council's online system on 23 June 2016. However by this point the Council had already passed the case to its bailiffs, incurring further costs.
- ▶ Ms A made payment only after the case had been referred to bailiffs and the Ombudsman cannot therefore say she is not liable for the bailiff's fees.
- ▶ The Council's acceptance of Ms A's payment has also not caused Ms A an injustice as it has been put towards the cost of the PCN and bailiff's fees incurred to pursue it.
- ▶ **Final Decision:** The Ombudsman will not investigate this complaint as there is not enough evidence of fault with the Council's actions to warrant an investigation

Vulnerability



Vulnerability in the TCG Regulations 2013

Regulation 10 - Circumstances in which the enforcement agent may not take control of goods

Regulation 14 (2) - Who may enter into a controlled goods agreement

Regulation 23 - Restrictions on entry and re-entry to, and remaining on, premises

- ▶ (2) The enforcement agent may enter, re-enter or remain on the premises only if—
- ▶ (a) the debtor is not a child; or
- ▶ (b) a child or vulnerable person (whether more than one or a combination of both) is not the only person present in the premises which the enforcement agent proposes to enter or re-enter.

Taking Control of Goods: National Standards

Published April 2014

Vulnerable Situations

- ▶ 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.
- ▶ Some groups who might be vulnerable are listed below. However, this list is not exhaustive. Care should be taken to assess each situation on a case by case basis.
- ▶ the elderly; people with a disability; the seriously ill; the recently bereaved; single parent families; pregnant women; unemployed people; and, those who have obvious difficulty in understanding, speaking or reading English.

Vulnerability



- ▶ The regulations do not prevent enforcement, they seek to ensure that escalation does not occur unless advice has been obtained.
- ▶ Regulation 12 SI 2014/1 – Before sale, fees are not recoverable unless the agent has given the debtor opportunity to seek assistance and advice in relation to the exercise
- ▶ Assessing Vulnerability - Ability to Understand & Engage
- ▶ **Assessment of how their vulnerability affects ability to pay**
- ▶ Each case fully assessed on its own merit
- ▶ **Importance of Welfare Advice Agencies**
 - Joint Working
 - Shared Training
 - Sign Posting
 - Protocol
 - Breathing Space
- ▶ Safeguarding & Reporting – Council nominated officer & Wider Agencies

Assessing Vulnerability - IDEA

Impact

What does the condition prevent the person from doing?
What happens and how bad is it?

Duration

How long have they had the condition?
Is it temporary or long-term?

Episodes

Has it happened before?
Is it likely to recur? Can it be controlled?

Assistance

Is the person getting the right level of help/assistance?



Dealing with vulnerability - TEXAS

Thank

Explain

eXplicit consent

Ask

Signpost

LGO View on Vulnerability

- ▶ **Vulnerability does not prevent Enforcement or the use of Enforcement Agents**

Trafford MBC

- <http://www.lgo.org.uk/decisions/benefits-and-tax/council-tax/15-005-395>

Newcastle-under-Lyme BC

- <http://www.lgo.org.uk/decisions/benefits-and-tax/council-tax/14-017-488>

RB of Kinston upon Thames

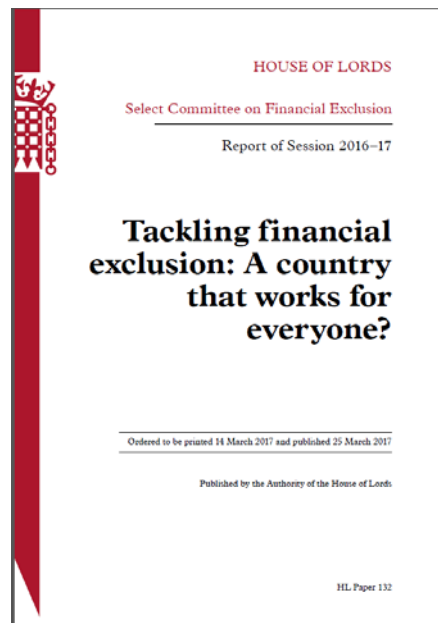
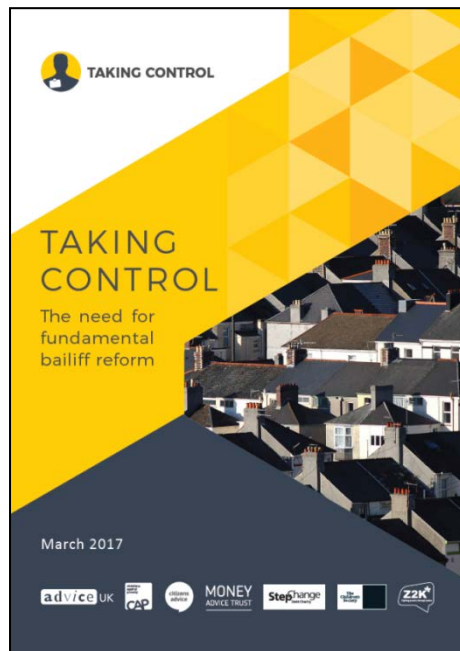
- <http://www.lgo.org.uk/decisions/transport-and-highways/parking-and-other-penalties/15-001-086>

Fareham BC

- <http://www.lgo.org.uk/decisions/benefits-and-tax/other/16-014-707>

Relevant Publications and Reports

- ▶ Taking Control (March 2017)
- ▶ Tackling Financial Exclusion - House of Lords Select Committee
- ▶ Stop the Knock – Money Advice Service (Sep 2015)



Taking Control – 7 Recommendations



Recommendation 1: *The bailiff industry should be independently regulated*



Recommendation 2: *There should be a free, clear, transparent and accessible complaints procedure*



Recommendation 3: *There should be a clear, simple and universally applicable procedure that allows people to apply to suspend action by bailiffs*



Recommendation 4: *Bailiff fees should be restructured so as to incentivise good practice*



Recommendation 5: *Bailiffs should use a prescribed and consistent framework for agreeing affordable repayments*



Recommendation 6: *There should be procedures in place to identify vulnerable people and protect them from enforcement action*




Recommendation 7: *Creditors should be required to act responsibly and do demonstrably more to collect debt before resorting to enforcement*

HM Treasury Consultation – Breathing Space

- ▶ Open Consultation – 24.10.17
- ▶ Call for Evidence
- ▶ Serious Problem Debt
- ▶ Legal protection from further:
 - Interest
 - Charges
 - Enforcement Action
- ▶ 6 Weeks Breathing Space
- ▶ Statutory Repayment Plan
- ▶ 33 Questions
- ▶ 16th January - Close



Documents

[Breathing space: call for evidence](#)
HTML

Ways to respond

Email to:
BreathingSpaceCFE@hmtreasury.gsi.gov.uk

Write to:
Breathing Space Call for Evidence, HM Treasury, 1 Horse Guard Road,
London, SW1A 2HQ

Certification

Certification of Enforcement Agents Regulations 2014

- ▶ Robust Certification Process
 - “The applicant possesses sufficient knowledge of the law and procedure relating to powers of enforcement by taking control of goods and of commercial rent arrears recovery to be competent to exercise those powers”
- ▶ Application for Certification must be advertised on the MOJ Courts Website
 - Name / Employer / Date of hearing (8 days after the 30 days time limit below)
- ▶ Public have 30 days from date of posting to provide feedback or objection
- ▶ Security / Bond of £10,000.00 required
- ▶ Any changes to employer, address or name – duty to report and replacement issued

Regional Courts

Part 5

The number of County Court hearing centres at which your application can be heard is limited to those listed below. You will be required to attend the Court.

London

Central London

Midlands

Birmingham

Northampton

Nottingham

Worcester

North-East

Gateshead

Kingston Upon Hull

Middlesbrough

York

North-West

Birkenhead

Burnley

Oldham

South-East

Brighton

Chelmsford

Dartford

Hertford

Norwich

Oxford

South-West

Bristol

Plymouth

Southampton

Wales

Caernarfon

Cardiff

Swansea

Wrexham

Competency

- ▶ Set a competency criterion for entry into the enforcement profession with a mandatory training regime
 - CIVEA On-Line Training Tool / Examinations
 - IRRV Qualification
 - National Occupation Standards (NOS)
 - Training Records / CPD Scheme
 - Multiple Debt Types
 - Conflict Management
 - Vulnerability Awareness
- ▶ Evidence of Annual Appraisals & Refresher Training

The Certificate

Enforcement Agent's Certificate
In the County Court at BIRKENHEAD



Mr/Mrs/Miss/Ms TERRENCE PAUL KELLY
of JACOBS, 4 EUROPA BOULEVARD,
BIRKENHEAD, WIRRAL, CH41 4PE
Tel. No. 0151 650 4800

Signature T.P. Kelly Dated 8/3/2016

is authorised to take control of goods in England and Wales

Signed [Signature] Dated 8/3/16
Judge
of the County Court at BIRKENHEAD

This certificate expires on 8/3/18.
The Court office is at 76 HAMILTON STREET,
MERSEYSIDE, CH41 5EN
Tel. No. 0151 666 5800

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Certification

justice

Certificated Bailiff Register

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Search for a Bailiff

You can search these pages for all enforcement agents (previously called bailiffs) who hold a certificate which allows them to carry out enforcement action by taking control of goods and, if necessary, selling these to recover a debt. You can search by an enforcement agents name [..... etc.....]

If you know of a serious conduct issue which would mean that an enforcement agent or officer listed on these pages is not a "fit and proper" person to hold a certificate, you may write to the court manager, at the named court, providing the reasons for this alongside supporting evidence.

To check the list of people who have applied for registration please [click here](#)

Search Results

One item found.1

Title	Forename	Surname	Court	Granted	Expires	Employer
	Alyn Francis	Lewis	Birkenhead County Court	10/02/2016	09/02/2018	Jacobs

Last updated 26/10/2017

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Regulation 9 - EAC2

- ▶ Complaints as to fitness to hold a certificate – (Previously Form 4)
 - Complaint direct to court
 - Court will send a copy to the EA / Employer to respond
 - Judge will consider if complaint required a hearing or may dismiss at this point
 - If a Hearing is set - EA must attend – complainant may attend or provide written evidence
 - If case is dismissed - no right of appeal by complainant
 - If case is found - Certificate can be cancelled or suspended
 - Training and conditions can be ordered

Civil Enforcement Association - CIVEA



- ▶ Professional Association
- ▶ Shaping Legislation & Policy, Advising Government
- ▶ Pioneering Good Practice
- ▶ Code of Practice & Good Practice Guide
 - <http://www.civea.co.uk/guidance-notes>
- ▶ Qualification – IRRV/CIVEA On-Line Study & Examination
 - On Line IRRV Guide - <https://vimeo.com/145623593>
- ▶ Government Consultations & Reviews
- ▶ Complaints Investigation & Resolution
- ▶ Magazine - Enforcement News
 - <http://www.civea.co.uk/publications>

Summary

Summary

- ▶ Welcomed Modernisation
- ▶ MOJ 3 year review - BREXIT
 - Unintended Consequences
 - Fee Structure
- ▶ Single Transparent Fee Structure
- ▶ Low/No Complaints
- ▶ Early Compliance is key
- ▶ Payment by Stage Monitoring
- ▶ Your Specification & Guidelines
- ▶ Joint Working Paramount – Common Purpose
 - Council & Wider Services / CAB & Advice Agencies

Questions ?

