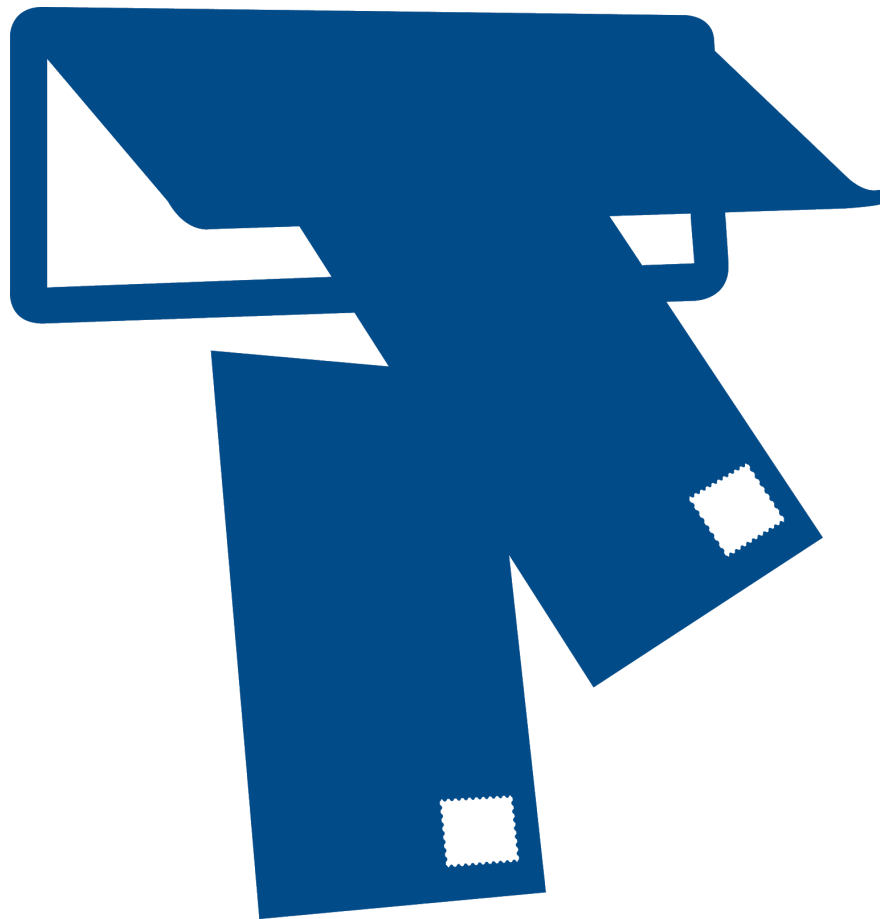


The rules of enforcement

Making a complaint about the behaviour of bailiffs in a self-regulated system



**citizens
advice**

Ed McDonagh, Rosie Derricourt, and
Thelma Baker

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Summary

Problems with bailiffs are some of the most common debt issues we help people with. In the past year, Citizens Advice has helped 41,000 people with 90,000 bailiff issues, and the bailiff pages on our website were visited more than 140,000 times.

Recent Citizens Advice research found that 2.2 million people report being contacted by bailiffs in the last two years and more than a third of these - 850,000 people - have experienced bailiffs breaking the rules.¹

While largely positive, new rules governing bailiffs' behaviour, introduced in 2014, have failed to clean up the industry because they aren't properly enforced. Partly this is because it's too difficult for individuals to make complaints about bailiffs and there isn't an organisation ensuring they comply with the rules. This means people cannot enforce their rights when bailiffs break the rules.

In the last 2 years, just 28% of people who experienced a bailiff breaking the rules made a complaint. More starkly, according to the Ministry of Justice, there have only been **56 complaints** through the new court-based process since it was introduced in 2014.

Through research with advisers and clients with experience of making complaints about bailiffs we have found that there are significant barriers to making complaints and, when people do, the process doesn't work:

1. Both clients and advisers lack faith in the process. 31% of advisers we surveyed had not complained on occasions because clients were reluctant to and 25% had not complained because they lack faith in the process.
2. The complaints process is structurally flawed. The process isn't independent and bailiff firms are seen to shift the blame while complainants are kept in the dark. **Only 11% of advisers we surveyed have had a positive experience making a complaint.**
3. Complaints lead to unsatisfactory outcomes. Remedial action rarely leads to a bailiff being penalised for breaking the rules and the lack of consequence serves to suppress future complaints.

Relying on self-regulation and court-based enforcement means people can't enforce their rights when bailiffs break the rules. As a result, the positive reforms made by the last government haven't been effective. The Ministry of Justice should use its ongoing consultation on bailiff regulation to introduce an independent regulator and complaints mechanism to protect people when bailiffs break the rules.

¹ Citizens Advice, [A law unto themselves: How bailiffs are breaking the rules](#), 2018.

Introduction

A. How does the bailiff industry work?

Since 2014, Citizens Advice has helped more people with household bill debts (such as council tax or energy bill arrears) than with consumer credit debts (like credit cards or loans). Last year we helped people with 690,000 household bill debt problems, compared to 350,000 consumer credit issues.

One reason so many people struggle with household bill debts is because of collection methods. Last year, household bill debt problems were nearly twice as likely to be related to the way debts were collected than consumer credit debt issues (29% compared to 15%).² Within that, problems related to bailiffs have increased by over 6,000 in the last 12 months.

Bailiff use is common. We estimate that bailiffs were used to collect debts nearly 2.5 million times in 2017. The Money Advice Trust revealed that more than 2.3 million debts were passed to bailiff firms by local authorities alone in 2017.³ Additionally, there were 127,000 county court enforcement orders and 54,000 High Court enforcement orders.⁴

There are three types of bailiffs: certificated enforcement agents, High Court enforcement officers and County Court bailiffs. Household bill debts are typically collected by certificated enforcement agents, although High Court enforcement officers are also used. Certificated enforcement agents are granted their certificate by a county court. A £10,000 security is lodged with the court in order to pay any costs arising from their time practicing as a bailiff. This security cost is usually covered by a bailiff firm.

All bailiff activity falls under the jurisdiction of the Tribunals, Courts and Enforcement Act 2007.⁵ In 2014 the government introduced significant reforms to the industry.⁶ These changes were positive, bringing clarity to the fees that bailiffs charge and how they should approach debt collection. Unfortunately, there are still significant problems with bailiff behaviour. The Ministry of Justice (MOJ) has recognised this and launched a call for evidence to investigate continued malpractice.

A major factor in this is the lack of an independent complaints process by which to hold bailiffs to account.

² Citizens Advice, [Hidden Debts: The growing problem of being behind on bills and in debt to the government](#), August 2018.

³ Money Advice Trust, [Stop the Knock: Mapping Local Authority Debt Collection Practices in England and Wales](#), November 2017.

⁴ Gov.uk, [Civil Justice Statistics Quarterly](#), 2018.

⁵ Gov.uk, [Tribunals, Courts and Enforcement Act 2007](#), accessed: December 2018.

⁶ There were 3 pieces of secondary legislation: [The Taking Control of Goods Regulations 2013](#), [The Taking Control of Goods \(Fees\) Regulations 2013](#) & [The Certification of Enforcement Agents Regulations 2014](#).

B. How do bailiffs break the rules?

Our research has shown that 1 in 3 people contacted by bailiffs have seen them break the rules.⁷ In the last two years 2.2 million people report being contacted by bailiffs.⁸ This means around 850,000 people have experienced bailiffs breaking the rules.

While the changes to bailiff regulations and national standards in 2014 were largely positive, they failed to transform standards because there isn't an organisation to enforce the rules. As a result, poor practice is continuing in five key ways:⁹

1. **Bailiffs are refusing to accept affordable payment offers** or are pressing people to make unrealistic offers. Almost 1 in 4 people (24%) contacted by bailiffs had an affordable payment offer rejected.
2. **Bailiffs are misrepresenting their rights of entry**, for example by threatening to break in. 1 in 5 people (17%) contacted by bailiffs enforcing council tax experienced a threat to break in, despite the fact that they were pursuing debts which did not give them the power to do so.
3. **Bailiffs are taking control of goods inappropriately**, including exempt items and goods which don't belong to the person who owes the debt. 1 in 10 people contacted by bailiffs said they took control of goods required for their work.
4. **Bailiffs are acting aggressively towards people in debt**, thereby failing to conduct their duties in 'a professional, calm and dignified manner'. Almost 2 in 5 people (37%) contacted by bailiffs experienced some kind of intimidation.
5. **Bailiffs are acting unsympathetically towards vulnerable people**. The 2014 reforms set out how vulnerable people should be treated by bailiffs. Our polling found that 1 in 5 people (18%) contacted by bailiffs saw them act unsympathetically towards people with illnesses and disabilities.

When bailiffs break the rules, people should have the option to complain about their behaviour. And the bailiffs should face sanctions so the industry is incentivised to make sure the rules are followed. This report examines how well the complaints process works in practice.

⁷ Citizens Advice, [A law unto themselves: How bailiffs are breaking the rules](#), 2018.

⁸ This is likely to be an underestimate. Money Advice Trust's [Stop the Knock](#) found that 2.3 million debts were passed to bailiffs in 2017. Our polling relied on people recalling an interaction with bailiff in the last two years and - due to stigma associated with indebtedness - may have been underreported.

⁹ The statistics on bailiffs breaking the rules are taken from Citizens Advice, [A law unto themselves: How bailiffs are breaking the rules](#), 2018.

Part 1: How can people complain about bailiffs?

When people feel a certificated enforcement agent or high court enforcement agent (bailiff) has broken the rules, they face 2 major barriers. First, they must work out how to make a complaint. There are multiple statutory and non-statutory avenues for complaints about bailiffs making the process complex. Second, they must deal with intimidating institutions such as bailiff firms, trade associations, or the courts.

A. The statutory process

The original process for complaining about bailiffs was set out in Schedule 12 of the Tribunals, Courts and Enforcements Act 2007.¹⁰ The Act makes provisions for proceedings to be brought to court when a debtor perceives a bailiff to have breached the regulations set out in the Act. Where a court rules in favour of the debtor the court may order goods to be returned or for damages to be paid.

The complaints procedure set out in the original 2007 Act was bolstered by regulations passed in 2014 - the Certification of Enforcement Agents Regulations.

Those regulations introduced a new complaints process which involved increased sanctions for individual bailiffs who break the rules. Under the Certification Regulations people have a right to make a free complaint to the court on the grounds that an enforcement agent isn't fit to hold that position. The judge can then suspend or cancel the agent's certificate depending on how convinced they are of the complaint's merit.¹¹

This was the first court process established specifically for complaints relating to a bailiffs' fitness to practice. It joined a number of general court forms that can also be used to seek redress from bailiffs. Timelines and details about the forms required to submit a complaint are set out in the Civil Procedure Rule 84 and 85.

¹² The forms and procedures are outlined in Box 1.

¹⁰ Schedule 12, [Tribunals, Courts and Enforcements Act, 2007](#).

¹¹ Part 1, Regulation 10, [Certification of enforcement agents, 2014](#).

¹² Gov.uk, [CPR - Rules and Directions, 2018](#).

Box 1: Civil procedures for complaints made to court about enforcement agents

Certification of enforcement agents

Made by submitting form EAC2¹³ to the court with supporting evidence about the behaviour of a bailiff. The enforcement agent must receive a copy of the complaint at least 14 days before the hearing to give them time to respond. There is no charge to make a complaint.

Overcharging of fees

Made by applying for a detailed assessment by submitting form N244.¹⁴ There is a court fee of £255 with the possibility of means tested fee remission.

Taking control of exempt goods or of other people's goods

Made by submitting a claim in writing to the bailiff firm within 7 days of goods being taken. The firm then has 3 days to give notice to the creditor about the claim. Following that, the creditor has 7 days to make a decision about whether they believe the goods to be exempt or owned by a third party.

If the claim is rejected but the debtor still wishes to contest the ruling, an form N244 must be sent to court accompanied with witness statements, exhibits and screenshots of emails sent to the bailiff firm. Court fee of £255 for submitting the form. In all N244 cases debtors can be liable for legal fees in the event of defeat.

Breach of the rules

Made by submitting a form N244 with evidence of how regulations were breached. Court fee of £255 with possible means tested fee remission.

This system is highly inaccessible. Although costs can be avoided in some instances, people perceive courts to be a costly course of action.¹⁵ And the nuances of using either a N244 or EAC2 form depending on what you are seeking redress about is confusing. In the housing sector, less than 1% of tenants with a disrepair issue that warranted a complaint took their landlord to court. A central factor for tenants was their confusion about the process.¹⁶ The continued use of the courts as the ultimate decision maker for complaints about bailiffs is a major barrier to effectively holding bailiffs to account for malpractice.

B. The non-statutory process

To add to that complexity, it is common for the court process to be used after informal, non-statutory, procedures have been exhausted. This involves

¹³ Gov.uk, [Form EAC2](#), 2018.

¹⁴ Gov.uk, [Form N244](#), 2018.

¹⁵ MOJ, [One year review of Enforcement Agent reforms introduced by the Tribunals, Courts and Enforcement Act 2007](#), 2018, p. 15.

¹⁶ Citizens Advice, [It's broke, let's fix it: Improving redress for private renters](#), July 2017

complaining to a bailiff firm and escalating to the relevant trade association. 36% of advisers in our survey said that they direct their complaints at bailiff firms in the first instance.¹⁷ Informal complaint processes aren't set out in statute and vary largely between firms. Figure 1 below illustrates how this process works in practice:

Figure 1: The non-statutory bailiff complaints process



¹⁷ Survey of 434 debt advisers from Citizens Advice (238), AdviceUK (26), Business Debtline (18), Institute of Money Advisers (52), Community Money Advice (29), Stepchange (78) and others (47), responses collected via Survey Monkey between 7 June and 31 August 2018 .

National Standards

The 2014 Regulations were accompanied by 'National Standards.' The standards encourage complaints to follow the path outlined above.

All bailiffs and bailiff firms are covered by the National Standards although they are not legally binding. They were intended to act as a benchmark for bailiffs and enforcement agencies (bailiff firms), outlining expected professional standards. The relevant clauses for complaints can be seen in Box 2.¹⁸

Box 2: Taking Control of Goods: National Standards, April 2014

Complaints/Discipline

43. Enforcement agencies must operate complaints and disciplinary procedures with which their agents must be fully aware of.

44. The debtor should be able to easily find out how to make a complaint and obstacles should not be placed in their way.

45. The complaints procedure should be set out in plain English, have a main point of contact, set time limits for dealing with complaints and include an independent appeal process where appropriate. A register should be maintained to record all complaints and complainants should be notified of the outcome of disputes.

46. Enforcement agents/agencies are encouraged to make use of the complaints and disciplinary procedures of professional associations such as The Civil Enforcement Association or the High Court Enforcement Officers Association.

47. The enforcement agent must make available details of their own and the creditor's complaints procedure on request or when circumstances indicate it would be appropriate to do so.

What do firms say they are doing?

We surveyed the websites of the 5 bailiff firms that advisers deal with most frequently when helping clients with bailiff issues.¹⁹ As this was based on desk research it is not possible to determine whether the firms meet clause 43 which

¹⁸ Ministry of Justice, [Taking Control of Goods: National Standards, 2014](#).

¹⁹ As reported in our survey of 434 advisers: Bristow & Sutor (58.27% of advisers), Marstons (82.71% of advisers), Equita (64.29% of advisers), Rossendales (77.07% of advisers), Jacobs (62.03% of advisers).

related to individual agents' awareness of the complaints process. On face value, the complaints procedures outlined on their website largely follow the guidelines set out in the National Standards.

Table 1: Review of bailiff firm complaints procedures

Firm	Easy to find ²⁰	Plain English ²¹	Point of contact ²²	Time Limit ²³	Independent appeals ²⁴
Marstons	✓	✓	✓	✓	✓
Bristow & Sutor	✓	X	—	✓	—
Equita	✓	✓	✓	—	✓
Jacobs	✓	✓	—	✓	✓
Rossendales	✓	✓	✓	✓	✓

Source: Bailiff firm websites²⁵

Most of the firms are fully compliant with the National Standards. Some firms do not mention certain standards on their websites but conversations with these firms suggest they are still part of their processes. At the time of research, only Bristow & Sutor fell short of a guideline. Although their process is plainly set out to some extent, their complaint form includes an introductory section which discourages complaints.

This section warns against complaining about actions bailiffs are legally allowed to take, but provides a misleading list of legally permissible actions. Many of the actions require extra details and contextual qualifications to be clear. Table 2 lists the claims and the problems we have identified. Subsequent to conducting this research we have had productive communications with Bristow & Sutor who are now planning to adjust the wording.

²⁰ Equita, Jacobs and Bristow & Sutor's complaints process could be found in the FAQs section of their website. Rossendales was in their contact section and Marstons in their help centre. A dedicated complaints section would be preferable but we decided the current locations were reasonable.

²¹ Judged based on terminology used and whether the process is explained in a logical structure.

²² Most firms indicate that there is a specific complaints handler. Marstons mention a 'complaints resolution officer', Equita mention 'the complaints manager', and Rossendales mention a 'complaints handler.' This does not necessarily mean a point of contact but at least suggests a specific complaints handler. Neither Bristow & Sutor or Jacobs mention a specific complaints handler.

²³ All firms state the maximum number of days it will take to respond except for Equita who do not state how long it will take them to respond.

²⁴ Although the majority of firms signpost appeals to an alternative body, the fact there is no consistency is indicative of the non-statutory process. Marstons sign post complainants to an 'Independent Advisory Council' for appeals, Equita signpost appeals to CIVEA, Jacobs indicates four levels of escalation within the firm, Rossendales sign post to ombudsman services, Bristow and Sutor do not mention avenues for appeals or escalation.

²⁵ [Marstons](#), [Bristow & Sutor](#), [Equita](#), [Jacobs](#), [Rossendales](#), accessed: December 2018.

Table 2: Problems with Bristow & Sutor’s complaints form

Bristow & Sutor complaints form	Problem with statement
“We do not have to accept any offer you make to pay by instalments”	The 2014 National Standards require bailiffs to refer reasonable payment offers to those creditors that have indicated they will accept them. ²⁶
“We can enter the premises without the debtors permission”	While bailiffs are allowed to make peaceable entry, debtors can choose to not let a bailiff into their home. ²⁷
“We cannot deal with a complaint that is considered vexatious”	The term ‘vexatious’ is not plain English and this clause is not easy to interpret.

Overall, the majority of firms have followed the guidelines set out in the National Standards. However, as will be shown below, the experiences of Citizens Advice clients and advisers show that procedures outlined on company websites do not always reflect the reality of complaints processes. Without a truly independent body handling complaints and overseeing the actions of bailiff firms it is easy to see how the reality may not replicate the processes outlined above.

Trade associations

The National Standards also encourage bailiff firms to make use of the complaints procedures of their trade associations. As a result, they have come to be used as bodies to which people can escalate complaints if unhappy with the decision of a bailiff firm. Civil enforcement agencies are represented by The Civil Enforcement Association (CIVEA) and High Court enforcement officers are represented by The High Court Enforcement Officers Association (HCEOA).

CIVEA’s website states you should initially complain to the firm of the bailiff you believe has broken the rules and give them 28 days to respond. If people are unsatisfied with the response, CIVEA invites them to refer the complaint to them directly. Complaints must be made in writing no longer than 6 months after the firm has made its final decision on the case. CIVEA commits to acknowledging the complaint within 7 days but does not give a deadline by which complaints will be resolved.²⁸

HCEOA’s website sets out a comprehensive complaints process. They accept complaints in writing or by phone. The Complaints Officer has 28 days to assess whether complaints are eligible to be investigated further. Investigations are

²⁶ MOJ, [Taking Control of Goods: National Standards](#), 2014, Clause 25.

²⁷ [Taking Control of Goods Regulations 2013, Regulation 20](#) stipulates that enforcement agents can make peaceable entry via any ‘usual means’ while [Taking Control of Goods: National Standards, Clause 59](#) states they may only enter through a door. Although neither require permission it is confusing not to make it clear that bailiffs cannot force entry.

²⁸ CIVEA website, [CIVEA complaints process](#), accessed: December 2018.

conducted by 'The Complaints Board' who have 21 days to investigate the claim. This may require a hearing involving the two parties. Complainants then have 21 days to appeal the final decision of The Complaint Board. If an appeal is made, an independent legal adviser decides whether to forward it onto the Appeals Board. In these cases, the Appeals Board make a final decision.²⁹

Having already complained to the bailiff firm, the time frames involved in escalating a complaint to the trade association are lengthy, particularly when, as this report finds, both clients and advisers have limited capacity to complain.

Added to this, both clients and advisers question the independence of trade associations, and find the prospect of making a complaint to them intimidating. This is a major barrier to complaints being made.

C. Ombudsman process

As well as complaining about bailiffs directly, in most cases where bailiffs are used, the creditor will have an ombudsman responsible for their sector. In some cases, people can complain to the relevant ombudsman about the behaviour of a bailiff. Each ombudsman approaches this differently. Some will only accept particular complaints and most can only enforce penalties or resolve disputes against the creditor rather than the bailiff.

- **The Local Government and Social Care Ombudsman** will consider complaints relating to the collection of council tax, business rates or traffic penalties once the council's internal complaints process has been exhausted. They can recall accounts and consider payments but cannot sanction the bailiff or bailiff firm.³⁰
- **The Financial Ombudsman Service** hear complaints about the collection of debts relating to consumer credit and consumer hire agreements. They do not hear complaints about debts collected by High Court enforcement officers or certificated enforcement agents.³¹
- **Ombudsman Services: Energy** hears complaints about debt collection. They have generally refused to consider complaints where a court judgement has been made. This includes all cases where High Court enforcement officers are used.³²
- **The Consumer Council for Water** offers consumers the chance to seek redress. This is supported by escalation to the Water Redress Scheme (WATRs) which is a free independent dispute resolution scheme. Although

²⁹ HCEOA website, [HCEOA complaints process](#), accessed: December 2018.

³⁰ Local Government and Social Care Ombudsman, [Complaints Fact Sheet Bailiffs](#), May 2017.

³¹ Financial Ombudsman Service, [Debt Collecting](#), accessed: December 2018

³² Citizens Advice adviser case study, complaint not considered by ombudsman as stated they could not be involved where a court process had started i.e. where HCEO had received a County Court Judgement, complaint made June 2017.

debt collection is included as an issue about which consumers can make a complaint, decisions are binding on water companies rather than the bailiff firm or individual bailiff.³³

On the whole, Ombudsmen in the regulated sectors listed above are well functioning bodies of independent arbitration. However, they look at the actions of the creditor and not those of the bailiff. As we will go on to see, the lack of such bodies in the bailiff sector limits the accessibility and effectiveness of redress.

³³ Water Redress Scheme, [Further help if you remain dissatisfied](#), accessed: December 2018

Part 3: What are the outcomes of complaints?

There are multiple avenues through which to make a complaint, and outcomes vary widely depending on how the complaint was made. Compared to regulated sectors there is a distinct lack of transparency about how complaints will be handled. The non-statutory process is particularly vague about the consequences associated with complaints.

A. Statutory complaint outcomes

There are definitive possible outcomes when complaining through the various court processes. The forms available to complainants lead to different types of redress depending on the topic of the complaint. These are outlined in table 2.

Table 2: Review of possible court complaint outcomes

Court Form	Topic of complaint	Possible outcome
EAC2	Bailiff fitness to hold certificate	Bailiff's certificate cancelled or suspended
N244	Overcharging of fees	Money refunded
N244	Taking control of exempt goods	Goods returned
N244	Breach of rules	Damages paid and/or return of goods

Source: Court procedure rules 84/85³⁴

B. Non-statutory complaint outcomes

Bailiff firms

There are no statutory guidelines for firms about how complaints should be reviewed nor the kind of sanctions or compensation that should result. At this level, there is very little public information about the consequences of complaints. Table 3 below contains information about how complaints will be finalised from the website of the 5 firms most commonly dealt with by respondents to our adviser survey.

³⁴ Gov.uk, [CPR - Rules and Directions, 2018](#).

Table 3: Review of bailiff firm complaints outcomes

Firm	Complaints outcome from complaints procedure
Marstons	"Once we come to a conclusion, the customer resolution officer will fully explain our findings and our decision to you."
Bristow & Sutor	Question in the complaint submission form: "What would you like to happen as a result of this complaint?"
Equita	Not mentioned. "In the event that you're not happy with our response, you can get in touch with the Civil Enforcement Association (CIVEA), which has a formal complaints procedure"
Jacobs	"As we are acting on behalf of the Council, your complaint and the outcome will be shared with them."
Rossendales	"Once we come to a conclusion, we will fully explain our investigations, findings and decision to you.."

Source: Bailiff firm websites, accessed: December 2018³⁵

Most of the firms offer an explanation of findings but none suggest that they will take remedial action. There is no commitment to compensation or disciplinary action against the bailiff in question.

Trade associations

CIVEA are similarly non-committal about the result of complaints beyond notification: "Should the complaint be upheld, the Executive Council will make sure the enforcement agent or company complies with their decision"³⁶

HCEOA are more prescriptive, setting out clear actions to be taken. There is the potential for both compensation to the debtor and penalties against the enforcement officer: "If the complaint is upheld, the Complaints Board may:

- A. give instructions about the HCEO's and/or their agent's behaviour, which they must follow in the future;
- B. direct the HCEO to pay up to £15,000 in penalties &/or costs
- C. recommend to us that we take away the membership of the HCEO and take the case to the Lord Chancellor. We will make recommendations about whether the HCEO should continue to be one of our members, or whether they should be an authorised HCEO; and/or
- D. award compensation to you if they think that you have been unfairly treated in any way by the HCEO."³⁷

³⁵ [Marstons](#), [Bristow & Sutor](#), [Equita](#), [Jacobs](#), [Rossendales](#), accessed: December 2018.

³⁶ [CIVEA complaints process](#), reviewed 14 December 2018

³⁷ [HCEOA complaints process](#), reviewed 14 December 2018

C. How does the bailiff sector compare to regulated sectors?

In general, the sector stands in stark contrast to regulated sectors, which have statutory guidelines on complaints and clear routes of independent arbitration. FCA regulated firms must abide by the FCA's handbook which contains a chapter on redress including a section on disputes and complaints.³⁸

FCA regulated firms are required to employ an individual to ensure they are compliant with the provisions of the rulebook on complaints.³⁹ They must allow complaints to be made by any reasonable means (unlike some bailiff firms and CIVEA who require complaints in writing) and to recognise that complaints require resolution.⁴⁰ The FCA is prescriptive about how complaints should be resolved:

Box 4: FCA Handbook DISP 1.4 Complaints resolution rules⁴¹

DISP 1.4.1

Once a complaint has been received by a respondent, it must:

- (3) offer redress or remedial action when it decides this is appropriate;
- (4) explain to the complainant promptly and, in a way that is fair, clear and not misleading, its assessment of the complaint, its decision on it, and any offer of remedial action or redress; and
- (5) comply promptly with any offer of remedial action or redress accepted by the complainant.

It also has detailed provisions on how firms must deal with problems that are revealed by complaints:

Box 5: FCA Handbook DISP 1.3 Complaints Handling Rules⁴²

DISP 1.3.3

A respondent must put in place appropriate management controls and take reasonable steps to ensure that in handling complaints it identifies and remedies any recurring or systemic problems, for example, by:

- (1) analysing the causes of individual complaints so as to identify root causes common to types of complaint;
- (2) considering whether such root causes may also affect other processes or products, including those not directly complained of; and
- (3) correcting, where reasonable to do so, such root causes.

³⁸ FCA Handbook, [DISP: Dispute Resolution: Complaints](#), 2018.

³⁹ FCA Handbook, [DISP 1.3.7](#), 2018.

⁴⁰ FCA Handbook, [DISP 1.3.2](#), 2018.

⁴¹ FCA Handbook, [DISP 1.4](#), 2018.

⁴² FCA Handbook, [DISP 1.3](#), 2018.

Without independent regulatory oversight there is no guarantee that bailiff firms will offer fair redress to complainants, let alone that they will address systemic failings. In fact, adviser and client experiences outlined in the following sections suggest firms rarely go beyond superficial acknowledgement of wrongdoing.

Part 4: How often are complaints made?

The complexity of the complaints process and the lack of potential sanctions means that too many people don't complain. In the last two years nearly **3 in 4 people (72%) who experienced bailiffs breaking the rules didn't complain.**⁴³ The statutory process in particular is very rarely used.

A. Statutory complaints

In the 4 years since the 2014 regulations there have been only 56 complaints to court about a bailiff's fitness to hold a certificate.⁴⁴ This is evidence that it is too difficult to seek redress against bailiffs. Our research shows that, annually, bailiffs break the rules over 400,000 times. In the same period, an average of just 14 complaints are made regarding bailiffs fitness to hold a certificate. This very small number of complaints shows that bailiffs are operating in a highly unaccountable environment.

B. Non-statutory complaints

Bailiff firms

There is little available data on how many complaints have been made to firms directly.

The One Year Review of the 2014 reforms published in 2017 listed data from Her Majesty's Courts & Tribunal Service (HMCTS) on the number of complaints made in 2014/15 to the agencies they use to collect court fines. This stated there were 2,361 complaints made to the enforcement agencies they use to collect court fines in 2014/15.⁴⁵

Enforcement agency Marstons are the primary contractor for HMCTS in the North West, South East and the South West regions, and first reserve contractor for the London, Midlands and North East regions.⁴⁶ They claim to receive over 550,000 cases annually as primary contractor for HMCTS.

⁴³ Citizens Advice analysis of YouGov polling, based on the question "Did you use any formal complaints procedures (e.g. to the creditor, the organisation, the trade association etc.) to raise concerns about your experience?". Base: 198.

⁴⁴ Ministry of Justice, Freedom of Information request, reply received: October 2018.

⁴⁵ MOJ, [One year review of Enforcement Agent reforms introduced by the Tribunals, Courts and Enforcement Act 2007](#), 2018, p 10.

⁴⁶ Marstons website, [Case study: HMCTS](#), accessed: November 2018.

In the absence of more accurate data, a crude calculation based on the figures of Marstons and HMCTS suggest in this instance **complaints are made in less than 1% of cases.**⁴⁷

Trade associations

It is similarly difficult to find data on the frequency of complaints made to the trade associations CIVEA and HCEOA. CIVEA themselves acknowledge that the industry has “extremely low levels of complaints” and that even fewer are escalated to CIVEA for adjudication.⁴⁸

C. How does the bailiff sector compare to regulated sectors?

Compared to other sectors with established ombudsman services or independent arbitration to handle complaints, the bailiff sector is far less transparent in this respect.

FCA regulated firms are required to report to the FCA up to twice a year depending on how many complaints they receive. They must include information about the number of complaints received, along with a breakdown of how many were upheld and the compensation paid.⁴⁹ There is also an obligation for firms to publish this data publicly. Without this level of regulatory oversight, data on bailiff complaints is guarded by bailiff firms, excluded from the public domain and lacks independent review.

The FCA Handbook illustrates the clarity and consistency that is possible in a regulated system with an independent complaints process. The Financial Ombudsman resolved 400,658 complaints in 2017/18.⁵⁰ It is a well publicised, accessible route for redress that people (largely) have faith in to consider cases independently.⁵¹

The diagram below illustrates the regulated complaints process in financial services which firms are legally required to follow. This model combines a strong regulator with an independent complaints process. It is one that could be replicated in relation to bailiffs if a similar form of regulation were adopted:

⁴⁷ This is an over estimation bases on HMCTS and Marstons’ figures. 2,361 complaints in 2014/15 represents 0.43% of the 550,000 cases Marstons claim to deal with annually. However, there were more cases as Marstons were not the only enforcement agency working for HMCTS.

⁴⁸ “Compared to many sectors, our industry has extremely low levels of complaints and few are escalated to CIVEA for adjudication” Russell Hamblin Boone, CIVEA CEO in CIVEA newsletter, July 2018.

⁴⁹ FCA Handbook, [DISP: Disputes Resolution: Complaints](#), 2018.

⁵⁰ Financial Ombudsman Service, [Annual Review 2017/18](#), 2018.

⁵¹ Complaints feedback in Financial Ombudsman Service, [Annual Review 2017/18](#), 2018.

A regulated system: FCA complaints requirements



DISP 1.2 Consumer awareness rules

Firms are obligated to refer people to their complaints process at the point of contact. Information must be provided in a clear, comprehensible and easily accessible way. Complainants must also be signposted to the Financial Ombudsman.

DISP 1.3 Complaints handling rules

People must be able to make a complaint by any reasonable means and the firm must recognise all complaints as requiring of resolution. Firms must ensure lessons are learnt and determinations by the Ombudsman are effectively applied in future complaints handling.



Firms must ensure that in handling complaints it identifies and remedies any recurring or systemic problems. They must have an individual employed to ensure they are compliant with these regulations.

DISP 1.4 Complaints resolution rules

Firms must investigate the complaint competently, diligently and impartially, obtaining additional information as necessary. Remedial action must be taken promptly when required.



DISP 1.6 Complaints time limit rules

Firms must send complainants an acknowledgement of their complaint and ensure they are kept informed about how the complaint is progressing. Complaints must be dealt with within 8 weeks.

DISP 1.10 Complaints reporting rules

Firms must send a complete report of complaints from eligible complainants to the FCA at least once a year.



DISP 1.10A Complaints data publication rules

Firms must publish their complaints data including total number of complaints. The FCA also publishes the data alongside sector wide complaints data.

Source: FCA Handbook

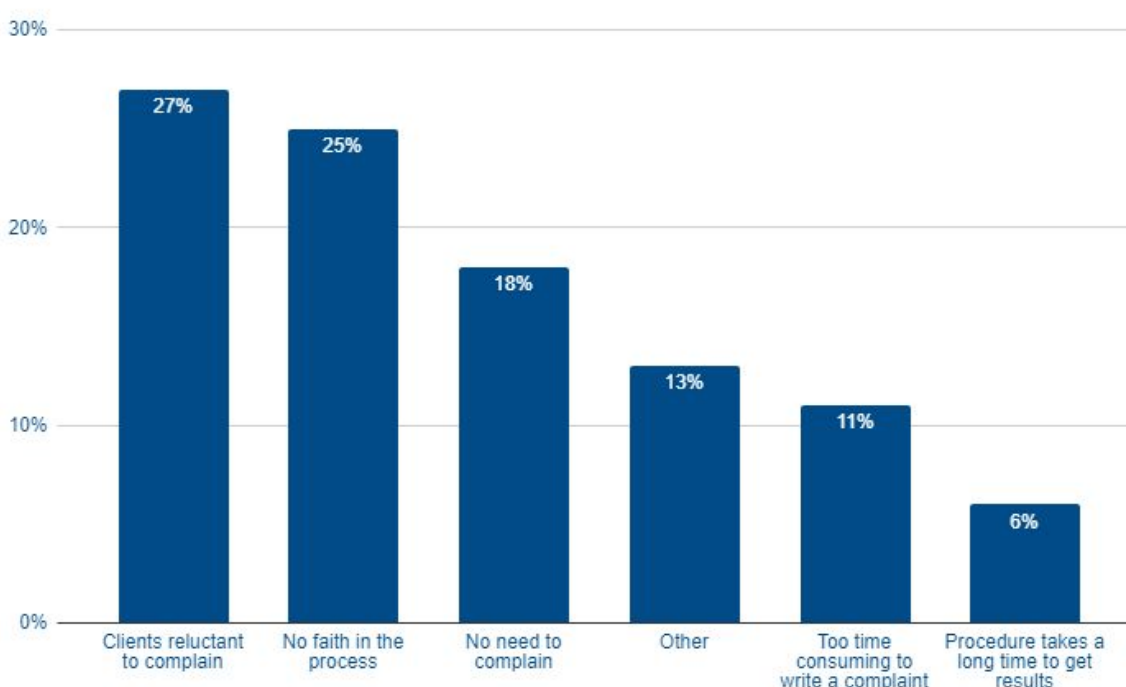
Part 5: Why don't people complain?

Nearly 3 in 4 (72%) of those who experienced bailiffs breaking the rules in the last two years didn't complain. Given that nearly 850,000 people have experienced a bailiff breaking the rules during this time, this represents a vast number of bailiffs not being held to account.

We spoke to 14 Citizens Advice advisers and 15 clients about their experience making complaints about a bailiff. Their experiences demonstrate 2 major problems with the current complaints process. First, the process puts people off making a complaint. Second, even when people do make a complaint, the process is ineffective at holding bailiffs to account.

These failings are self-reinforcing, negative experiences and lack of adequate outcomes serve to further put people off complaining. As shown in Chart 1, nearly 1 in 3 people Citizens Advice helps with bailiffs are reluctant to complain. And 1 in 4 advisers say they don't use the complaints process because they have lost faith in it.

Chart 1: Why haven't you used complaints procedures to raise concerns about bailiff/enforcement agent practices since April 2014?



Source: Survey of debt advisers conducted between June- August 2018, base: 83.

In this section we look in more detail at those barriers to making a complaint. The following section describes the problems people experience once they've made one.

The factors preventing people from making a complaint can be split into three broad categories:

- It is unclear how to make a complaint
- The pressure of the enforcement process puts people off complaining
- There is a lack faith in the process

A. It is unclear how to make a complaint

The process of complaining about a bailiff is unclear. Debtors are unsure of their rights and less sure of how to make a complaint. Many do not even know they are able to do so.

i. Confusion about rights

Two thirds of people describe their awareness of their rights around bailiffs as poor.⁵² This lack of clarity is a significant barrier to complaints.

There are multiple types of bailiffs responsible for different kinds of debts and they all have different powers. Some bailiff firms have enforcement agents, County Court bailiffs and High Court enforcement officers operating in their name, making it hard for people to know what type of bailiff is pursuing them. The regulations governing enforcement agents - the bailiffs our research relates to - span multiple pieces of legislation that are not easily accessible for people.

Added to this, we have seen that bailiffs are guilty of misrepresenting their powers. Our national polling found that nearly 1 in 5 (17%) of people visited by bailiffs face threats to break into their property.⁵³ And local Citizens Advice advisers recorded 46 evidence forms in the last year testifying to bailiffs misrepresenting their powers of entry. As a result, people are unclear as to what their rights are and what bailiffs are allowed to do when they are visited by them.

“There is a massive misunderstanding between a debt collector and a bailiff. I spend a significant portion of my time with clients explaining the differences in the power of enforcement.”

Adviser

Our advisers are able to reassure clients about what bailiffs are legally allowed to do. They can also point out when a rule has been broken. For debtors without access to advice services, getting clarity and seeking redress in this way is much more difficult.

⁵² Citizens Advice, [A law unto themselves: How bailiffs are breaking the rules](#), 2018.

⁵³ Citizens Advice, [A law unto themselves: How bailiffs are breaking the rules](#), 2018.

Vulnerable groups are overrepresented amongst people who have experience of bailiffs.⁵⁴ The experience itself has been seen to cause significant distress and exacerbate mental health issues.⁵⁵ It is not surprising therefore that debtors struggle to understand their rights in relation to bailiffs let alone determine where they have grounds for complaint.

“They [clients] are really stressed, it may have developed into depression or a mental illness. Just at the fear of being pursued for money and thinking that all your goods are going to be taken. Also the thought that the bailiff might break in and change the locks on them.”

Adviser

ii. Confusion about how to complain

Just as people are unaware of their rights when it comes to bailiffs, many do not know they can complain. And bailiff firms themselves do not make it clear in their correspondence with debtors.

“Clients don't even know they have a right to complain. That's the most common thing I come across these days. People really aren't aware of the fact that there is a complaints process that exists because they [bailiffs] don't say so. None of the paperwork says 'if you are unhappy with our conduct you can complain.' The only way you can find it is if you go looking on their sites. A lot of people that we speak to are surprised that there even is a complaints process.”

Adviser

Once again, this stands in stark contrast with the behaviour of firms regulated by the FCA who are mandated to “publish appropriate information regarding their internal procedures for the reasonable and prompt handling of complaints... in writing at, or immediately after, the point of sale.”⁵⁶

There is also a lack of clarity about how to complain, and who to complain to. As outlined in Part 2 there are a myriad of ways to complaint about bailiffs. The most common route is through the bailiff firm, but even this can involve multiple levels of escalation involving independent committees at the firm level, before the trade association and eventually the courts.

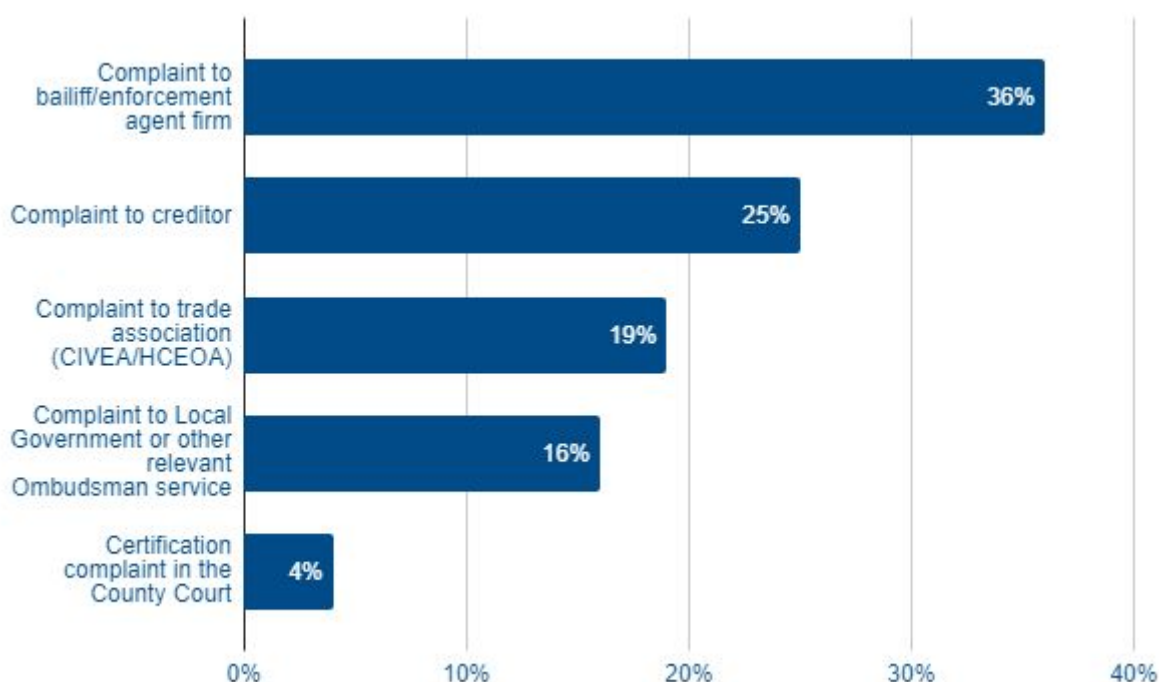
The advisers who took part in our survey were split about how they generally complain, demonstrating that even experts do not know the best way to lodge a complaint. Although 36% went through the firm, a significant proportion used other routes.

⁵⁴ Clients with bailiff issues are disproportionately likely to be single parents, living in social housing or have a disability and long term health issue. Citizens Advice, [A law unto themselves: How bailiffs are breaking the rules](#), 2018.

⁵⁵ In the last year, our advisers reported at least five cases where clients have been left suicidal after a visit by a bailiff who refused to accept an affordable payment plan.

⁵⁶ FCA Handbook, [DISP 1.2 Consumer awareness rules](#), accessed: December 2018.

Chart 2: Who do you complain to?



Source: Survey of debt advisers conducted between June - August 2018, base: 219.

B. The pressure of the enforcement process puts people off complaining

Debtors and advisers have limited capacity to pursue complaints. Advisers have heavy caseloads while debtors often have complex lives. Both have more pressing concerns than to pursue a grievance about a bailiff breaking the rules and therefore are put off making a complaint.

i. Time

Debtors are limited by their efforts to manage an often complex financial situation while advisers, who are often balancing large caseloads, know how drawn out the process can be and so choose not to complain.

"We don't make enough complaints because we just don't have time. I've made 3 but could have easily made 30."

Adviser

As previously mentioned, debtors are often not capable of tackling the complaints process alone and so are reliant on advisers to make them on their behalf. This can lead to complaints not being made as advisers have large caseloads that limit their capacity to launch one.

ii. Enforcement action

Linked to these time constraints are the pressing financial concerns that debtors have. Debtors and advisers alike naturally prioritise relieving financial pressures over challenging bailiff malpractice. This is particularly pertinent due to the fact that embarking on a complaint does not halt enforcement action. This means that charges accrue and debtors can expect further bailiff visits even after making a complaint.

"It's really flawed because of the time it takes. They don't put action on hold. We've had people withdrawing complaints because they feel the bailiffs will be harsher."

Adviser

With the prospect of continued action, advisers and debtors seek to limit the impact of this rather than pursue a complaint. This often results in complaints being dropped. Once a debtor has rectified their situation to some extent - by agreeing a repayment plan or getting a debt relief order for example - they no longer wish to continue.

"Even though they've been treated badly by the bailiff they don't want to follow up with the complaint because they've got what they wanted. If it was a quicker process it would be different."

Adviser

During such a high-pressure period for a debtor the time involved in making a complaint is a significant deterrent. Likewise for advisers managing large caseloads of clients with pressing financial issues. The time involved in making a complaint and the fact it has no impact on the enforcement process is a significant driver in suppressing the number of complaints made.

C. There is a lack of faith in the process

There are high levels of distrust in the complaints process which put people off lodging complaints in the first place. Clients are doubtful about seeking redress from the company they perceive the bailiff to be working for, while advisers have experience of the lack of outcomes that tend to follow a complaint and therefore choose not to pursue them. Our polling of advisers showed 25% don't advise clients to make a complaint as they have no faith in the process.

i. Client apprehension

A significant barrier to complaints being made is the suspicion debtors have about complaining directly to a bailiff's company. Despite being self employed, all correspondence from bailiffs contains references and branding related to the firm. With the more pressing concerns already mentioned, the thought of directing complaints to the same organisation that has been acting inappropriately does not seem an attractive option.

*"An independent company is going to say what they feel, they're going to say if something's not right. If you own the company you're not going to say that."
Client*

ii. Adviser's distrust of the process

Advisers too are sometimes put off complaining due to a lack of trust. 1 in 4 (25%) advisers stated that on occasions they hadn't complained due to a lack of faith in the process.

For advisers, a lack of trust emerges not because firms aren't independent, but because of previous unsuccessful attempts to complain:

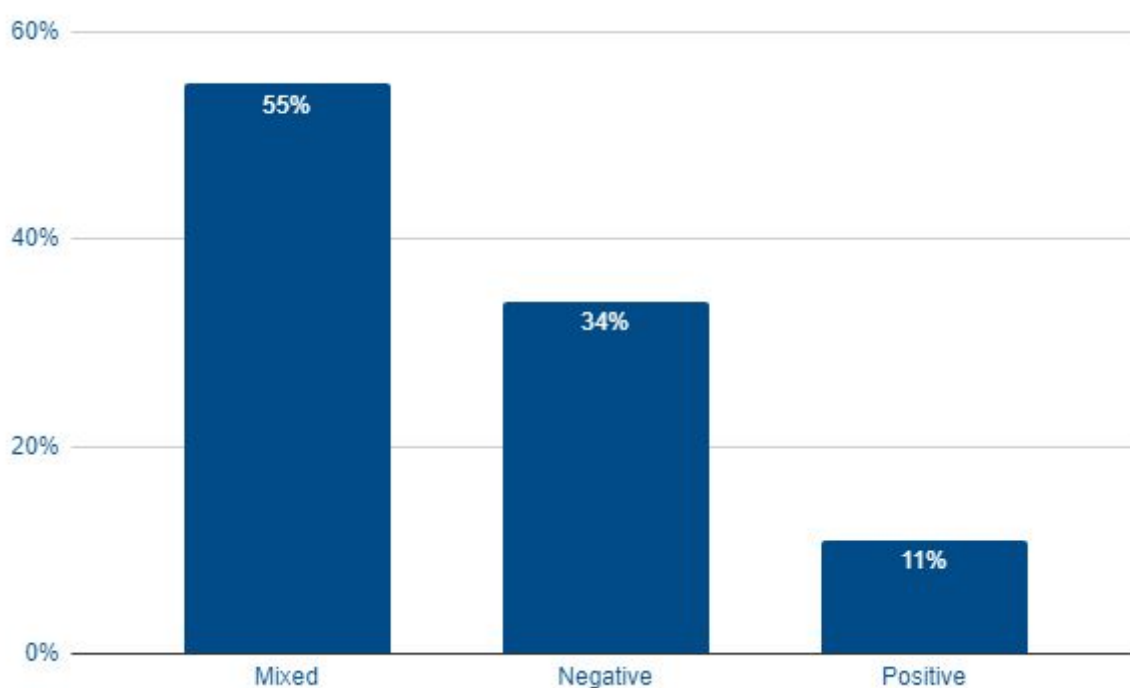
*"It's a waste of time complaining to [the firm]. Their head office does nothing"
Adviser*

We will go on to see how these poor experiences weaken a system that is intended to hold bailiffs to account. The failure of bailiff firms to follow up and deal with complaints creates a vicious circle that means advisers are even less likely to make a complaint in the first place.

Part 6: Why doesn't the complaints process work?

Bailiffs can often break the rules and avoid sanction because of the barriers to making a complaint in a self-regulated industry that lacks an independent complaints body. In the instances where people do make a complaint about a bailiff, their experience is often not satisfactory. **Over a third of advisers have a negative experience when complaining. Only 1 in 10 report a positive experience.**

Chart 3: How was your experience of the complaints procedure you used?



Source: Survey of debt advisers conducted between March - September 2018, base: 205.

No complaints process is perfect, and you might expect some people to report negatively about procedures where they have not been satisfied with the outcome. However, comparing this overwhelmingly negative feedback with that of the Financial Ombudsman Service reveals the gulf between people's experience of the bailiff complaints process compared with regulated sectors.

Table 4: Financial Ombudsman Service complaints feedback 2017/18

Complaints we looked into in more depth, including those where an ombudsman made a final decision		
Feedback	Agreed	Disagreed
We gave clear and honest answers	72%	17%
We used common sense	64%	24%
We listened and cared	68%	22%

Source: Financial Ombudsman Annual Report 2017/18.

Only one of the metrics relating to people’s satisfaction with the ombudsman's service drops below 65%. Given that just 34% of complaints were upheld by the Ombudsman in 2017/18 this represents a significant number of people whose complaint was rejected.

Complaining about bailiffs is a different story. Our interviews with advisers and clients who have experience of the process showed shared negative experiences of the process. 2 problems stand out:

- The structure of the complaints process makes complaining frustrating
- The process itself does not function effectively

A. The structure of the process makes complaining frustrating

Beyond the barriers keeping people from complaining about enforcement action in the first place, structural challenges and obstacles exist within the process itself.

i. Lack of independence

Both clients and advisers raised the lack of independence within the complaints process as a particular difficulty. Often people said they thought firms and trade organisations did not listen to them and were quick to dismiss any wrongdoing on behalf of the enforcement agents.

*“Bailiff firms always take side of the bailiff, CIVEA do nothing. Never had a complaint upheld. CIVEA have got no teeth, they don't do anything”
Adviser*

The perceived lack of independence of firms and trade bodies obstructs mutual trust. Many felt that they were going up against the system as a whole, with those processing the complaint being on the agent’s side.

"If you're complaining to the financial ombudsman, it's an independent body. But here, you're going back to the company. An independent company is going to say what they feel, they're going to say if something's not right. If you own the company you're not going to say that. I can't really see it doing us any good because these people just clan together when it comes to [things like this] but we won't let it rest"

Client

When people perceive a system to be actively working against them they understandably lose faith in its ability to uphold their rights. Complaints processes should be seen to work independently of vested interests.

ii. Lack of accountability

Another problem clients and advisers experience is a lack of accountability. Without proper oversight, complaints are sometimes handled with seeming indifference, or worse, obstruction. This can take a multitude of forms, such as parties being unwilling to take responsibility, evidence being lost, inadequate response and complaints not being followed up.

Clients and advisers report a reluctance on the part of firms to hear complaints in the first place. They also said that the process itself can be drawn out without apparent reason.

"You're just running round in circles. The head office are saying they don't want to deal with it. Speak to the bailiff, it's in the bailiff's hands. Even if you put a complaint in they still say speak to the bailiff."

Adviser

In cases when complaints are considered, loss of evidence is particularly alarming. 3 of the 14 advisers we interviewed reported a loss or withholding of evidence including 'body-cam' footage, letters, recordings of phone calls or the complaint itself. Whether accidental or intentional, the loss of evidence demonstrates how the complaint process is not being well managed in its current self-regulatory form.

"One client was being pursued for a debt they weren't liable for. They wanted to make a complaint because they thought the enforcement agent was particularly aggressive and had forced their way into property. As part of the complaint, they asked the bailiff firm for video evidence of entry, as recorded by the body cam agents have to wear, and the firm had lost the evidence."

Adviser

If complaints are upheld, outcomes are only vaguely described by firms. Advisers with years of experience making complaints testify that consequences are almost non-existent.

*“Outcomes are usually just a letter, minimal info. A lot of stuff is overlooked”
Adviser*

Advisers talk of aspects of complaints being ignored, like issues around perceived aggression on behalf of the bailiff. The fact that such breaches of the regulations are being ignored reveals an industry acting with impunity.

iii. Shifting the blame

Firms routinely pass complaints around, from firm to agent to creditor and back again. This adds to the complex and convoluted nature of the complaints process, with clients often having to go down multiple avenues before the complaint is even acknowledged.

*“Rang [water company] to get action suspended but they said there was nothing they could do, we need to talk to [the enforcement agency]. But, the firm said there was nothing they could do either.”
Adviser*

Our advisers commonly report not having the time to go through this process as they know it will involve routinely being passed back and forth.

*“[It was] referred to the Trade Association who referred back to firm. We went through three levels at trade the association before an independent adjudicator ruled in favour of clients.”
Adviser*

Often those who get into debt and experience bailiff action are vulnerable people. This passing of the blame can aggravate these situations, as well as putting extra responsibility on family members who may have to pursue the complaint on their behalf.

*“Rang the firm to complain, he’s a vulnerable adult who had an overdose from an attempted suicide after the bailiff visit and has been sectioned, but they didn’t want to hear it, “nothing to do with us”, told to ring Enforcement Agent.”
Client*

B. The process of complaining doesn’t function effectively

It is not only structural failings that afflict the current complaints process. Whether going through bailiff firms or the courts, the process requires challenging interactions and is often conducted with a lack of engagement from the institutions involved. The case study in the diagram below illustrates how difficult the complaints process can be even when there is a legitimate grievance.

A challenging process: An adviser and client make a complaint



Enforcement agent enters client's property chasing a parking fine debt that belongs to client's son who no longer lives at the property. Enforcement agent behaves aggressively, refusing an offer of payment and unplugging TV preparing to remove goods despite this being illegal. Feeling intimidated, client pays the amount in full.

Client visits a solicitor to pursue a complaint against the enforcement agent. He is told that there's 'no point complaining as they never pay anything back.'



Client decides to go to Citizens Advice who write a letter to the firm outlining the grievances. In particular that the debt was not the client's and that the enforcement agent had not behaved appropriately.

The bailiff firm initially reject the complaint as the debtor's name is not on the correspondence. Despite the fact that it's the mistaken identity that is the very reason the complaint has been made.



Firm eventually accept official complaint. They reply to say that they believe the debtor resides at the property and that the client could not prove the items did not belong to the debtor. They also state that as a voluntary payment was made no refund would be given.

Adviser escalates to CIVEA. CIVEA tell them to go back to the firm as their process has not been fully exhausted.



Adviser goes through 3 levels of the firm's complaints process. With very little communication about the status of the complaint they repeatedly phone up to try and find out what's going on. At the final stage, after 18 months, the firm's internal adjudicator ruled in favour of client and the money is refunded. No action is taken against the bailiff.

Source: Interview with Citizen Advice adviser

i. Treatment of clients vs advisers

Both advisers and clients noted a disparity in how complaints were handled when they are submitted by an adviser compared to a client. The anecdotal evidence suggests firms are much more likely to take complaints seriously when they hear an organisation like Citizens Advice is involved. In one instance, a client's baby had just died. She relayed this information to the bailiff but he refused to listen. The client came to Citizens Advice in a distressed state. An adviser rang the bailiff firm to question the bailiff's action, and was able to negotiate a more lenient approach for the client. When she drew attention to the bailiffs unsympathetic approach, she was told "the thing is, love, everyone's baby has just died." This disregard for a debtors side of the story was seen as typical.

*"People have tried to contact the bailiffs themselves but they just don't listen."
Adviser*

There are tangible differences between how bailiffs pursue a case once Citizens Advice has become involved. Advisers report how previous reluctance to accept repayment plans or claims of vulnerability are suddenly forgotten once Citizens Advice has lodged a complaint.

*"Sometimes a client will try and they say no to repayment plan, but then goes to Citizens Advice and the bailiff will say yes."
Adviser*

This is particularly concerning given that many debtors will not get advice. It is likely that the process is much harder for those that make a complaint on their own.

ii. Raising a complaint is time consuming

There is consensus between both advisers and clients that the complaints procedures across bailiff firms are excessively time-consuming. Firms do not respond quickly to complaints or appeals. In the example illustrated above, it took the adviser 18 months to see a complaint through and have the clients' money returned. Firms regulated by the FCA, on the other hand, must resolve complaints within 8 weeks of receiving them.⁵⁷

A lack of communication from enforcement agencies slows down the process of complaining. Ideally, the complainant should receive an email confirming receipt of a complaint, and giving an indication of when resolution will be reached. Sometimes this does not happen. Several advisers reported that they had to regularly contact the enforcement agency for updates because there was no communication received from the firm. There is often no clear point of contact when the complainant seeks information on the progress of their complaint.

⁵⁷ FCA Handbook, [DISP 1.6.2 Complaints time limit rules](#), access: December 2018.

This once again contrasts with firms regulated by the FCA who are required to ensure complainants are kept informed.⁵⁸

"The complaint was handled very badly, we had to call on numerous occasions to find out the progress of the appeal. We sent several faxes, we had to chase them all the time"

Adviser

Bailiff firms request a very high level of evidence. Additional information is often requested several months after a complaint has been lodged. At this point, debtors may not remember precise details or have kept all their records. In a few cases, information is requested which the debtor would not have access to. In one instance, a complaint was not accepted by the enforcement agency because the name of the bailiff was not present in the grievance. The adviser called the firm several times trying to find the name of the bailiff but it was not given, due to data protection reasons. In the end, the adviser had to visit the firm in person to find the name of the bailiff and start the complaint procedure for his client.

"They ask for further information so often. In the end the client gave up"

Adviser

iii. Complaining leads to unsatisfactory outcomes

Both advisers and clients often feel frustrated by going through a lengthy and arduous complaints process, only to find that the outcome is only a minor sanction for the bailiff. On a number of occasions, we found that after an adviser raised a complaint about a bailiff, the firm stated that the problem had been resolved. However, there was no transparency about what form the resolution took or whether the complaint reached the enforcement agent.

"[I] don't think complaints usually go back to the enforcement agents. [The] outcome is usually just a letter, there's minimal information in it. A lot of stuff is overlooked as they are protecting their own enforcement agents."

Adviser

On other occasions, advisers report that the sanction received by the bailiff is small in comparison to the instance of malpractice. For example, on one occasion a firm that undertook debt recovery accidentally passed a debt to an enforcement agent. The bailiff told the woman who owed the debt that he would call the police and get her sent to prison. When a complaint was raised by our advisers, the bailiff firm simply apologised and passed the debt back to the other side of the firm. There was no further action to discipline the bailiff.

On another occasion, a client with council tax debts had all his payment offers rejected, and was told that the bailiff would shortly return to break in. An adviser raised a complaint with the firm:

⁵⁸ FCA Handbook, [DISP 1.6.1 Complaints time limit rules](#), accessed December 2018.

*“What was the outcome of the complaint? I received an acknowledgement but the collection didn’t stop”
Adviser*

Finally, even where complaints are acknowledged, we sometimes find that poor practice continues. On one occasion, a bailiff told a client that there was a controlled goods agreement in place, when in fact there was not. The bailiff maintained this when challenged by an adviser. In this instance, the bailiff firm apologised and admitted there was no control of goods agreement. Despite this, the bailiff still rejected £20 a month offer, despite the financial statement making it clear £26 was unaffordable.

The frustration and difficulty that advisers face when complaining is compounded by these unsatisfactory conclusions. As a result, advisers and clients are discouraged from submitting complaints when they face poor practice in the future.

Conclusion and recommendations

The bailiff complaints process is not fit for purpose. For an industry that contacts over a million people every year, the system is inaccessible and excessively onerous for those who do complain. The lack of consequences for individual bailiffs and for bailiff firms who are found to have broken the rules means the industry is able to act with impunity.

The government must use its consultation on bailiff regulation to make the industry more accountable. Alongside the Taking Control campaign of debt advice charities we are calling for two changes:

1. The Ministry of Justice should introduce an independent complaints mechanism through its consultation on bailiff regulation. We welcome the Ministry of Justice's call for evidence on bailiff regulation.⁵⁹ The Ministry of Justice must use this to create an independent complaints process through which people can seek redress when bailiffs break the rules.

At present, the primary avenue is to complain directly to the bailiff firm. Debtors can then escalate complaints to the bailiff's trade organisation. These processes are challenging to navigate and present issues around impartiality. It is also possible to lodge a complaint through the courts, either about a bailiff's fitness to hold a certificate or for the return of the goods. This requires large amounts of evidence from the debtor and can be an intimidating prospect.

The Ministry of Justice should introduce a free, clear and transparent complaints body that works in tandem with an independent regulator. People should be able to complain directly to this body so that their complaints can be reviewed independently of the bailiff industry and outside the court system.

2. The Ministry of Justice should introduce an independent bailiff regulator to accompany this complaints process. The 2014 reforms set a high standard for the mechanisms by which debts should be collected. However, a lack of sanctions and no incentives to comply with those rules means they haven't cleaned up the industry. It is important now, therefore, that the Ministry of Justice introduces an independent agency which can ensure that bailiff firms and individual bailiffs stick to the rules which govern their behaviour and treat debtors fairly. A regulator would support the effectiveness of the complaints mechanism. It would enforce the penalties and sanctions that are currently lacking and supervise firms to ensure they are compliant with decisions made by the complaints body.

⁵⁹ MoJ, [Review of 2014 enforcement agent reforms introduced by the Tribunals, Courts and Enforcement Act 2007: call for evidence](#), November 2018

Appendix

Methodology

Citizens Advice client data

Citizens Advice helped more than 1.95 million people last year. For every person we help, we record an 'advice issue.' These run at 3 levels of detail. The first level is fairly general, e.g. 'debt' or 'benefits'. The second level of detail tends to give a type of problem, e.g. 'council tax arrears' or 'parking fine' and the third level of detail states what the specific issue is, e.g. 'bailiffs - rights of entry' or 'bailiffs - offers of payments'. More than one issue can be recorded per person who visits us - on average, people who come to us with a bailiff query have 2.2 issues associated with bailiffs. All data which relates to clients or bailiff issues is from the financial year (running from April - March) with which it is associated. Citizens Advice website data Citizens Advice's website is a major resource for people looking for free information and advice on their rights. We count the number of unique visitors to Citizens Advice's web pages. We screen out all visits from Local and National Citizens Advice offices.

Interviews with Citizens Advice clients and advisers

We interviewed 14 Citizens Advice advisers and 15 clients to discuss their experience of complaining about bailiffs. These interviews were conducted between October and December 2018.

Citizens Advice evidence forms

Where our advisers encounter significant poor practice they can submit an 'evidence form'. These forms record key issues with the case and a brief description of the client's experience. Evidence forms are not a proportional reflection of all the cases advisers deal with, but do provide a useful indication of when and how bailiffs are breaking rules.

Adviser Survey

Between 7 June and 31 August 2018, we circulated a survey to 434 advisers who worked for organisations within the [Taking Control Coalition](#).⁶⁰ We asked them the same questions we posed to advisers in 2016 for the One Year Review of Enforcement Agent Reforms. We would like to thank our partners in the Taking Control coalition for circulating this survey.

Nationally Representative Polling of England and Wales

A nationally representative opinion poll of people in England and Wales was commissioned by Citizens Advice and StepChange Debt Charity, with a number of questions relating to debt collection, experience with bailiffs and use of complaints procedures. YouGov online field research was conducted with 5,786

⁶⁰ A coalition of eleven debt advice organisations: AdviceUK, Christians Against Poverty, Citizens Advice, Community Money Advice, Institute of Money Advisers, Money Advice Trust, Money and Mental Health Policy Institute, Payplan, StepChange Debt Charity, The Children's Society and Z2K.

respondents between 12 and 17 September 2018. Many thanks to StepChange Debt Charity for kindly agreeing to share this data in our report.

Free, confidential advice. Whoever you are.

We help people overcome their problems and campaign on big issues when their voices need to be heard.

We value diversity, champion equality, and challenge discrimination and harassment.

We're here for everyone.



citizensadvice.org.uk

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