



Removal of the sanction of imprisonment for the non-payment of council tax

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Introduction

Citizens Advice is the largest multi-channel provider of free debt advice. Debt is the second most common issue that we help people with and during 2017 to 2018 we saw 27,526 people with 115,264 debt related issues. Council tax arrears is the single largest debt issue that our advisers see, accounting for 11% of all debt problems (5,962 people with 13,096 problems) during 2017-18. Of those issues, 4,072 were related to enforcement/bailiffs and of those, 291 queries were regarding means enquiry and prison.

Do you agree that the sanction of imprisonment for non-payment of council tax should be removed?

Citizens Advice fully supports the Government's proposal to prohibit imprisonment as a punishment for failure to pay council tax. Sending an individual to prison over council tax debt will in turn make it harder for them to pay back the debt as well as manage other debts, as it impacts on use of high cost credit, and causes clients to miss rent/mortgage payments, as well as payments for gas and electricity.

We agree with the Welsh Government that council tax debt is not a crime, and that the sanction of imprisonment is an outdated and disproportionate response to a civil debt issue. However people are still being sent to prison for not being able to pay. Being sent to prison can have detrimental consequences, and individuals can be left traumatised by imprisonment or threatened imprisonment. The study *'I can't believe we still do that'* reports that the use of committal proceedings for council tax debt has increased since 2013, and are often used against people who are most vulnerable.¹ Household bill debt is collected more aggressively than consumer credit debts, and methods are *'deliberately punitive'*.² However such measures are not appropriate for a debt problem, as non-payment of council tax is very rarely a result of wilful refusal or culpable neglect. As

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<https://www.i-m-a.org.uk/other-services/social-policy/ima-payplan-council-tax-imprisonment-campaign/> p.15.

² Citizens Advice, ['Hidden Debts: The growing problem of being behind on bills and in debt to the government'](#), p.9.

a result there is *'strong evidence'* that imprisonment over council tax debt is a *'miscarriage of justice'* as those who are prosecuted often cannot afford to pay.³

By the time clients seek advice from us they are usually at crisis point, often following a court summons or visit from an enforcement agent. It is rare that a client refuses to pay their council tax, and problems with debt arrears often come as a result of low income, insecure or irregular work, changes in benefits, and a change of circumstances such as losing a job, a relationship breakdown or being made redundant. As a result of financial insecurity and lasting debt problems, clients often have to choose between paying their council tax or paying other essential bills, such as water bills, fuel bills and rent. Not paying such bills could lead to eviction, or having gas and electricity cut off.⁴ Clients in council tax debt are more likely to be unemployed, to have mental health problems, and to live in social housing.⁵

Imprisonment and the use of bailiffs can push already vulnerable people into a distressing position where they struggle to manage their mental health. Nearly 8% of our clients in Wales with mental health problems had a problem with council tax arrears during 2017 to 2018. Some clients may ignore or not open council tax letters due to feeling overwhelmed by their financial situation. Some clients have poor literacy and budgeting skills, as well as an inability to prioritise different debts. As a result, it is important that the debt collection system is more person centred, and isn't designed around the needs of local authorities or the minority of people who refuse to pay. Instead support should be available to those who are unable to pay and local authorities should encourage debtors to seek debt advice and find a solution to their problem.

One local Citizens Advice in Wales sees clients most weeks with letters from the local authority threatening a committal hearing. However, when they explore the issue it is often evident that the reason for non-payment does not meet the criteria of culpable neglect or wilful refusal. They then contact the council to advise that a means hearing would be a further waste of the public purse and such action doesn't have a positive impact on the debts owed to the local authority.

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<https://www.i-m-a.org.uk/other-services/social-policy/ima-payplan-council-tax-imprisonment-campaign>
/p.11.

⁴ ['Hidden debts'](#), p.18.

⁵ ['Hidden debts'](#), p.17.

The main issue seen at this particular local Citizens Advice relating to council tax arrears are where they arise due to an incorrect calculation of council tax, particularly overpayments, where the recoveries department refuse to hold any action whilst the benefits section review the case, despite there being a 14 week delay in processing benefit claims. The other issue we found is that some local authorities frequently use bailiffs to recover council tax arrears, and there are examples of the practice of sending an account that is returned by one bailiff firm to another firm. Advisers also note that some local authorities are also very quick (to the letter of law) to apply for a Liability Order, which is especially frustrating when there are such long delays in processing benefits.

Case study 1

Jane is single and lives with her two adult children in a 3 bedroom house rented from her local authority. She works part-time as a school cleaner earning £330 pm. Her daughter claims UC and her son JSA, but neither contribute towards household costs. Jane has received an eviction notice in respect of unpaid rent. Jane states that her only debts are both with her local authority for rent and council tax. She was unsure as to the amounts involved and was unsure of the position with regards to CTR and HB. Her local Citizens Advice contacted her local authority rent department and Jane's rent arrears debt currently stands at £1848.22. The local authority are unable to stop the eviction at this point and Jane needs to appeal to the court. Jane also has a debt of £339.61 from 16/17 and 17/18 which has been passed to bailiffs this week. Jane also has a debt of £669.91 from previous years with an attachment of earning order, £11 p/m. She has a further debt of £828.77 for which **committal to prison proceedings** have been instigated. Citizens Advice staff contacted Shelter Cymru and spoke at length to staff about Jane's situation. Jane will have a further appointment with her local Citizens Advice to complete a N244 form to suspend the warrant.

Citizens Advice have worked with the Welsh Local Government Association to develop guidance on council tax debt collection to ensure the system is fair and effective in Wales.

Do you have any other comments regarding this consultation?

Ending imprisonment for non-payment of council tax is vital to improving local government debt collection practices more broadly, and our advisers have cited the *over-use* of enforcement agents as one of the biggest problems associated with council tax debt recovery in Wales.⁶

The study 'Stop the Knock' found that eight of the 21 local authorities in Wales reported that they have a formal policy in place covering residents in vulnerable circumstances (38%).⁷ However our research has highlighted that our advisers were generally critical of enforcement agents' approach to vulnerability, as they are more resistant to accepting verbal evidence from advisers that a client is in a vulnerable situation, and rarely consider a client's circumstances or identify vulnerability proactively'.⁸

Evidence from local Citizens Advice offices demonstrates that enforcement agents could often demonstrate intimidating behaviour, in turn causing clients further stress and anxiety. We have long called for Welsh Government and WLGA to ensure all local authorities have commonly agreed indicators of debtors in vulnerable situations, and are aware of the action that needs to be taken in those circumstances.⁹ This also ties in with another recommendation, which is that debt is immediately called from enforcement agents if vulnerability is identified, in order to pursue a more appropriate approach for debt recovery.¹⁰ Likewise, the Welsh Government and WLGA should

⁶ Citizens Advice, '[Fairness for all: Improving council tax debt collection in Wales](#)', p.7.

⁷ Money Advice Trust, '[Stop the Knock: Mapping local authority debt collection practices in England and Wales](#)', p. 16.

⁸ '[Fairness for all](#)', p.35.

⁹ '[Fairness for all](#)', p.10.

¹⁰ '[Fairness for all](#)', p.11.

ensure that all enforcement agents employed by outsourced debt collection services have undergone specific training in dealing with vulnerability.¹¹

Citizens Advice also believe that more personalised and clearer methods of communication with debtors is needed to encourage them to take action and seek debt advice earlier, and this includes proactively referring debtors to external advice agencies, such as Citizens Advice.

While enforcement agents are routinely threatening vulnerable clients face-to-face, the free advice sector has concerns that complaints about agents are not investigated thoroughly. Citizens Advice asks that local authorities establish a system for investigating complaints concerning the behaviour of enforcement agents, with appropriate action being taken for repeat offenders.¹² There should also be an independent bailiff regulator so that people know where to turn if they are treated unfairly and to rid the industry of bad practice and inappropriate behaviour.¹³

As well as vulnerability often being overlooked by local authorities, our [research](#) reveals that client affordability was rarely taken into consideration and people often felt that they had little choice in how the council tax was repaid, and little consideration was given for their ability to afford to pay the debt.¹⁴ The research also highlighted that even when some clients told their local authority that they couldn't afford to pay the monthly repayment amount asked of them, the council refused a reduction and there was often no room to negotiate repayments.¹⁵

Many of our clients cannot prioritise their debts or feel overwhelmed by their financial situation. However, it is evident that many people are offered limited support from their local authority in relation to their council tax debt and greater consideration needs to be given to their circumstances before enforcement is pursued. By using information they already hold on debtors, such as benefits information (Council tax reduction; Housing benefit etc), local authorities can use the most appropriate debt recovery method and ensure that enforcement agents are only used as a last resort.¹⁶ If support is available, such as the Council Tax Reduction Scheme (CTRS) and other discounts, they need to be

¹¹ ['Fairness for all'](#), p.11.

¹² ['Fairness for all'](#), p.12.

¹³ <https://wearecitizensadvice.org.uk/its-time-for-an-independent-bailiff-regulator-e44b5f486dce>

¹⁴ ['Fairness for all'](#), p.36.

¹⁵ ['Fairness for all'](#), p.37.

¹⁶ ['Fairness for all'](#), p.11.

promoted more clearly so that eligible households know that they are entitled to the extra support.

It is also important that local authorities use the most effective method of enforcement possible in each circumstance. There is concern about the level and appropriateness of enforcement when clients are vulnerable or are in debt as a result of irregular low paid work or a change in benefits. Research by Citizens Advice reveals that that over half of advisers believed that council tax debts are passed to enforcement agents too quickly, before allowing sufficient time to explore other repayment options.¹⁷ However, it is important that an affordable repayment plan is agreed and that it is ensured that deductions from benefits or attachment of earning orders don't result in additional hardship for debtors.

There are several ways in which local authorities in Wales can recover council tax debt. In order to ensure the most appropriate debt recovery method is used for an individual, it is important that the local authority is aware of the person's circumstances. There should also be greater flexibility on repayment options, such as rescheduling debt if payments are missed and extending the timeframe beyond the financial year.

¹⁷ ['Fairness for all'](#), p.28.

Case Study 2

Lisa is single and currently has no fixed abode- she stated she is sofa surfing with friends and family at the moment but is hoping to secure a property by the end of the month. Lisa rang her local Citizens Advice earlier today as she has had a phone call from her mother stating that a bailiff has turned up at her property regarding a council tax debt that Lisa owes. Lisa stated that she contacted the bailiff and he advised that the debt is regarding council tax arrears owed to a different local council and she currently owes just over £700. Lisa stated that she isn't disputing liability for the debt but she is unable to pay it all in one go. She has tried negotiating with the bailiff and asked him not to call at her parents' address but he has advised that this is the address he has been given for enforcement so unless she can provide him with another address this is the one he will continue to enforce at. Lisa told him that she is unable to give him another address as she has no fixed home at the moment and has told him she is unable to immediately pay the amount asked of her. The bailiff has stated that he will remove goods from her parents' house if she doesn't come to some sort of payment arrangement.

Lisa wants to know what rights her parents have to keep him out and she wants to know if we could assist her to negotiate a suitable payment arrangement. We explained that bailiffs have no right of entry for council tax arrears so her parents don't have to let him in as long as he hasn't gained entry already. This was a huge relief for Lisa. Lisa will be attending another appointment with her local Citizens Advice who will help her negotiate a suitable payment arrangement.

Case study 3

Mrs K owes council tax arrears. She paid £1500.00 and is due to pay £270.00 per month, however, she is not able to maintain this amount. Mrs K is single, with a non-dependent daughter who works. She suffers from acute health issues. Mrs K receives ESA at £125.65 per week.

Bailiffs arrived one morning and clamped the car outside the property. The car belonged to her mother - the mother's name is on the logbook but the bailiffs have said because the insurance is in the client's name she is regarded as the owner.

Mrs K was able to make some payments but was not able to pay the amount the LA were asking for. The clamp was eventually removed with intervention from the police. The enforcement issue exasperated her health problems. Local Citizens Advice were able to help Mrs K make affordable payments to repay the money owed.