MONEY ADVICE TRUST

BUSINESS DEBTLINE NATIONAL DEBTLINE WISER ADVISER

Consultation Response:

Centre for Social Justice Call for evidence on government debt collection

Response by the Money Advice Trust

Date: January 2020

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Introduction

About the Money Advice Trust

The Money Advice Trust is a charity founded in 1991 to help people across the UK tackle their debts and manage their money with confidence.

The Trust's main activities are giving advice, supporting advisers and improving the UK's money and debt environment.

In 2019, our National Debtline and Business Debtline advisers provided help to more than 199,400 people by phone and webchat, with 1.97 million visits to our advice websites.

In addition to these frontline services, our Wiseradviser service provides training to free-to-client advice organisations across the UK and in 2019 we delivered this free training to over 981 organisations.

We use the intelligence and insight gained from these activities to improve the UK's money and debt environment by contributing to policy developments and public debate around these issues.

Find out more at www.moneyadvicetrust.org

Public disclosure

Please note that we consent to public disclosure of this response.

Introductory comment

We welcome the opportunity to respond to this call for evidence from the Centre for Social Justice. Government debt collection practices, how they are employed and their consequences, have become a distinct area of focus for our charity and our influencing work over the past few years.

In the early part of the last decade, calls to our National Debtline service were mostly to do with a small number of large debts mainly owed to creditors in the private sector (credit card debt, personal loans and so on). However, over the last 10 years we have seen a significant shift toward smaller, more complex debts. Callers to National Debtline are increasingly reporting difficulty in making ends meet on basic, essential bills, and increasing numbers of people contacting us who are struggling with debts to central and local government. Indeed, these debts are now among the most common debt types that people ask for our advice, support and help in dealing with.

The way that many government departments collect debts is in many cases inadequate, both in terms of the effectiveness of the debt collection itself and the impact that collection practices have on the individuals who owe the debt.

Within this response we have summarised our evidence on government debts as well as our key asks of local and central government. These include our 6 Steps for Local Authorities[1] put forward as part of our Stop the Knock[1] campaign, and our current recommendations for a range of central governments departments including HM Treasury, the Department for Work and Pensions, Ministry of Housing, Communities and Local Government and Ministry of Justice.

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Responses to individual questions

Question 1 – Has there been a rise in debts owed to government authorities? If so, what has driven this rise? And what has its impact been?

Yes, there has been a significant rise in debts owed to government authorities, and a shift in the problem debt landscape that has included more people presenting for debt advice with debts to government bodies.

Our recent report, A Decade in Debt,[1] provides a wider overview of the main drivers of household debt based on information and data gathered from our debt advice service National Debtline and shows how the debt landscape changed between 2008 and 2018. While in the early part of the decade, calls to National Debtline were mostly to do with a small number of large debts mainly owed to creditors in the private sector (credit card debt, personal loans and so on), we have seen a significant shift toward smaller, more complex debts over the last 10 years.

Callers to National Debtline are increasingly reporting difficulty in making ends meet on basic, essential bills. As a result, we have witnessed an increase in debts owed to utilities companies, in rent arrears and indeed to central and local government.

In recent years, we have seen a rise in a number of government debt types at National Debtline and its sister service Business Debtline, which provides free advice to people who are self-employed and other small business owners. These include council tax arrears, benefit and tax credit overpayments, income tax and VAT debts, business rate arrears and parking penalties. While there are a number of factors that may have contributed to this rise in government debt, it is important to note that the picture is complex making it difficult to draw causal links.

[1] Money Advice Trust, September 2018, A Decade in Debt, link.

Council tax arrears

Council tax arrears are now the most common household debt we help people with at National Debtline, with 29% of callers to National Debtline in 2019 struggling with council tax arrears – up almost two-fold from just 15% in 2008. More widely, according to MHCLG figures,[2] council tax arrears increased from £2.8bn in 2018 to £3.2bn in 2019. Council tax debt is the most common government debt that callers to National Debtline are struggling with. Research carried out by Citizens' Advice[3] mirror our trends, revealing that in 2018 one in 10 households were behind on their council tax – an increase of almost a third since 2010.

Over the past decade there have been dramatic changes to council funding structures. According to National Audit Office[4] figures, local authorities in England have seen an average real terms fall of 49% in central government funding since 2010. As a consequence, many have taken steps to find alternative avenues for raising the money needed to fund the increased demand on their services. Many are now more reliant on other sources of income raised locally through council tax and business rates. In more recent years, this includes raising council tax. Changes in legislation have also allowed local authorities to add a precept to provide ring-fenced funding for adult social care since 2016, which pushes council tax bills up further.

It is difficult to draw causal links between these increases in council tax bills and council tax arrears, but higher council tax rates – and a high likelihood that council tax bills will continue to increase, given the continued pressures on local government finance – add greater urgency to calls for action to deal with the problem of arrears.

A more direct driver of council tax arrears, however, has undoubtedly been the replacement, in 2013, of the national Council Tax Benefit with localised Council Tax Support schemes, with 10% less of the central government funding that originally supported the provision of council tax support to low income families. As a result, many local councils have responded by setting a minimum payment for low income families, meaning those who used to be eligible for 100% support under the old scheme have now had to pay council tax for the first time with finances that are already stretched.

Benefit and tax credit overpayments

Callers to National Debtline are increasingly presenting to the service with benefit and tax credit overpayment debt, which has seen a sharp increase from 3% of callers in 2010 to 17% by 2018. Benefit and tax credit overpayments now account for the second most common government debt type reported by people who call our advisers seeking help with problem debt.

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[2] Ministry for Housing, Communities and Local Government, June 2019, Collection rates and receipts of council tax and non-domestic rates in England 2018-19, link.
[3] Citizen's Advice, April 2019, Harsh collection methods adding half a billion in fees to people's council tax debt, link.
[4] National Audit Office, March 2018, Financial sustainability of local authorities 2018, link.

Over the last decade there have been considerable changes made to the benefit system, both under the Welfare Reform Act 2012 and the introduction of Universal Credit, and the government's concerted effort to tackle fraud in the system with the creation of the Fraud, Error and Debt Taskforce. Benefit overpayments have remained proportionally consistent around the 2% mark as a proportion of total DWP expenditure, but have increased significantly in monetary terms from £2.9bn in 2008/9 to a record £3.6bn by 2016/17.[5]

The government has also increased the ways an overpayment can be recovered, including through the use of Direct Earnings Attachment which enables the DWP to recover debts by requiring employers to make deductions from their employees' earnings without the need for court action. In addition, the maximum deduction level of 30%, which until very recently stood at 40%,[6] that can be applied to benefit payments to claimants who have received an overpayment can have the impact of pushing the claimant further into debt.

In 2015/16 the DWP and local authorities jointly recovered £1bn[7] in benefit overpayments. It is possible that the proactive steps that the DWP is taking to tackle fraud and recover historic overpayment debts are leading to many people being faced with an unexpected bill for overpayment of benefits that they may not have received under the legacy benefits system. As those in receipt of government benefits are often from low income households, many may struggle financially as a result.

Debts owed to HMRC

Many people who contact us for support through our Business Debtline report that they are struggling with tax debts, with 32% of callers holding debts to HMRC. It is often not just one debt that they are having difficulty paying – 35% of Business Debtline callers surveyed with debts to HMRC reported having multiple HMRC debts.

The most common debt type owed is income tax, accounting for 30% of callers, with Business VAT accounting for 4% and Corporation Tax debts accounting for 3%.

Parking debts

While reporting limitations mean we do not have figures for the instances of National Debtline callers reporting issues relating to parking penalty charge notice (PCN) debts, our advisers report that this debt type increasingly features in calls to National Debtline.

Recent research by the RAC Foundation found that income councils are receiving from PCNs is on the rise. In 2018-19 councils in England received £454m from penalties, an increase of 6% year-on-year.[8]

It is also the case that parking debts are increasingly being referred onto bailiffs by councils for collection, as outlined in our Stop the Knock[9] report – an issue that will be covered in more detail in response to question two.

[5] Department for Work and Pensions, November 2017, Fraud and Error in the Benefit System Final 2016/17 Estimates, link.
[6] In October 2019, the maximum rate at which deductions from Universal Credit, to repay an advance payment, was reduced from 40% to 30% of the standard allowance
[7], Damien Green Secretary of State for DWP, 9th February 2017, Fraud, Error and Debt Measures: Written statement, link.
[8] RAC Foundation, 2019, Council Parking Revenue in England, link.
[9] Money Advice Trust, September 2019, Stop the Knock, link.

Question 2 – Is the way public bodies collect debt adequate? How do different public bodies compare (e.g., DWP, local authorities). And how does this compare to other creditors (e.g. utilities, credit cards, international comparisons)?

The way that public bodies collect debt is in many cases currently inadequate, both in terms of the effectiveness of the debt collection itself, and the impact that collection practices have on the individuals who owe the debt.

Benefit and tax credit overpayments

We have long argued that any overpayment deductions taken from benefit payments should be done so only when it is affordable to the individual. Currently, affordability assessments are not carried out in cases of overpayment deductions, with the maximum rate for deductions currently at set at fixed 30% of the standard Universal Credit allowance. For people in financial difficulty receiving benefit payments, who often already have existing debts to repay, this risks pushing them further into debt and arrears. Our view is that the current maximum 30% rate of repayment is too high, at risk of being implemented as standard without affordability assessments, and should be reduced to the 5% rate in line with other deductions for fuel and water arrears.

Council tax arrears

Missing one payment of council tax can mean that arrears rapidly increase due to the liability placed on the individual to pay the whole year's council tax if this occurs. The increase in the debt owed can incentivise the local authority to escalate the situation rapidly which often leads to the referral of the debt to bailiffs.

There has been a significant rise in the number of debts passed onto bailiffs by local authorities in England and Wales. Research carried out as part of our Stop the Knock[10] campaign revealed that for those who responded to our FOI request council referrals to bailiffs for the collection of debts increased 7% between 2016/17 and 2018/19. In 2018/19, local authorities passed a total of 2.6m debts to bailiffs. In the case of council tax debt we have seen the rate of referrals level out more recently – with overall bailiff use for council tax arrears stable between 2016/17 and 2018/19, compared to a 10% surge in the preceding two years.

[10] Money Advice Trust, September 2019, Stop the Knock, link.

Nevertheless, the number of referrals to bailiffs for council tax remains high at around 1.4m referrals per year and there are wide variations in referrals, with 49% of councils in England and Wales actually increasing their use of bailiffs to collect council tax debt between 2016/17 and 2018/19. When we surveyed our callers to National Debtline in 2018, 83% said that bailiff action had a negative impact on their wellbeing.[11]

Parking debts

Parking debts feature highly in our Stop the Knock[12] research for a debt passed onto bailiffs by councils for collection. Unlike in the case of council tax, council referrals of parking debt to bailiffs is rapidly rising and in 2018/19 accounted for 1.1m of all council referrals. Indeed, the 7% overall increase in council referrals to bailiffs has largely been driven by their increased efforts to recover parking debts. As outlined in the RAC Foundation research mentioned previously, councils are collecting significant and increasing income from parking charges which may go some way to explain this increase in bailiff use against the background of a reduction in central government funding.

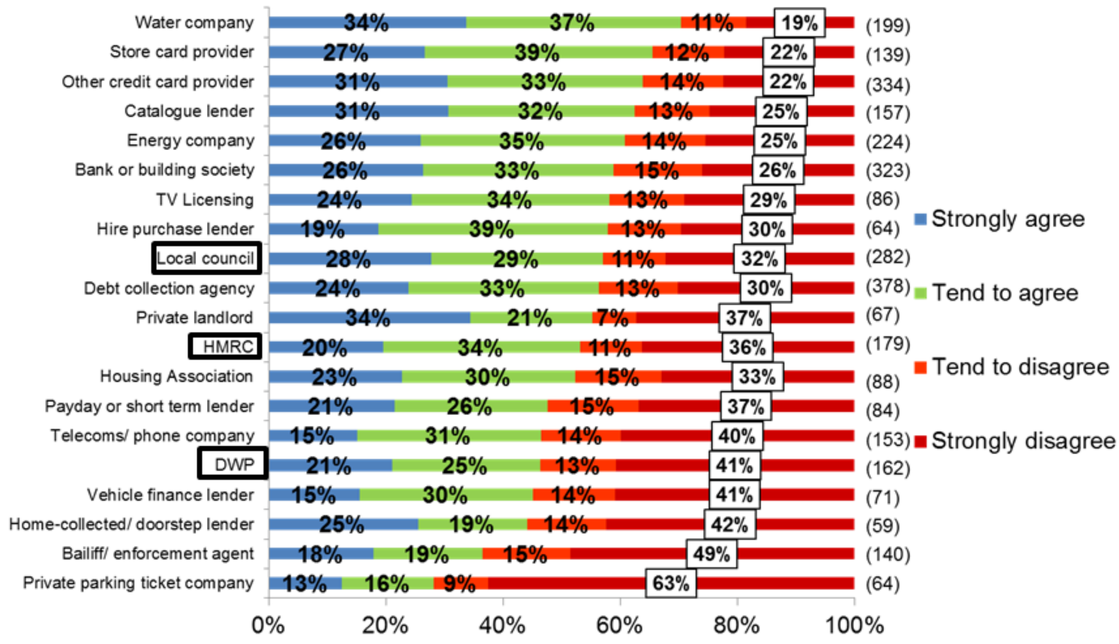
Business rates

Whilst business rate debts do not feature highly as a debt type at 3% for people calling our Business Debtline seeking support, they are a debt that councils regularly refer to bailiffs for collection. In our recent survey of councils in England, 95% reported to use bailiffs for the collection of business rate debt.

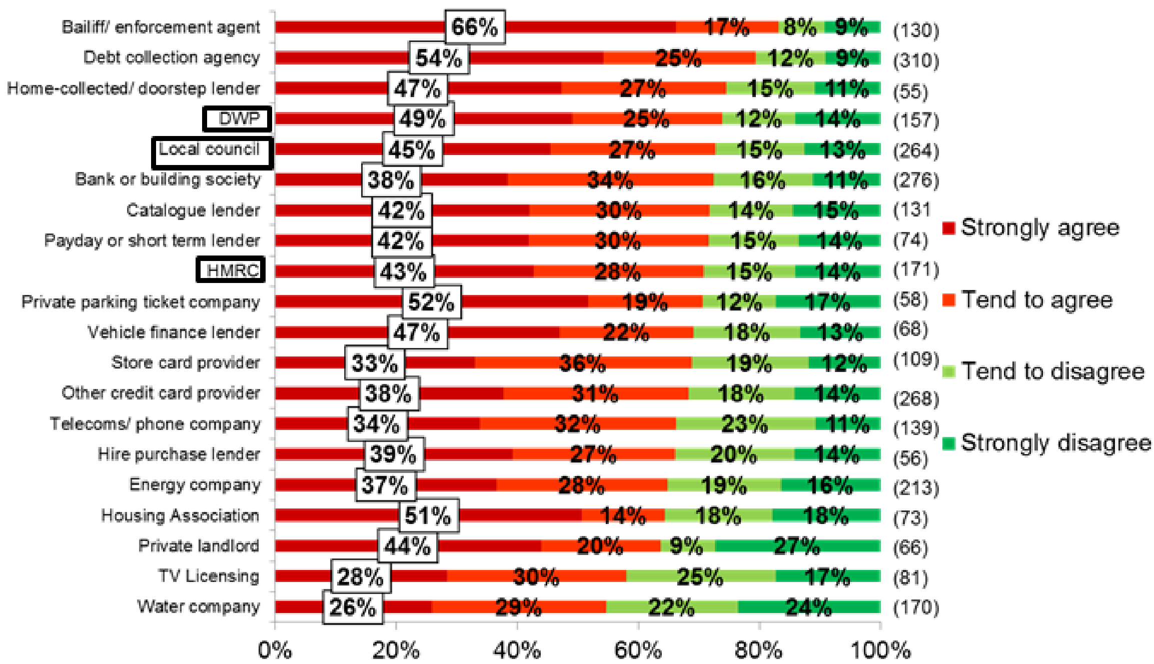
Comparison across creditor sectors

Evidence from our annual National Debtline client survey shows that clients tend to rank government bodies relatively low, amongst creditors, in terms of 'perceived assistance with debt resolution', and relatively high in 'perceived negative impact of creditor action'. As part of our annual client survey,[13] we asked people who had contacted our National Debtline the extent to which they thought their creditors were helpful in offering to support them resolving their debts. The first chart on the following page offers a cross sector comparison of the results.

[11] Our 2018 Annual Impact Survey of National Business Debtline callers. Base: 130 callers who had experienced bailiff action
[12] Money Advice Trust, September 2019, Stop the Knock, link.
[13] Annual National Debtline Client Survey, January 2019, Money Advice Trust.



We also asked clients as part of the survey what extent they agreed that their creditors had a negative impact upon their wellbeing. The comparative cross-sector results of their responses are shown in the chart below.



Question 3 – What has been the government response to recent criticism of the rise of debt owed to public bodies and poor debt collection practices? Has this response been sufficient?

The Money Advice Trust has taken an active role in lobbying for change in the debt collection practices across central and local government, including as a member of the cross-government Fairness Group,[14] and through our campaigning for bailiff reform and improved local authority debt collection practices.

Responses from central and local government in this area in recent years include:

- **A renewed fairness agenda in government debt collection** - In May 2019, the cross-government Fairness Group, which includes government departments and agencies across Whitehall and the debt advice sector, released a statement[15] committing to renew its efforts to improve fairness in government debt collection. After years of only minimal progress, as detailed in the National Audit Office Tackling Problem Debt report,[16] this represented an important milestone for the Group, and we have seen a significant strengthening of the fairness agenda, led by the Cabinet Office, in the period since.
- **Breathing Space scheme's inclusion of public sector creditors** - In June 2019 HM Treasury confirmed the inclusion of all public sector debt in its new statutory Breathing Space[17] scheme set to launch in 2021, which will provide 60 days of statutory protection from creditor action for people struggling with problem debt. We welcome this move, and the inclusion of public sector debt within its remit. However, the HM Treasury's[18] decision to delay the inclusion of Universal Credit advanced payments and deductions until a later date, beyond the 2021 launch of the scheme, remains an issue of concern. While we understand the administrative and technical challenges that exist in including these debts at this stage, it is vital that both are included at the earliest opportunity to ensure a truly holistic and universal approach to supporting people in problem debt and to mitigate the destabilising impact that both debts can have on a person's financial situation.

[14] Fairness Group Joint Public Statement, 7 May 2019, link
[15] Fairness Group Joint Public Statement, 7 May 2019, link
[16] NAO, September 2018, Tackling Problem Debt (report), link.
[17] HM Treasury, 19 June 2019, Breathing space scheme: consultation on a policy proposal, link.
[18] HM Treasury, June 2019, Breathing space scheme: response to policy proposal, link.

- **Increasing engagement from local government -** There has been a welcome trend towards increased engagement with the debt advice sector on the part of local authorities in recent years, including as a response to continued criticism of councils' collection practices. As part of our Stop The Knock campaign we periodically contact council Leaders and Chief Executives with tailored recommendations on how their authority's collection practices could be improved. 38 local authorities (10% of the total in England and Wales) have committed to implementing at least one of the campaign's 'six steps'. The pace of change, however, is too slow.
- **Reviewing council tax collection practices -** In April 2019 the Ministry for Housing Communities and Local Government announced[19] a review into council tax collection practices, especially in the context of vulnerable residents. This review is ongoing and we would welcome more rapid progress. We have urged MHCLG to ensure the review considers not only changes to guidance, but also the 1992 Council Tax (Administration and Enforcement) Regulations.[20]
- **Reviewing the case for bailiff reform –** Following continuing concerns over the impact of bailiff action on people in debt, raised by the debt advice sector through our joint Taking Control campaign, in November 2018 the Ministry of Justice launched a call for evidence[21] on the impact of bailiff action. In early 2019 the Justice Select Committee endorsed[22] our call for independent regulation and an independent complaints mechanism. The government's call for evidence closed in February 2019, however nearly one year on, aside from a minor announcement[23] on compulsory body-worn cameras for enforcement agents in July 2019, no substantive response to either the call for evidence or the Justice Select Committee's recommendations have been forthcoming.

While many of these responses represent encouraging progress, it is difficult to conclude that the government's response thus far has been sufficient. The response to the next question sets out the further steps we think the Government should take as a matter of urgency.

[19] MHCLG, 10 April 2019, Government pledges to improve the way Council Tax debt is recovered (press release), link.
[20] The Council Tax (Administration and Enforcement) Regulations 1992, link.
[21] Ministry of Justice, November 2019, Review of enforcement agent (bailiff) reforms: call for evidence, link.
[22] Justice Select Committee, 11 April 2019, Regulator should oversee bailiff industry, link.
[23] Ministry of Justice, 22 July, Body-worn cameras to curb aggressive bailiffs (press release), link.

Question 4 – What are the key steps that could be taken to a) reduce the debt owed to government and b) improve government debt collection practices?

The focus of the Money Advice Trust's policy and influencing work on government debt has mainly primarily to the second part of this question, on improving government debt collection practices, and as such we have focused our response to this question on these issues.

As a general principle, it is important that the Government applies as consistent a debt collection policy as possible across all departments and agencies, and one that allows for fair treatment of people in debt and incorporates appropriate support for people in vulnerable circumstances. Below we set out our current recommendations for the Government to improve debt collection practices.

Cross-government recommendations

- **Adopt the Standard Financial Statement across all government departments and agencies as an objective means of assessing affordability of debt repayments.** A holistic approach to affordability is important, and we recommend that all government departments should incorporate the use of the Standard Financial Statement[24] to assess affordability of repayments in each case.

- **Review current approaches to the collection of debt from people in vulnerable circumstances, across all departments and agencies**. Government should learn from the private sector, and financial services creditors in particular, who have delivered significant improvements in the treatment of vulnerable circumstances in response to a strong focus on this area from regulators.

HM Treasury

- **Meet the government's commitment to include Universal Credit-related debts within Breathing Space as early as possible after launch in 2021.** For this new scheme to offer a genuine 'breathing space' for people in problem debt, it is crucial that all creditors are included – and the omission of Universal Credit advances and deductions from its remit at the time of launch in early 2021 is regrettable. These debts must be brought within the scheme without delay, and within the scope of Statutory Debt Repayment Plans upon their launch.

[24] Money Advice Service, What is the Standard Financial Statement? link.

Ministry of Housing, Communities and Local Government

- **Review and amend the Council Tax (Administration and Enforcement) Regulations** 1992, including putting an end to residents becoming liable for their entire annual bill upon one missed payment, and removing the sanction of imprisonment.
- **Place the Good Practice Guidance for Council Tax collection on a statutory footing** and introduce statutory reporting of debt collection methods and outcomes, across all debt types, to incentivise good practice and quicken the pace of improvement.
- Introduce (and fully fund) a mandatory requirement for **local authorities in England to re-introduce 100% Council Tax Support schemes**, to ensure that those residents identified as most in need of support using locally-set criteria are not required to pay.

Ministry of Justice

- **Introduce independent bailiff regulation and a single complaints mechanism**, as recommended by the Taking Control group of charities and the Justice Select Committee.[25] (see separate section below).
- **Review the enforcement of parking penalty charge notices** to bring this into line with the enforcement of County Court Judgments, including measures to allow the court to suspend warrants and people to apply to pay through affordable instalments.

Department of Work and Pensions

- **Introduce greater discretion and flexibility into the benefits deductions process,** to ensure that deductions are only used when they are affordable to the individual. Ideally this would include introducing affordability assessments to determine whether (and if so at which level) a deduction should be applied, and introducing a clearer and more accessible route by which people can secure a reduction in the amounts taken where this is causing them hardship. The DWP should also ensure they are not automatically setting deductions at the highest rate possible, where a sliding scale exists (such as for rent arrears).
- **Reduce the maximum level at which rent arrears, magistrates' court fines and benefit and tax credit overpayments can be recovered back to 5%** in line with other deductions for fuel and water arrears. The 5% deduction level is set at a level that has the best chance of creating a sustainable level of deductions for people on subsistence income. It also provides landlords with the security of knowing that the rent arrears will be reduced in a systematic and reliable way.

[25] Justice Select Committee, 11 April 2019, Regulator should oversee bailiff industry, link.

Our recommended 'six steps' for local authorities:

1. **Make a clear public commitment to reduce the use of bailiffs over time -** We recommend that council leaders make a clear public commitment to reduce the use of bailiffs over time by improving their debt collection practices, in order to provide clarity to officers at an operational level. This commitment could take the form of a public statement, a formal decision or statement of administration policy, or a motion of Full Council. This commitment should include all debt types, not just council tax arrears.

2. **Review signposting to free debt advice, including phone/online channels -** We recommend that all councils regularly review their signposting and referrals processes to ensure that all opportunities to help people access free debt advice are maximised. This should be implemented for all debt types, not just council tax. For councils who currently signpost only to face-to-face agencies, we recommend providing residents with a choice of channel by additionally signposting to telephone/online advice agencies.

3. **Adopt the Standard Financial Statement to objectively assess affordability -** We recommend that councils adopt the Standard Financial Statement (SFS), which provides a consistent, fair and industry-recognised method of working out affordable repayments, for residents in financial difficulty. For all types of debt, councils should proactively establish ability to pay before sending accounts for enforcement – and accept any provided SFS-compliant financial statement as a true reflection of income and expenditure.

4. **Put in place a formal policy covering residents in vulnerable circumstances -** We recommend that all local authorities should introduce, for all debt types, a formal vulnerability policy – either as a standalone document or in the form of specific and detailed provisions in a broader debt collection or corporate debt recovery policy. This should include identifying vulnerable residents and amending collections processes accordingly. Policies should be published and reviewed regularly, and should be accompanied by staff training.

5. **Exempt Council Tax Support recipients from bailiff action (England only) -** For authorities in England, we recommend exempting recipients of Council Tax Support, who have already been identified as requiring additional support through locally-determined criteria, from bailiff action altogether. This recommendation would see local authorities follow the lead of the small number of councils who have adopted this approach, which has been shown to deliver significant results for both residents and the taxpayer.

6. **Sign the Council Tax Protocol and review current practice against the Money and Pensions Service 'Supportive Council Tax Recovery' Toolkit -** Finally, we recommend that all local authorities in England should sign up to the revised Citizens Advice/Local Government Association Council Tax Protocol, agreed in June 2017. Many of the principles in the Protocol – and its Wales equivalent – can be

operationalized using the Money and Pensions Service's Supportive Council Tax Recovery Toolkit, against which we would recommend all local authorities review their current practices.

A note on bailiff reform

While the focus of this call for evidence is on government debt collection practices, it is impossible to separate this issue from the related issue of the need to reform bailiff action. There is an urgent need for independent regulation of bailiffs and bailiff firms. As it stands, there is no independent regulator and whilst complaints against bailiffs can be submitted to the Local Government and Social Care Ombudsman, there is little the authority can do to impose penalties for threatening or abusive behaviour. At the moment, the current system isn't working for people experiencing problem debt or the local authorities trying to collect payment. This is why we are calling for a "reduce and reform" approach to bailiff use – improving local government debt collection practices to ensure fewer debts are sent to bailiffs in the first place, while also reforming bailiff action itself.

In March 2017, we joined with Citizens Advice, StepChange Debt Charity and a wider coalition of debt advice charities to launch the sector's Taking Control[26] campaign for bailiff reform. This calls for independent regulation of the bailiff sector, and a free, independent complaints mechanism to be put in place.

We have seen how regulation can alter how creditors approach debt collection through the example of the FCA's regulation of debt collection agencies. The FCA's regulatory regime for these agencies has been effective and has provided more accountability in how debt collection agencies operate and reduced the impact this has upon the people they collect from, including those in vulnerable circumstances. For example, the FCA's report on Occasional Paper on Consumer Vulnerability in 2015[27] brought the focus on the experience of people in debt, encouraging debt collection agencies to reflect on how their practices can be improved. Supervision from the FCA has resulted in good practice collection techniques being adopted throughout the regulated debt collection sector. This should act as an example for how bailiff practices could be similarly improved through regulation. For more information see our response to the Ministry of Justice call for evidence on bailiff reform.[28]

[26] Citizens Advice, StepChange, Money Advice Trust et al.Taking Control, link.
[27] FCA, February 2015, Occasional Paper No. 8: Consumer Vulnerability, link.
[28] Taking Control, February 2019, Response to Ministry of Justice call to evidence on bailiff reform, link.

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