

Judicial Office

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13 September 2024

Dear Sir/Madam,

Response from the Institute of Revenues, Rating and Valuation: Civil Justice Council Enforcement Working Group Call for Evidence.

The Institute of Revenues, Rating and Valuation (IRR V) is pleased to provide this submission to the Civil Justice Council Enforcement Working Group Call for Evidence.

The IRR V is the professional body concerned with all aspects of local taxation and local benefits administration across the United Kingdom. Institute members, in both the public and private sectors, are engaged in local authority benefits administration, local tax administration, valuation of property for taxation and other purposes, the appeals processes and financial management in local government.

The Institute is the only professional body in the United Kingdom that specialises in the law and practice of local authority revenues and local taxation collection together with the income-related benefits that support these processes.

Please contact me should you wish to discuss any of the points raised in this submission.

Yours truly,



Gary Watson IRR V (Hons)

IRR V Chief Executive



Nick Rowe IRR V (Hons)

IRR V National President



Institute of Revenues, Rating and Valuation: Civil Justice Council Enforcement Working Group Call for Evidence

About the Institute

1. The IRRV is the professional body concerned with all aspects of local taxation and local benefits administration across the United Kingdom. Institute members, in both the public and private sectors, are engaged in local authority benefits administration, local tax administration, valuation of property for taxation and other purposes, the appeals processes and financial management in local government.
2. The Institute is the only professional body in the United Kingdom that specialises in the law and practice of local authority revenues and local taxation collection together with the income-related benefits that support these processes.

Responses to Questions

Your experience and awareness of enforcement

1) Which enforcement methods do you have experience of, if any?

3. Feedback from our members provided the following enforcement methods: Writ of Control through High Court Enforcement; Charging Orders; and Bankruptcy.

2) Are there any barriers you have experienced in seeking to enforce or satisfy a judgment and, if so, what were they?

4. The barriers provided by our members include: the quality of information provided (not giving full names, incorrect addresses) and the lack of communication data, such as telephone numbers and email addresses. In addition, refusal to deal with matters and refusal to admit entry to domestic premises were also highlighted as barriers to enforcement.

3) Which of the attached enforcement mechanisms do you find to be most effective in obtaining a resolution, and why?

5. Writ of Control through High Court Enforcement. There is a competitive marketplace of service providers who have invested in technology, data cleansing, tracing and visiting resources. As an officer authorised by the High Court, their powers are seen as an escalation for debtors, often leading to swift resolution.

4) Which of the attached enforcement mechanisms do you find to be least effective in obtaining a resolution, and why?

6. We would contend that the least effective enforcement mechanism is County Court Warrants of Control/Bailiffs. We would recommend that the ability to use private Enforcement Agents should be adopted in obtaining a resolution.

5) Do you consider any of the attached enforcement mechanisms should be promoted as being more effective than others?

7. Attachment of Earnings and Third-Party Debt Orders are effective enforcement mechanisms.
8. Writs of Control through High Court Enforcement, whilst effective in some cases, are limited due to the requirement that the debt has to be over £600.

6) Are there any enforcement mechanisms that you consider should be amended or varied to make them more appropriate for modern litigation from the perspective of either the creditor or the debtor?

9. High Court Enforcement through a writ of control: the debt threshold of £600 could be reduced, enabling small creditors to benefit from this effective remedy.
10. By reducing the size of the debt that could go to the High Court, the fees charged under the High Court regime would be increased. Instead, the County Court bailiff regime can be improved by widening it out County Court Judgements to the private enforcement industry (rather than using County Court agents). This would have the double effect of reducing MoJ costs and reducing court hearings.
11. If reducing the debt threshold for Writs of Control is deemed inappropriate, an alternative solution should be introduced: creditors should be able to use private Enforcement Agents, instead of a Warrant of Control/County Court Bailiff, using Schedule 12 TCE Act procedures.

7) Do you consider that there should be further measures attached to any of the current enforcement mechanisms to ensure greater fairness and/or protections for debtors?

12. No comment.

8) Do you have experience of the court enforcement mechanisms interacting with debt collection standards and practices outside the court system?

13. No comment.

9) Do you consider that the court enforcement mechanisms need to take into account debt collection standards and practices outside the court system and, if so, in what circumstances and in what ways?

14. No comment.

10) If court enforcement is to take into account debt collection outside the court system, what practical steps do you consider should be undertaken?

15. No comment.

Supply of information about potential judgment debtors

11) What steps, if any, do you consider the court could and should undertake to encourage greater engagement of potential judgment debtors (given the high number of default judgments)? [NB the Civil Justice Council (CJC) is reporting separately on pre-action protocols (PAP) including the debt protocol and the PAP is therefore not addressed in this list of questions.]

16. No comment.

12) Should the court require details of a defendant at the commencement of proceedings in order to ascertain whether a defendant could satisfy a potential judgment? (For example, by specific questions being included in the Directions Questionnaire, including details of any debts being enforced outside the court system);

17. Yes.

13) If information about the means of a potential debtor is sought early in proceedings, what information would you consider to be helpful?

18. Full name; current address; telephone numbers; email address; employment details; alternative address for contact; details of dependents, income and expenditure.

14) What experience, if any, have you had with making use of the provisions of CPR part 71 (orders to obtain information from judgment debtors)?

19. No comment.

15) If you have used the provisions of part 71 to obtain information about a judgment debtor's means, have you found the process effective?

20. No comment.

16) If not effective, why not, and what changes would you make to the provisions relating to obtaining information from judgment debtors and does there need to be an amendment to part 71?

21. No comment.

17) What would you consider to be an appropriate sanction/appropriate sanctions for a judgment debtor who fails to provide information to questions raised by the court?

22. A Court Fine.

18) If judgment is obtained, should the court provide details of the judgment debtor with the claimant at the time of judgment and, if so, what details should be provided (if any)?

23. Yes. Full name; current address; telephone numbers; email address; employment details; alternative address for contact; details of dependents, income and expenditure.

19) What safeguards should be put in place with respect to any data sharing to ensure that it is reasonable and proportionate and not unfairly detrimental to the debtor?

24. No comment.

20) Should the court have a role, independent of any applications made by any creditor, in obtaining details of the debtor?

25. Yes.

21) Should the court and/or the judgment creditor be given access to information held by HMCTS and the DWP (or other government departments or agencies) to gather financial information on the judgment debtor?

26. Yes.

22) What safeguards should be put in place to protect the individual with respect to financial information held by HMCTS and the DWP (or other government departments or agencies) and their privacy?

27. A formal Data Sharing agreement with secure access protocols.

23) Should the court and/or the judgment creditor be given access to information held by third parties, such as banks and credit agencies, to gather financial information on judgment debtors?

28. Yes.

24) What safeguards should be put in place to protect the individual with respect to financial information held by third parties, such as banks and credit agencies, and their privacy?

29. A formal Data Sharing agreement with secure access protocols.

25) Would you welcome a change to legislation to allow either (17) or (19) above, which would include safeguards suggested under (18) and (20) above?

30. Yes.

26) What other protections do you consider should be available to the judgment debtor to prohibit all, or some, financial information being available either to the court or to the judgment creditor?

31. No comment.

Support for debtors

27) Are you aware of any support or information provided to debtors following a judgment?

32. No comment.

28) If so, what is that support or information?

33. No comment.

29) What, if any, (additional) information and support do you consider should be made available to debtors and at what stage?

34. No comment.

30) Are there any particularly vulnerable debtors who you consider need additional support. If so, how are those vulnerable debtors identified and what support do you consider is required?

35. We recognise that there are many vulnerable debtors requiring help and support; particularly, those on low incomes with dependent children, those with mental health issues and learning disabilities, and those with addiction issues. Identification of vulnerability is however very difficult and is best achieved through a home welfare visit due to the issues with engagement between debtors and creditors. Support is needed through money advice, effective signposting, and hardship strategies.

31) What do you consider the most efficient and effective ways of disseminating information to debtors?

- i) through court documentation at the commencement of the action;
- ii) through court documentation at time of judgment;
- iii) through bailiffs or enforcement officers;
- iv) all the above?
- v) any further means of communication?

36. All of the above. Social media is very effective at disseminating information, combined with multimedia campaigns using radio, television and Local Authority Customer Access Points.

32) If the defendant engages with the court process, should the court be proactive in providing a telephone advice service, or other access to free advice through third parties, in order to potentially facilitate early resolution?

37. Yes.

Any proposed improvements

33) Do you consider there should be any changes to the system of enforcing judgments, or should the status quo be maintained?

38. We believe that there should be changes to the system of enforcing judgments.

34) If you consider there should be changes, what changes do you feel should be made to make enforcement more accessible, fair and efficient?

39. High Court Enforcement through a writ of control: the debt threshold of £600 could be reduced enabling, small creditors to benefit from this effective remedy.

40. Remedies such as the removal of driving licenses whilst a judgment is unsatisfied could an effective remedy; this is a remedy already used in the enforcement of child maintenance.

35) Whether you consider there should be changes or not, what, if any, additional safeguards and advice should be given to debtors?

41. No comment.

36) Whether you consider there should be changes or not, what, if any, additional information should be given to creditors about methods of enforcement?

42. No comment.

37) As the majority of debt judgments are judgments in default, what further steps do you consider could and/or should be taken to encourage defaulters (potential judgment debtors) to engage in the court process at an early, or any, stage?

43. An area of concern is the number of 'freemen on the land' type claims against Local Authorities and their enforcement Agencies, where judgment debtors claim unpaid invoices for trespass, for example. These claims, which have no legal basis, appear to progress through the court system unchecked; a triage system should be put in place to intercept and challenge these claims before they enter the system.

44. We are aware of a rise in claims for 'compensation' directed to Local Authorities, where a defaulter claims that they were not liable for the Council Tax owed, or were unhappy with how their situation was dealt with. The correct remedies for these appeals lie with the Local Government and Social Care Ombudsman and/or the Valuation Tribunal, not the LA; the correct routes of challenge must be upheld.

38) Are there any other areas of enforcement that you feel could be improved and in what way and by which method(s)?

45. There should be easier access to High Court Enforcement, as mentioned in our above responses.

General

39) Please set out any additional comments you would like to make about the current system of enforcing money judgments in court. These comments can expand upon the questions raised above or raise new issues.

46. We have been informed that Warrants of Control take a long time to progress through the Court system, with no means for a creditor to check their progress. As such, this should be addressed through a creditor online access portal.

47. In addition, we have been made aware that Warrants of Control are largely ineffective when compared to similar debts being collected by private Enforcement Agents; creditors should be able to choose private Enforcement Agents, if they so wish (as per Q6).

40) Please set out any current difficulties that you identify with the system of enforcement and outline any potential improvements you consider appropriate for either the creditor or the debtor.

48. We would like to close this consultation response by saying that independence within the democratic bodies involved in the enforcement process must be preserved, and all action that is taken as a result of this consultation response should reflect this principle.