



Homing in on tax evaders

Bristow & Sutor's Andy Rose offers an insight into the long-established world of council tax debt recovery

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THE EXPANDING civil enforcement market is throwing up an array of new opportunities, but pursuing mandatory local authority revenues such as council tax remains a major part of the bailiff industry. Payment levels stood at a remarkable 96.6% last year, according to the Department for Communities and Local Government.

Yet the amount of debt that remains outstanding is estimated at more than £580m. Not surprisingly, this is a highly competitive market for bailiffs, says Andy Rose, Bristow & Sutor's managing director and the Enforcement Services Association (ESA) past president.

"Competition for contracts has forced the cost of service down and the level of service up," he says. "Methods of debt recovery and attitudes have evolved. There is a demand for a wider, more flexible approach which incorporates a greater range of services. This also brings about greater pressure on fees charged to the debtors as often it is the only source of income.

"Within the legislative framework and in addition to the statutory fees there is also scope provision to apply 'reasonable fees' for activities such as removing when you attend a defaulters property to remove goods. This is an area that attracts a varied approach and has now become the focus of attention for local authorities increasingly require enforcement agencies to be more accountable in the way that fees are applied and provide a transparent and open fee scale structure as part of the tender process," says Rose.

Nowadays councils expect bailiffs to apply transparent and open fee scale structures. Hence, in order to prosper, firms must strive to improve efficiency,

and an integral part of this is new technology, says Rose. For Bristow & Sutor this meant developing its Client Web — which allows authorities to view real time details of each case and facilitate simple case administration — and handheld PDA devices used by over 165 bailiffs. The PDA device has GPS tracking and time stamping of bailiff visits and satellite navigation and address location that is accurate to within one metre of the address letterbox. "This is a far cry from previous methods where bailiffs on the road had to read paper maps and have the problem of navigating in the dark winter months!"

Sharing information

The firm also uses GPS tracking and time stamping of visits, which provides an audit trail.

Rose says that local authorities and civil enforcement agencies still face a number of challenges but by working together with councils, both parties can play their part by improving efficiency and focus on improving council tax collection rates. One area in particular is that of communication. "Improved internal communication is needed between local authority departments," he comments. "There are instances where bailiffs return a council tax liability order as 'No Trace' when, in fact, the debtor may be registered as a council house tenant in another property, or a forwarding address is held by another department. Yet this information is not shared between various departments. Whilst data protection is high on the agenda, proactively sharing information that benefits the collection of outstanding revenues and makes enforcement activity a smoother process can only

Left: A Bristow & Sutor officer uses the new handheld PDA device. Below: Andy Rose, Bristow & Sutor's managing director



help everyone involved. "In fairness to the councils, they make every effort to obtain information from council tax defaulters that would allow them to pursue other recovery methods — these include Attachment of Earnings or Attachment of Benefits. When this information is not forthcoming from the defaulter, it leaves the council with little or no alternative other than to an issue an instruction to the bailiff.

"Parking managers can learn many experiences and lessons from their council's revenues department," says Rose. "It is essential that you communicate and share good and bad experiences. The sharing of information can be invaluable for councils setting up decriminalised parking schemes and appointing bailiffs. In some cases a bailiff supplier may have successfully worked for a local authority for many years enforcing council tax and other revenues, yet other suppliers may be appointed through a process that does not take into consideration existing council experience."

Codes of practice

Rose also encourages local authorities to revisit original policies and codes of practice, many of which have not been amended since the era of the Community Charge (poll tax). He says: "This could be achieved by local authorities working with enforcement agencies to ensure Codes of Practice are effective and as practical as possible and do not impair collection performance whilst maintaining a firm yet fair ethos."

One of the big challenges facing bailiffs is posed by elusive debtors, such as those in temporary accommodation in city centres, often in short term rent schemes. "Locating absconders is a

burning issue among all local authorities we come into contact with," says Rose, "whether it is for council tax, business rates or penalty charge notices." The most effective method of enquiry remains "on the ground" questioning, he believes. Bristow & Sutor staff, for example, are trained using questioning skills, with certificated bailiffs conducting discreet door-to-door enquiries and follow up activities, such as contacting employers, estates agents and solicitors. These activities will be supported by database tools such as Equifax, Experian, CreditSafe, Insolvency Service and BT Phone Disc.

The in-house approach

"Notwithstanding these challenges, our council tax collection rates vary from client to client and can be influenced by how much action the local authority takes before they pass the instruction to us to enforce," says Rose. "Other factors that could influence the collection rate include the age and quality of the instruction, the council's code of practice and demographics."

While authorities have been using external bailiffs for council tax and business rates for many years, a few have chosen to chase debts through an in-house recovery team. However, due to the complex nature of the work, many choose to externalise this provision. "The time and cost of recruiting and adequately training in-house staff is a substantial commitment," warns Rose. "In addition to knowledge of legislation, certification through the County Court and adequate resources, the ability to consistently turn around a large number of cases during peak times is of critical importance."

Good training is key to the quality of

service that an external bailiff supplier provides, Rose points out. "Although each enforcement agency must employ bailiffs who have been awarded certification through the County Court, in order to enforce the necessary debts, each company should have their own internal training programme."

Staff at Bristow & Sutor undergo in-depth training that is linked to the firm's internal performance appraisal system and are externally audited as part of the ISO 9001:2000 process.

The firm's three-month training programme includes legislative and internal procedures and the valuation of goods. Assigned to a mentor, trainees operate with a certificated bailiff until proven fully competent and awarded certification through the County Court. Furthermore, all staff are encouraged to sit the ESA examination, the only externally accredited examination available. In order to be accredited by the ESA as a corporate member, an enforcement agency must employ 10% of its staff who have passed the ESA examination.

However for companies employing 100 staff or more, this need not be any more than 10 people." Bristow & Sutor encourages its staff to sit the external examination, with 92 so far having made the grade.

For Rose the art of civil enforcement is a well-honed profession. "It goes back centuries," he says. "Local authorities and parking managers, tasked with implementing decriminalised parking enforcement schemes, can take comfort in the knowledge that the experience already lies within the council and the established enforcement companies. No matter what type of revenue, distress is distress!"

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Handling commercial rent debt is a sensitive issue

Bailiffs are embracing new challenges in the commercial rent sector, working with both local authorities and commercial landlords. But firms should be aware of potential pitfalls, warns Bristow & Sutor's Andy Rose.

"Whoever the supplier is, they must be aware of the sensitivity and nature of the landlord/tenant relationship and deal with the situation with tact and diplomacy as you do any other revenue," he says.

"One of the biggest challenges facing commercial landlords is to act early enough so that the debt does not accrue to a level that cannot be recovered or exceed the value of assets. Matters such as insolvency or winding up orders may hinder the timeliness of recovery activity."

An advantage for clients using a certificated bailiff is that there is no need for lengthy court applications or litigation, explains Rose.

"Providing that there is a landlord/tenant relationship and that rent is certain and in arrears, a certificated bailiff can be instructed to collect the monies due. Often, this activity occurs within a much shorter time scale due to the nature of the debt and, on many occasions, it is a matter of 'pay on the day' or goods will be removed."

Step-by-step: Chasing council tax debts

- A local authority determines the amount of council tax due and issues an annual bill. It also issues reminders when the taxpayer defaults on the payment.
- When payment is not forthcoming the council gives notice of intended court proceedings and the possibility of a Liability Order being issued through the magistrate's court. This forms the basis upon which the bailiff is authorised to act. At all stages, the taxpayer has the opportunity to make contact with the council to provide information and/or make payment arrangements to avoid any further action.
- A further letter is sent to the defaulter warning of the intention of distraint action. It is at this stage that bailiffs become involved, once the council has forwarded the instruction to their respective supplier.
- The bailiff then lawfully operates within the council's guidelines. Code of Practice and timescales for operation. Typically a case is with the bailiff for 3 to 4 months (unless otherwise determined by the council) after which time the council would expect either payment or a report on why payment has not been forthcoming.