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TRANSCRIPT OF "FILE ON 4" – 'BAILIFFS'

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PRODUCER: Rob Cave

EDITOR: David Ross

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THE ATTACHED TRANSCRIPT WAS TYPED FROM A RECORDING AND NOT COPIED FROM AN ORIGINAL SCRIPT. BECAUSE OF THE RISK OF MISHEARING AND THE DIFFICULTY IN SOME CASES OF IDENTIFYING INDIVIDUAL SPEAKERS, THE BBC CANNOT VOUCH FOR ITS COMPLETE ACCURACY.

“FILE ON 4”

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ACTUALITY OF BAILIFFS IN PUB

BAILIFF: Ideally I would like to speak to Mr [Bleep].

WOMAN: He's not here.

BAILIFF: He's not? Is it possible to speak to yourself in private?

WOMAN: Yes.

BAILIFF: As to why we're down here.

URRY: Bailiffs are in a pub, looking for the owner in debt over business rates to his local council. The man's elsewhere, but they manage to speak to him on the telephone.

ACTUALITY ON TELEPHONE

BAILIFF: Now as far as we've been made aware, you've made a couple of payments, you needed to pay in full by the 1st March, which is why we've come back. What sort of timescale are you looking at getting this clear, if you can get these funds transferred? If you can make payment ...

URRY: It's a scene repeated up and down the country, as public bodies get tough on recovering arrears and fines. They're using private companies to do much of this work, and with UK debt at record levels, business is booming. Some big organisations hired to assist with public administration have set up their own bailiffs businesses. So how do you stop conflicts of interest? The patchwork of laws under which bailiffs operate are antiquated and confusing, leading to accusations of injustice and a lack of accountability. Tonight, File on 4 examines the case of a frail, elderly woman threatened with jail for a debt she didn't owe, and we ask why bailiffs charge fees for work they didn't carry out.

SIGNATURE TUNE

LYNDSAY: I was running away from an abusive ex partner. He harassed me, he harassed my neighbours and he harassed my kids as well.

URRY: Lyndsay - we've agreed just to use her first name - is a single mum from Nottingham who's been living on benefits for the past eighteen months. She'd fled to a women's refuge because of the difficulties with a former partner, before being re-housed.

LYNDSAY: I was trying to balance the bills that was coming in at that time. I had a child that had to still go to school in my other area, because I couldn't get him in a school round here, which was another £30 a week. So there was enough money to pay the rent, get his bus fares and live for the rest of week, there wasn't money to pay council tax. I phoned them up, I offered them £20 obviously. Sometimes I could pay, sometimes I couldn't.

URRY: Lyndsay fell behind with payments. She didn't always seek the right sort of help. Nottingham City Council successfully applied to the courts for what's called a liability order, to secure the debt of £700, instructing the firm of bailiffs with whom they have a contract. Rossendales Limited are a big player in the private sector, enjoying further contracts with HM Revenue and Customs, the courts, and other local authorities. They say they lead the field in providing their clients with a professional doorstep collection service. Lyndsay found one of their staff on her doorstep in the run up to Christmas 2004.

LYNDSAY: Well it wasn't a big woman or anything that come to my house, so I didn't feel intimidated. I felt that if I invited her in, explained my circumstances, let her take her list, you know, I could reason with them on a payment. I didn't have nothing to hide, so it wasn't like I didn't make an offer to pay the money back, because I did, but obviously they didn't want that. They wanted quite a lot of money that I didn't have. They was asking for £68. I couldn't pay that because I was only on £100 at the time, income support, which was, you know, it was impossible anyway, so I couldn't pay what they wanted.

URRY: Did you sign any kind of agreement with them that they could seize your possessions should you not pay the debt promptly?

LYNDSAY: Yes, I did. At the time I didn't know that you could refuse to let a bailiff into your house. I did let them in to take a list. After they've got that list they can come in and take your goods anyway.

URRY: What Lyndsay had signed was something called a Walking Possession Agreement, which meant the bailiffs could seize her goods to the value of the debt, but which can allow for them to be kept if prompt payments are made. But they weren't. Lyndsay says she couldn't afford the £68 a month they were demanding, and was trying to negotiate over the telephone with them, but she wasn't paying and she wasn't sending them information to prove her financial circumstances. But her life was still far from settled and there was something else uppermost in her mind at this time. Already a single mum, she was expecting another child. In late April last year, nine months pregnant, she returned home from a trip out with her dad to buy a pushchair for the baby, and noticed a van outside her house.

LYNDSAY: I approached the bloke in the van, and that's when he said, 'I'm a bailiff,' and I said 'Oh right.' He said, 'I've come to take your goods,' I said, 'What you on about?' I'd been out and bought postal orders and everything, which I offered to show him outside, he wasn't having none of it – 'No, I'm coming in.' You know, he could see I was holding my stomach at the time. I said to him, 'I'm nine months pregnant, you can't go into my house, you can't empty it.'

URRY: And what was his response to that?

LYNDSAY: Not my problem, not my problem, that was it, that was all you got out of him. Not my problem.

URRY: But he said he wanted to come into the house, did he?

LYNDSAY: Yes. I said, 'Well I'm not letting you in.' He said, 'Well I'll get a locksmith then,' so that's when I went back to my dad's van and I was sobbing and I was in bits and I didn't know what to do.

URRY: Why did it upset you so much at that time?

LYNDSAY: I was nesting, proper nesting, I had everything perfect.

URRY: You were awaiting the arrival of your child.

LYNDSAY: Oh yes, I was just really excited, and I didn't want to bring the baby home to nothing.

URRY: The bailiff didn't seize her goods, but with the possibility hanging over her, Lyndsay sought help from a firm of local solicitors. Keely Dougan, a lawyer who specialises in debt advice, wrote to the bailiffs two days later with an offer to pay, pointing out how vulnerable her client was at this time because of her pregnancy.

DOUGAN: The client was clearly indicating a willingness to pay and a desire to pay, but had problems negotiating a payment that was affordable to her because of her circumstance.

URRY: That's the instruction you've received, but evidentially that's a difficult thing to prove. It's always somebody's word against somebody else's.

DOUGAN: It is indeed, yes. It is a situation we come across on a regular basis, and the number of clients we've had that have reported this sort of behaviour from bailiffs does indicate that they do have this attitude to people who don't pay, and they do tend to harass them to demand the money.

URRY: There's a pattern to it?

DOUGAN: There is indeed a pattern, yes.

URRY: When you sent that letter out, did you expect that then to resolve matters?

DOUGAN: We did. Because of the client's circumstances and because of our previous experience with the bailiffs and the council, we felt that the offer she was making was reasonable in the circumstances because of her financial situation. The arrears weren't going to go up substantially because of her benefits, so the offer was reasonable and usually would have been accepted.

URRY: But within days of the letter being sent, Lyndsay was in crisis. Although she'd had a healthy pregnancy, she had become concerned for her baby, unable to feel it moving. Doctors confirmed she'd lost her child. She had to go through with the birth of a stillborn son, whom she named Alfie. While she was recovering in hospital, the bailiff from Rossendales went back to her house. Her solicitor and her father were appalled.

TREVOR: The first I knew of it actually was that Lyndsay's other lad was at home, he's fourteen, and he rang me on my mobile. I didn't tell Lyndsay about it at the time because she was giving birth to Alfie, you know, she was in the labour suite. Obviously I'm stuck at the hospital with Lyndsay, I can't do anything, I can't go anywhere. He should never have been there, because by this time there was no way that he didn't know she was pregnant, but still he returned. Obviously I was very angry about it, because we'd made the efforts at this stage to try and resolve matters, and as far as we was concerned they were resolved, and it was very distressing for all of us.

URRY: The family are convinced that the amount of stress that they all suffered during this brief but quite intense period made a contribution to the loss of the child. Is that something that you think has happened?

DOUGAN: The difficult is that the medical evidence says there's no explanation for the loss of this baby. Clearly she was in the late stages of pregnancy and she was very healthy and the baby was very healthy, so stress can have a high impact on her and obviously the child inside as well, so it could have been a contributing factor, but nobody will ever know and she'll never have an answer to that.

URRY: We wanted to interview Rossendales, to ask them why their doorstep collection service had fallen short of the professional standards they claim for themselves, but they refused. They did write to Lyndsay's solicitor, saying they'd sought medical opinion and believe there is no link between their bailiff's visit, and the loss of her child. Government guidelines ask bailiffs to withdraw and seek advice from the creditor, in this case Nottingham City Council, when they are dealing with someone in vulnerable circumstances. In their letter Rossendales accept a breach of protocol.

READER IN STUDIO: In accordance with our own procedures and those of the clients, the bailiff should have taken instruction before proceeding any further. The bailiff has been reprimanded and a period of retraining has been given.

URRY: The company also failed to pass on information from the letter sent by Lyndsay's solicitors, making an offer to pay.

READER IN STUDIO: We did correctly update the case file on receipt of your letter, unfortunately the member of staff responsible for this failed to inform the bailiff we were considering your offer and that he should suspend action. As a result, the bailiff re-attended the property. The member of staff is subject to disciplinary proceedings.

URRY: Nottingham City Council has accepted payment of £5 a week from Lyndsay to settle her arrears, far less than the £68 she says the bailiffs wanted. No-one from the council would be interviewed, but in a statement confirmed to us that cases involving vulnerable people should always be referred to council officers for advice before any action is taken, but that this wasn't done. The council said it has expressed sincere regret for any distress caused. Nottingham, like every other local authority, has a duty to its council tax payers to collect arrears. The pressure on councils to step up enforcement and recovery has been increasing from the Government. And, according to Peter Tutton, social policy officer for the Citizens Advice Bureau, it's being passed on to debtors by the bailiffs.

TUTTON: Some stats taken from 85 bureaux showed that in a quarter we'll get about 1,300 enquiries about bailiffs for council tax, say. And of those, about one in ten of those relate to complaints about harassment. That's pretty high.

URRY: Do you feel that the people that are complaining to the bureau have got a legitimate point about being harassed?

TUTTON: In many cases yes, what we see is we see bailiffs sort of threatening, you know, 'We'll have you locked up, we'll come round with the police, you know, we're gonna smash your, you know, come in and break in to your house, take all your goods.' Really trying to put the frighteners on people.

URRY: Because they can do some of these things, can't they, under specific circumstances?

TUTTON: There are some circumstances where bailiffs can force entry into your house, but there are lots of other circumstances where they can't, and the difficulty is, is that because these powers are complicated, what we see is sort of bailiffs using them, blurring those powers in a way that is intimidatory, hinting or saying they have a power they don't have.

URRY: But bailiffs have a job to do, don't they? They have to recover money and you'd expect them to be tenacious about that.

TUTTON: I think there's a clear line between tenacity and going beyond that. What we see sometimes is advisors will try and negotiate with bailiffs, the bailiff's not interested – 'we want the whole lot now.' What they will do is they will try and pressure for a much more detrimental solution.

URRY: It seems unreasonable, but bailiff companies are under pressure themselves. A few councils still have an in-house service, but the vast majority use the big private sector firms. Competition for contracts is so fierce, local authorities can often get them to do enforcement work for free. So companies make money by charging those owing debt for the work they carry out against them. For Philip Evans, who chairs an independent body which advises Government on reform of enforcement law, that creates an unfair burden.

EVANS: The situation is deteriorating, because there is increasing pressure on the bailiff companies. In recent years, the Office of the Deputy Prime Minister has been increasing the pressure on local authorities to improve their enforcement rights. At the same time the Department for Constitutional Affairs has been increasing the pressure on the magistrates court to increase their enforcement rates. Now, knowing that bailiffs don't knowingly walk away from payment, that means they've got to try harder with those people who are further down the economic scale. So what might sound like a good law and order soundbite for a government minister is having a disproportionately harsh effect on those people who are the poorest and most vulnerable.

URRY: They get this service on the cheap, don't they?

EVANS: The government expects a free enforcement service for public bodies and if the government or the public body as creditor won't pay, then the people in debt have to pay. The burden will be pushed down to them. Now successful enforcement varies, but by and large, most bailiffs will be successful in a third or less of cases. And those third of people in debt who pay up therefore have to fund all the bailiff action that takes place against the people who don't eventually pay up. So you're seeing that a third or less are paying for two-thirds or more, and therefore the fees will reflect that.

URRY: Are there fixed fees under which bailiffs have to operate?

EVANS: Well some of the fees are fixed, some are not. The early stages of the bailiff procedures, the fees are generally fixed. But when it comes to the point of removing goods, then it's the reasonable costs and expenses which have been incurred by the bailiff. What's reasonable in any one situation is very difficult to assess. There's no absolute cap. Bailiff fees for small debts like parking penalties will seem disproportionately high - £200, £250.

URRY: In this pressurised environment, it's hardly surprising some people complain to debt advisors such as the CAB. Vernon Philips is the executive director of a bailiff's trade group, the Enforcement Services Association. He accepts that some malpractice does go on, but believes it's in the minority.

PHILIPS: I've no doubt that the Citizens Advice Bureau do get complaints, it's perhaps a great shame that they don't pass more of them onto my organisation. However it is, relatively speaking, a very small minority and I think perhaps we need to put the whole thing into perspective.

URRY: Well hundreds isn't that small a minority.

PHILIPS: Well hundreds is a small minority when you compare it with the fact that the number of warrants dealt with in the private sector runs between three to four million annually.

URRY: Can I just look at some of the categories of those complaints now. Bailiffs, for example, telling people they can force entry when it turns out they're not allowed to force entry. Or threatening to use powers that they don't have. I mean, do you recognise that does go on?

PHILIPS: Yes, with a small minority of bailiffs sadly it does. I wish we could stop it, but we don't have the power to do so.

URRY: The system is sort of incentivised almost to make that happen, isn't it, because you've got to recover your fees from the debtor, because you don't get paid from the local authority, for example, to do this, and bailiffs are on commission sometimes to get cases closed, aren't they?

PHILIPS: Bailiffs are on commission, certainly. The reason they're on commission is because it isn't a job that one can do 9-5 Monday to Friday.

URRY: Is it right for public bodies to expect a free service from people like yourself?

PHILIPS: Quite frankly, if a local authority were employing any other contractors to do work, whether it's builders or whatever it might be, they would be expected to pay, and that is certainly an attitude which I know is held by quite a lot in the profession, that they should be paid an upfront fee. The other problem, of course, is that local authorities are out to try and get the best service they can for the smallest amount of payment.

URRY: When the debtor is left to pick up the tab for the bailiff's services, some challenge the charges. In the case of one London businessman, he reversed the usual roles, taking the bailiffs to court to get money out of them.

ACTUALITY IN CAR

ALDRIDGE: So now this road here, we can't turn off anywhere. We can't go left anywhere or we will be in the congestion charge zone...

URRY: We're travelling with Simon Aldridge, who until recently ran an office waste paper recycling business in Potters Bar. He had four vans picking up material for recycling inside London's congestion charge zone every day and he's showing us part of their route. Mr Aldridge admits he occasionally slipped up with his congestion charge payments because of poor bookkeeping. On two occasions he forgot to pay charges for two of his vehicles, incurring automatic fines. The penalties were sent for debt recovery and bailiffs became involved, but Mr Aldridge got into a dispute with them about the fees they billed him for on top of the fines - an extra £450. On this occasion he thought he was being taken for a ride and he became suspicious he was being charged for work the bailiffs didn't actually do. He took it up with Transport for London, the public body which levies the congestion charge, and with one of its contractors, the bailiffs company Equita.

ALDRIDGE: I queried with Transport for London and with Equita as to what the fees represented and what the breakdown of the debt was that they were looking for, and they claimed on the phone and in writing that the fees represented an initial letter fee, which I hadn't received, and two subsequent bailiff visits, which I knew nothing about.

URRY: What had aroused his suspicions was that he works from home and was sure no-one had come to his door on the days in question.

ACTUALITY IN HOUSE

ALDRIDGE: You can see out to the front door if you look out the window.

URRY: Yes, you've got your desk and your computer here and the window a few feet away from the front door.

ALDRIDGE: Yes, literally ten foot away. And so I would expect to see a bailiff if they came to my front door.

URRY: The dispute carried on, then bailiffs did show up proposing to seize his car.

ALDRIDGE: A couple of bailiffs came round said that I owed them more than £500 and that it related to a Transport for London penalty charge notice, which we'd been arguing about for six months, and it had just gone up and up and up, never-ending fees.

URRY: And when they came round, what did they say they were going to do?

ALDRIDGE: They said they were going to take my car from my drive, they said they'd called a tow truck and it was on its way, and if it got here and I hadn't paid, it would cost me another £150 or £200 for the privilege of having my car removed. I decided to pay under protest to prevent the nuisance factor of having the car removed. I paid under protest and resolved to take legal action to try to recover the money.

URRY: Three months ago, a judge found in his favour. He accepted Mr Aldridge's argument that letters for which Equita charged him had not been sent, and that visits by a bailiff for which he'd also incurred charges had not taken place. The judge also refers to a dark threat made by a manager at Equita, when Mr Aldridge was complaining to him by telephone, to organise for someone to come round to his house later that day. In his findings the judge states....

READER IN STUDIO: The way the defendant's representatives behaved towards the claimant leaves me great cause for concern. The defendant may have a difficult business to conduct in enforcing debts, but it must rise above this.

URRY: The judge awarded Simon Aldridge the amount of money he'd paid under protest in bailiffs' fees - £450. Because of the court case, he had discovered how Equita's bureaucracy operated, generating charges automatically on the assumption that work had been done.

ALDRIDGE: The evidence that Equita supplied to support its allegations that these visits had taken place was pretty much non-existent. It was a line on my file saying bailiff visit and that was it, there was no who it was, what time it was, or even specifically what day it was, because it transpired that Equita issue bills for bailiffs' visits when they issue the job to a bailiff, not when the bailiff reports back and tells them he has done the visit.

URRY: So an invoice is triggered before the bailiff's actually come and done the visit?

ALDRIDGE: Before the company knows the bailiff has done the visit, just on the basis of issuing the job to a bailiff, that will generate a bill.

URRY: And was that something specific to your case or did you find that to be a more systematic problem?

ALDRIDGE: They described it as industry standard method, so I assume everyone's getting the same treatment. They didn't properly record any of the bailiff reports even, they said that they randomly audit the weekly reports they get from their bailiffs telling them what work's been done.

URRY: But you had nevertheless been charged as though it had happened?

ALDRIDGE: Oh yes, of course, yes. So I was very unhappy about the evidence that they were trying to use to prove that these visits had taken place. Didn't seem to me to be any evidence at all.

URRY: No-one from Equita would be interviewed. In a statement they told us.

READER IN STUDIO: Equita acted properly but, unfortunately, the bailiff involved left the company and was unable to attend the court hearing to provide evidence. Since that time Equita has introduced innovative technology to record digitally all bailiff visits.

URRY: Although no-one from Equita would appear on the programme, we were able to question Vernon Philips of the trade body the Enforcement Services Association. The Association says it demands high standards of business practice and ethics from its members, one of which is Equita. But Mr Philips told us he was unaware of the court finding against them.

Have you looked at a judgement which was passed down recently against Equita for charging fees that a judge ruled, for services that a judge ruled they didn't actually provide, for work they didn't actually do?

PHILIPS: No, I haven't looked at that.

URRY: You're not aware of that case?

PHILIPS: It hasn't been brought to my attention, no. Occasionally what happens is one or two bailiff firms might add on an extra visit, they're called phantom visits. I don't know about this particular case, but generally speaking and in the vast majority of cases this does not happen and the bailiffs are doing a good job or trying to do a good job in very difficult circumstances, and I think that is important that I do get that across.

URRY: Well you've got that across, but this was a judgement against one of your members, Equita, a big company as well.

PHILIPS: I'm not going to discuss individual cases at the moment anyway because I haven't seen the judgement.

URRY: Given that you do have a disciplinary process, the fact that you haven't heard about quite a serious judgement about a big company that's a member of your association, it does raise questions about the rigour of the disciplinary process.

PHILIPS: Well, it only raises questions in the fact that nobody has decided to bring this matter to our attention so that we can consider it. If somebody wishes to do so, then obviously the association and the executive council would consider it.

URRY: Well it's peculiar, because the complainant involved, a man called Simon Aldridge, says that he wrote to your organisation to complain about it and didn't get any satisfaction.

PHILIPS: Well I don't know. I mean, as I said to you I'm not going to discuss an individual case and I can't remember the individual concerned.

URRY: Well without talking about the details of the case, I'm seeking a reflection on the court judgement which shows that this man was being charged fees for work the bailiffs said they'd done, but the judge decided they hadn't, and that's quite a serious issue, isn't it, for a member of an organisation that prides itself on high professional standards?

PHILIPS: If that is the case then obviously that is something that the association would want to look at.

URRY: The company which administers the congestion charge on behalf of Transport for London is part of the Capita Group. Last year Capita was fined nearly £4 million by TfL for failing to meet performance targets. But what is less well known is that Equita, one of four bailiffs companies enforcing congestion charge debt, is also owned by the Capita Group. This relationship is now being called into question in the London borough of Westminster, where there've been threats to jail an ailing pensioner over a debt she didn't owe.

ACTUALITY IN LIVING ROOM

URRY: Ljubinka Kezunovic fled her native Bosnia in 1992, when war was ravaging her country. She joined her son in London, but soon afterwards her health deteriorated and she had a stroke. She's had a heart bypass operation, suffers high blood pressure and diabetes. Mrs Kezunovic is entitled to higher level disability allowance. Her family say she's also received 100% council tax benefit from Westminster Council for years, meaning she should pay nothing. In 1998, the council outsourced their benefits service to Capita. Mrs Kezunovic speaks little English, so her son Dusko has been acting on her behalf.

DUSKO: Each year council would send us a letter with which we renew council tax benefit. For some reason, for eight or nine years, we haven't had problems with these. And then my mother got the letter from council tax division, asking her to pay. That's when I reacted and said, 'Look, there must be some sort of mistake. I sent a request for my mum's renewal.' They said they had not received it. So I requested another one. They posted it to me, I filled it in, posted it back. A few months after that, my mum received another letter saying that she has to pay.

URRY: Did any of her circumstances change?

DUSKO: Nothing had changed. My mum's health had deteriorated if anything.

URRY: She hadn't moved house, done anything like that?

DUSKO: No, no, she's been living in the same property for now ten years.

URRY: Capita staff kept telling the Kezunovics' they hadn't received forms and information, the ones Dusko insists he posted as normal. So he took the paperwork into their offices to deliver them in person.

DUSKO: I brought with me all the documentations needed, hoping this was all they wanted, submitted it and I thought this is the end of the matter. Only to find out that it was not and the council tax benefit people decided not to pay for the full period because it was submitted late, which came to me as a shock.

URRY: How much did your mum end up owing, according to the council?

DUSKO: It's hard to say. It always started with £27.11 to finish with £360. So we were confused basically what period she owes the money for. The problem started in, I believe, 2001 and went on until recently, till 2005.

URRY: And that's when matters came to a head. Dusko had gone on holiday to the city of his birth, Sarajevo. When he returned his mother's predicament had worsened. The country's largest council tax bailiff company, Equita, were suggesting she could be imprisoned.

DUSKO: When I came back I found over thirty letters from Equita bailiffs demanding payment immediately or else. I mean, the letters are very very threatening and my mum, I don't think she could easily sort of digest these.

URRY: You say that the bailiff's letters were threatening, but what was the actual threat?

DUSKO: These letters, to be honest, to start with I did not consider them as important, because I was thinking yeah, this is a computer generated letter. My mum is entitled to council tax benefit, she will get it, this will stop automatically, so I did not give it the weight that it deserved. Therefore, to start with I didn't pay attention. Then later on when the letters started saying, 'We will take you to magistrates and you will be imprisoned,' that's when I thought okay, my mum will not survive this. It was really really not the way to treat a 67 year old woman. Imagine her telling her that, Mum you're going to go to jail because somebody didn't do their job properly.

URRY: In a panic Dusko turned to his MP for help. Finally, last November, Capita granted the backdated council tax benefits which had been at the centre of the dispute, and apologised to his mother. It had taken nearly five years to get the matter cleared up. But according to the leader of the opposition on Westminster City Council, Labour's Paul Dimoldenberg, it's not an isolated case.

DIMOLDENBERG: For the past five years or so, since the housing benefits system has been outsourced to Capita, we've had a string of difficulties with the system and we have regular advice sessions every Tuesday in Paddington and Marylebone, and stock in trade is people coming often in tears with bundles of paper detailing all the requests they've made for the housing benefit or council tax benefits to be sorted. And months and months and sometimes years later it's not been sorted. They come crying to

URRY: What sanctions do you apply then to Capita when they get things wrong like this?

BARROW: Well, we are after them all the time. We are in the process, I'd better be careful what I say, we're in the process of discussing a penalty mechanism to do with accuracy and performance.

URRY: So there's not been one up to now then?

BARROW: No ...

URRY: It seems astounding after all these problems.

BARROW: No, we've outsourced a service ...

URRY: But they've been going years, they've made – by your own admission – mistakes and there's been no penalty attached to that.

BARROW: We do have the ability to get rid of them, whereas if this was our own in-house service we wouldn't have that sanction. We can fire the contractor if he is systematically awful. I don't think Capita are. They do make errors, but a certain level of errors is inevitable.

URRY: It's not just the errors which concern Opposition leader, Paul Dimoldenberg. Until File on 4 spoke to him, he hadn't realised the Equita bailiffs were part of the Capita group. Now he's calling for an investigation.

DIMOLDENBERG: It is quite ironic that one side of the company can be making money out of people's distress by making money out of the bailiff procedure, whereas it may be in some cases that the problems caused by the family are caused by another part of the company who've failed to administer the applications for housing benefit or council tax benefit properly. I'm going to make some enquiries about that to see if there is any conflict of interest.

URRY: What sort of a conflict of interest are you concerned about in this sort of case?

DIMOLDENBURG: I'm concerned that on the one hand as a company getting paid to administer the housing benefit and council tax benefit system and not doing it particularly well, which results in people not getting their entitlement and then getting a letter from bailiff, and then at the same time another part of the same company are actually the bailiffs who earn money from that whole bailiff procedure, and there must be a response to this, because on the face of it, it looks as if the companies Capita and Equita are making money at both ends of the process, and I think I would like an explanation for that.

URRY: Westminster City Council denied any conflict of interest, saying bailiffs were only instructed after a magistrates court granted a liability order. And a statement to File on 4 from the Capita Group drew a distinction between the two arms of its operation for Westminster.

READER IN STUDIO: Equita has its own management in place and enters into its own contractual arrangements. Its work for Westminster City Council is governed by a contract, awarded after a competitive public tendering process. Its activity is governed by Council officials, who instruct it on specific recovery cases. Capita Local Government Services is a separate business within the Group. It has a separate contract with Westminster, also won through competitive tendering, and is managed by separate officials within the Council.

URRY: This disquiet over a possible conflict of interest is a symptom of the growing concern about a lack of regulation. The public sector is increasing its use of private sector bailiffs, but they still operate under an antiquated legal framework. Many are worried about a lack of accountability and injustice. For Philip Evans, the chairman of the Enforcement Law Reform Group, a thorough overhaul is long overdue.

EVANS: Our bailiff law is probably the worst in the world. We've been waiting a long time now for the Courts and Tribunals Bill to be introduced into Parliament and we hope that that's going to contain a reform of bailiff law, but I'm beginning to feel – I can't put it any more strongly than that – that ministers are seeing this as an old initiative and can just be left to wither on the vine. And I think we need to see stronger regulation, because bailiffs have got strong powers of entry into people's homes, they're seizing people's goods. Even when bailiffs are behaving quite ethically, you still need proper regulation for people with those sorts of powers.

URRY: Why the delay?

EVANS: I think there's too many vested interests. The government is the biggest creditor who bailiffs act for, and until they rise above their self interest as creditor, they're not going to take the steps necessary to introduce good new legislation.

URRY: We wanted to interview a minister from the Department of Constitutional Affairs about the issues raised in this programme. We were told no-one was available. The Department did point out that the Courts and Tribunals Bill is being drafted and will cover the procedure and code for enforcement by seizing goods and selling them to recover money, But regulation of bailiffs will not be included in the Bill, and there's no indication of when Parliamentary time will be made available.

SIGNATURE TUNE