

MONEY  
ADVICE TRUST

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BUSINESS  
DEBTLINE

NATIONAL  
DEBTLINE

WISER  
ADVISER

Consultation Response:

DCMS

decriminalising TV  
licence evasion

Response by the Money Advice Trust

Date: April 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](http://www.moneyadvicetrust.org)

## Public disclosure

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

# Introductory comment

We welcome the opportunity to comment on the proposals in the TV licence enforcement review. We do not have the ability to judge the effects on BBC revenue of adopting specific penalty options or the effect of reducing the sanctions for non-payment so we have limited our comments to an assessment of how different enforcement regimes might affect our clients in debt.

The government and the BBC should review the enforcement regime for TV licensing. As a debt charity, we have previously raised our concerns about the use of magistrates' court fines for non-payment of TV licences. We would urge the BBC and government to use this opportunity to evaluate whether the threat of a fine or imprisonment is an appropriate tool to use.

We would urge the BBC and government to use this opportunity to evaluate whether the threat of a fine or imprisonment is an appropriate tool to use. In particular, a new group of older households who are likely to be more vulnerable than the general population, are to become subject to criminal action were they to fail to pay their licence. Many of these households would not have been liable to pay for their licence for some years. It is inevitable that some people would not set up payment arrangements, or be capable of doing so. A substantial number of this group might be in very vulnerable circumstances due to age-related illnesses, or dementia, and may lack capacity. In some circumstances people would be unable to pay.

We believe alternative payment arrangements and greater forbearance measures should be put in place for this cohort of people and that prosecution is not used as a method of enforcement.

We would mention the simple payment plan model in particular as a good example. This model spreads payment for TV licences over the whole year and has flexibility built into the system to allow for two missed payments within the scheme. We welcome the decision to roll out this scheme following the successful pilot undertaken by TV Licensing with the cooperation of a range of free debt charities.

In order to both protect and maximise TV licence income, then we would suggest concentrating on innovative ideas to obtain payment, rather than the additional burden of a fine or civil penalty as this just makes the situation worse for many people and this age group in particular.

# Responses to individual questions

Question 1 - Should TV licence evasion (the use or installation of a television receiver without a TV licence) no longer be a criminal offence? Why do you consider that TV licence evasion should no longer be a criminal offence?

The government and the BBC should review the enforcement regime for TV licensing. As a debt charity, we have previously raised our concerns about the use of magistrates' court fines for non-payment of TV licences. We would urge the BBC and government to use this opportunity to evaluate whether the threat of a fine or imprisonment is an appropriate tool to use.

This issue has become particularly relevant given the changes to the over 75s licensing scheme. In this scenario, a group of older households who are likely to be more vulnerable than the general population, will become subject to criminal action were they to fail to pay their licence. Many of these households would not have been liable to pay for their licence for some years. It is inevitable that some people would not set up payment arrangements, or be capable of doing so. A substantial number of this group might be in very vulnerable circumstances due to age-related illnesses, or dementia, and may lack capacity. In some circumstances people would be unable to pay.

We believe alternative payment arrangements and greater forbearance measures should be put in place for this cohort of people in particular and that prosecution should not be used as a method of enforcement.

## Question 2 – If, alternatively, you consider that TV licence evasion should remain a criminal offence, why is this the case?

We do not consider that TV licence evasion should remain a criminal offence, as this adds to the burden on already financially and socially vulnerable groups who have to pay both the TV licence and find the money to pay the fine. We do not believe that is appropriate for there to be a power to send people to prison for the non-payment of their TV licence fine.

## Question 3 – If you have a view, what alternative enforcement scheme models do you consider to be most appropriate? Why?

We would point out that our comments are purely from the perspective of assisting vulnerable people in debt who are affected by the punitive nature of the current TV Licensing enforcement regime. We are not in a position to estimate the effects on BBC revenue of adopting specific penalty options or the effect of reducing the sanctions for non-payment. We would expect that arguments can be put forward to argue that sanctions must be maintained for those who try to avoid the licence fee and refuse to pay. Perhaps research is needed into whether there would be any effect on potential non-payment rates if it were possible to affect credit ratings by including TV licence arrears on credit reference agency files.

We would suggest that reform of the current criminal enforcement system is urgently needed. However, we have concerns with all potential approaches, as the options may result in an additional penalty, fine or charge being issued. We believe these would serve to make any existing financial difficulties worse and increase the likelihood that the on-going TV licence and other debts are not paid.

When proposing alternatives, we need to think about what methods will cause least detriment for our clients, and that provide the ability for people to make affordable payments easily and swiftly and to maintain these payments in the long term.

### Enhance the payment regime

If spreading the cost of the licence and new payment methods reduce the numbers of people who default on payment then this will save both household stress and costs for that household. This is alongside a considerable amount of savings on costs for the TV licensing service in taking enforcement action and enhancing revenues for the service. We see this approach as being coupled with a proactive obligation on TV licensing to utilise early intervention techniques to assist those who are struggling to pay.

A referral mechanism to free money advice services where it becomes clear that someone's inability to pay for their TV Licence is a symptom of wider debt problems should be put in place. The TV licence is more likely to be prioritised over other debts and liabilities once a stable household budget is in place.

We participated in a pilot with TV Licensing alongside other debt advice agencies to trial a Simple Payment Plan (SPP) which spread the cost of the licence over 12 months. This also incorporated the facility to build in some arrears payments into the ongoing payments.

We welcome the TV Licensing decision to roll this out in a revised form as a payment option for all customers. This is a really helpful response by TV Licensing to the payment problems that many people experience under the usual payment regime. It is vital that TV Licensing take steps to support people to pay rather than prosecute them. Any new system must allow for the exercise of discretion to be built in to avoid further action being taken where people simply cannot afford the licence fee. There may also be innovative payment arrangements or new methods of offering simple and flexible payments to consider with the advent of new technology that will encourage participation and make payment easier.

We would like to see TV Licensing going further and being required to treat people in vulnerable circumstances fairly and be required to offer more assistance to these groups. Perhaps TV Licensing should work with utilities regulators to explore how it could use data sharing to join with energy and water providers to implement a form of single Priority Services Register. Any measures that can be put in place to ensure that further enforcement action can be avoided, should be considered. We have previously suggested setting up a hardship fund, along the lines of water and energy trust funds, which could help to pay TV licences for households that are in particular vulnerable circumstances. (For further information about the type of schemes available, see the Auriga Trust Fund guide.<sup>1</sup>)

## Enforcement as a last resort

We would suggest that where it is found that a household has not got a valid TV licence that they are offered the option of signing up to a formalised payment plan and not face an additional penalty. We believe that this incentive would work to help people to focus on having a chance at payment as an alternative to more punitive action. It will also save the costs and expenses of further enforcement action. We also believe that it is counter intuitive to ask people who are having difficulty paying their household bills to pay an additional fine or financial penalty in addition to paying the TV licence which they were finding it difficult to pay in the first place.

The granting of this option does not prevent further action being taken in the future, or on breach of the arrangement, but would provide a more equitable, fairer outcome. Ultimately, the aim must be to ensure the TV licence is paid rather than fines and penalties incurred.

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<sup>1</sup> [https://www.aurigaservices.co.uk/wp-content/uploads/2019/10/Auriga\\_waterandenergy\\_Online.pdf](https://www.aurigaservices.co.uk/wp-content/uploads/2019/10/Auriga_waterandenergy_Online.pdf)

If this approach was to be adopted, then we would envisage safeguards would be built in to protect participating households from further action where they could demonstrate good reason for non-payment once they enter into the arrangement.

We recognise that this approach would involve a reform in the law as not having a TV licence or non-payment could not automatically lead to prosecution as a criminal offence. This would be substituted by the staged approach suggested.

## Enforce as a civil debt

The least punitive approach would be to decriminalise the offence of non-payment in favour of enforcement of the TV licence debt as a civil debt in the county court. The county court is set up to deal with matters relating to the repayment of outstanding debt and would enable those who could not pay, to offer payment in instalments in a more easily accessible manner. The sanctions in the county court are less draconian and imprisonment is not (normally) the ultimate sanction for non-payment. Debts in the county court are enforced using county court bailiffs and warrants can be suspended via the mechanism of the N245 application. This would lead to the treatment of non-payment of a TV licence in a similar way to utility bills such as water rates or a telecoms debt. There would be no additional debt burden in the form of a monetary penalty to pay, although there would be court fees and potential additional enforcement costs. However, we appreciate that this could have a detrimental effect on the BBC's income and ability to recover the outstanding licence payments.

However, county court judgments are maintained on the Register of Judgments, Orders and Fines<sup>2</sup> which means that there is a consequent impact of an unpaid judgment on credit ratings. This contrasts with enforcement of a magistrates' court fine for TV licence evasion which does not get recorded in this way, nor does it result in a criminal record.

## Civil monetary penalty

Another option is to turn the offence into a civil monetary penalty. If this was to be modelled upon the decriminalised parking penalty process, then this becomes a hybrid enforcement system. The recovery process may start in the county court, but the recovery of the civil penalty is carried out by private bailiffs rather than county court bailiffs. We do not support the adoption of this model which seems to us to represent the worst of both worlds. Parking penalty notices are registered in the county court with court costs added, but then passed to collection by private bailiff companies. There is no power to apply to suspend enforcement or to pay in affordable instalments. This is in contrast to enforcement of judgments in the county court which are enforced using county court bailiffs with limited extra court fees and charges and warrants can be suspended via the mechanism of the N245 application.

A civil penalty adds to the financial burden on people who cannot pay their TV licence, as they have an additional penalty payment to pay on top of their ongoing licence payments.

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<sup>2</sup> <https://www.trustonline.org.uk/>

## Question 4 – What steps could the Government take to mitigate any impacts that may result from decriminalisation of TV licence evasion?

It is difficult to suggest what steps the government could take to mitigate any impacts from decriminalisation of TV licence evasion. It is set out in the paper that the Perry Review suggested a civil monetary penalty level of £500 could reduce the loss of licence fee revenue from an estimated £156 million a year to £16 million a year. However, a penalty of £500 on top of the ongoing TV licence fee and any TV licence arrears, would be a heavy burden for low income groups and consumers in vulnerable circumstances. Depending upon the chosen scheme there could be additional court costs and court enforcement costs to add to the debt.

The paper identifies significant set-up costs of any new regime for the BBC and substantial additional costs in collections as part of a civil enforcement scheme.

We would suggest that the government should take action to reform the regulation of enforcement agencies and enforcement agents and take action to mitigate their fees and charges, before embarking upon reforms that would increase the use of private bailiffs, e.g. through enforcing a civil penalty scheme.

Concerns over the impact of bailiff's have long been raised by debt advice agencies and other charities. Reforms to bailiff law in 2014 in England and Wales have had only limited success, and people in financial difficulty continue to report widespread problems with the behaviour of bailiffs and bailiff firms. The Taking control campaign report<sup>3</sup> sets out the reforms needed in the industry.

- ✓ The bailiff industry should be independently regulated by an independent statutory body to provide a credible deterrent to aggressive behaviour and excessive enforcement.
- ✓ There should be a free, clear, transparent and accessible bailiff complaints procedure.
- ✓ There should be a clear, simple and universally applicable procedure that allows people to apply to suspend action by bailiffs. This procedure should be available in the High Court, the County Court and the Magistrates' Court and applicable to all debts dealt with in any of these courts, as well as to enforcement started directly by local authorities or HMRC.
- ✓ Bailiff fees should be restructured, so as to incentivise good practice.
- ✓ Bailiffs should use a prescribed and consistent framework for agreeing affordable repayments.
- ✓ There should be procedures in place to identify vulnerable people and protect them from enforcement.
- ✓ Creditors should be required to act responsibly and do demonstrably more to collect debt before resorting to enforcement.

<sup>3</sup> <https://www.bailiffreform.org/storage/app/media/Taking%20Control%20report%20March%202017.pdf>

We have now been waiting over a year for the Ministry of Justice response to their review of the enforcement agent reforms. The summary of the Taking Control response can be found here.<sup>4</sup> The Justice Committee has called for a new regulator for the bailiff industry and recommends an independent complaints body in their April 2019 report on bailiffs: Enforcement of debt.<sup>5</sup>

It would seem that further safeguards should be put in place before setting up any new regime that involved civil enforcement penalties and the use of bailiffs. As the paper itself says, any such scheme:

*“... is also likely to lead to the use of enforcement agents (bailiffs) to enforce the debt, which may cause additional anxiety for individuals who may already be vulnerable.”*

## Question 5 – Please provide any evidence you consider appropriate in answering these questions and any other information that you believe the Government should consider, especially where there is an impact on those with protected characteristics or the most vulnerable.

The present regime does not attempt to differentiate or treat the potentially vulnerable fairly. At the very least, whichever option is adopted, a properly constituted requirement to offer the ability to pay any penalty in affordable instalments should be included. There is very little opportunity for discretion in current regime. We also would expect to see robust appeals mechanisms built into any new process.

### National Debtline TV licence statistical evidence

We have set out a chart below that illustrates the percentage of callers to National Debtline over the years 2016 to 2019 who have concerns about non-payment of their TV licence. As indicated, the percentage of callers with TV licence arrears has risen over this period whereas the level of magistrates’ court fines has fallen slightly. It is important to note that not all clients with TV licence arrears have been taken to court.

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<sup>4</sup> <https://s3-eu-west-2.amazonaws.com/bailiffreform/media/Taking%20Control%20MoJ%20call%20for%20evidence%20response%20-%202020page%20briefing.pdf>

<sup>5</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmjust/1836/full-report.html>

Percentage of callers with TV licence arrears	2016	2017	2018	2019
TV licence arrears	4%	5%	6%	6%
Magistrates' court fines	8%	8%	8%	7%

% based on overall clients.

We carry out a detailed survey each year into the circumstances of a typical sample group of clients.<sup>6</sup> We have obtained a snapshot of the income of a typical National Debtline client in 2019. This demonstrates that our client households are generally struggling to get by on low benefit-level incomes.

- ✓ Our clients' median income is £12,112 lower than the national median household income.
- ✓ Clients spend ~£12,665 less than the national annual average.
- ✓ 2 in 5 clients (39%) have a deficit budget. The average annual deficit is -£3,005 with the average surplus being £3,054.
- ✓ On average, a quarter of client's total monthly expenditure goes on food and housekeeping, with an average monthly spend of £307.
- ✓ Nearly 2 in 3 clients receive benefits, with nearly half of their income coming from benefits.
- ✓ 9 in 10 clients have an income below £30,000, with most clients (67%) on an income below £20,000.

In 2019, clients owed approximately £66.84 in TV licensing arrears and owed approximately £1,058 in magistrates' court fines.

There were twenty-four instances where we gave advice to clients who contacted us specifically because they were directly concerned about going to prison, as they identified this as their reason for contacting the service.

## Our reports

The Money Advice Trust produced our "Changing household budgets" report in 2014<sup>7</sup> and followed this up with our "Decade in Debt" report in 2018<sup>8</sup> both of which show that more households are becoming susceptible to serious debt problems. The study revealed that more people are falling into debt because they can't afford basic household bills such as energy bills, water bills, telephone bills, and council tax.

<sup>6</sup> Number of clients in sample = 961 Total number of instances debts are recorded in sample = 5,763.

<sup>7</sup>

[http://www.moneyadvicetrust.org/SiteCollectionDocuments/Research%20and%20reports/changing\\_household\\_budgets\\_report\\_final.pdf](http://www.moneyadvicetrust.org/SiteCollectionDocuments/Research%20and%20reports/changing_household_budgets_report_final.pdf)

<sup>8</sup>

<http://www.moneyadvicetrust.org/researchpolicy/research/Documents/Money%20Advice%20Trust%2c%20A%20decade%20in%20debt%2c%20September%202018.pdf>

National Debtline has seen a radical shift in the types of debt problems it helps people resolve. More people than ever before now need help with energy debts, water debts, telephone debts, council tax debts, and catalogue shopping debts – whilst less people report problems with traditional credit products such as bank overdrafts, loans and credit cards.

At National Debtline, we have seen a steep rise in the number of callers with broken budgets. In 2018, 48% of people calling the service for support had a deficit budget, a significant rise compared to 27% in 2009. The debt advice sector as a whole has reported an increase in the number of people in this situation seeking advice. For callers who had a budget deficit, their median shortfall in meeting essential spending was £38 per week. For callers with a budget surplus after essential spending, their median surplus was £34 per week.

The picture for these low-income households is complex and the consequences can be far-reaching, impacting on physical and mental health and well-being.

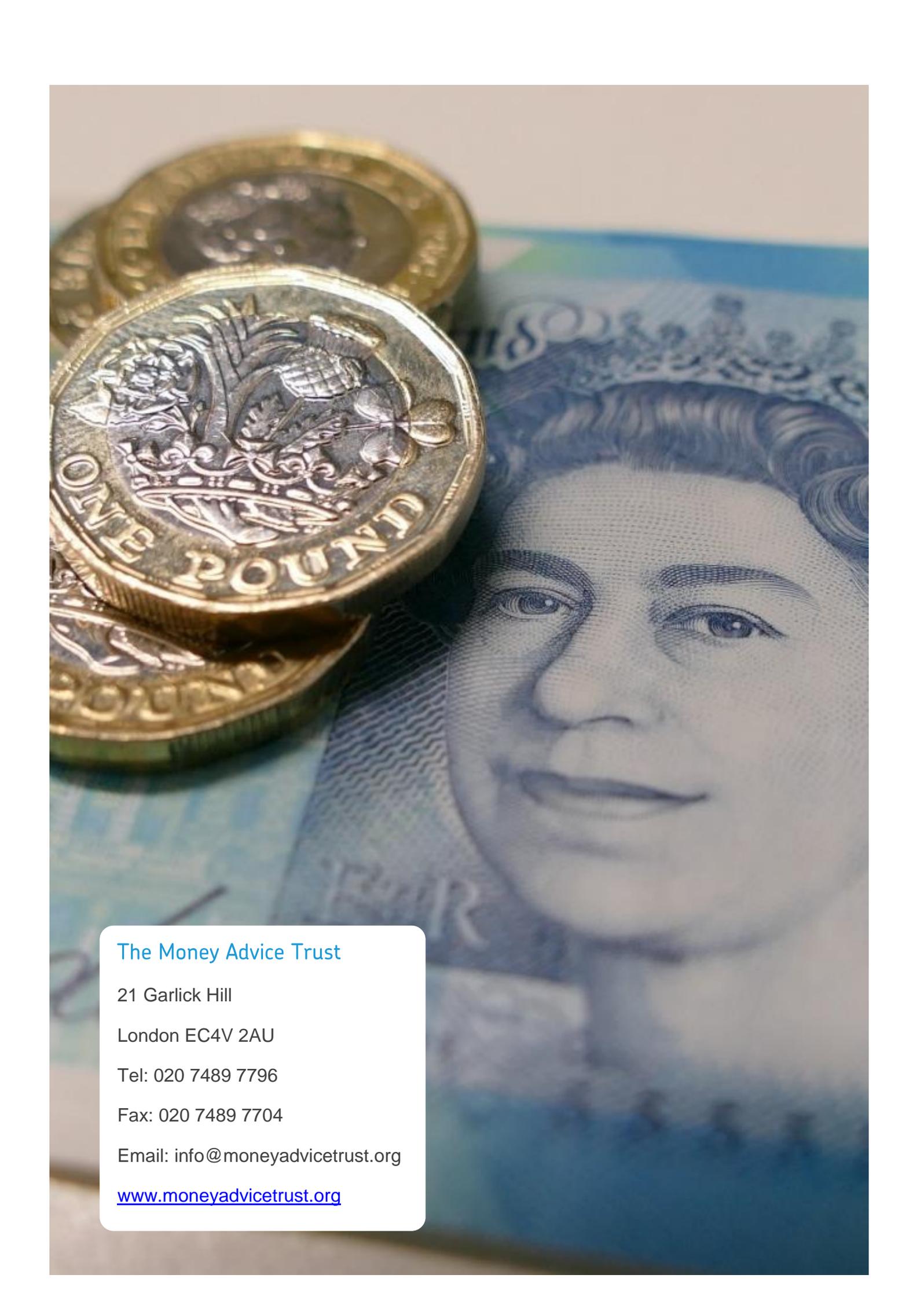
The trend in TV licence problems reflects the findings in our report regarding everyday household bills, as a TV licence is classed as an essential outgoing in any household budget. The growth in our clients reporting payment problems with their TV licence means that more people are at risk of being fined for non-payment of their licence with the subsequent risk of extremely serious sanctions if the fine is not paid. This is of course, in addition to the requirement to pay the TV licence. This means that people are required to pay both the TV licence and the magistrates' court fine from an already stretched household budget.

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