

# The Empty Promises of Government 1997-2016

Paul Nicolson, founder of Taxpayers against Poverty, describes how they help people at risk of losing their homes and the devastating effect of benefit sanctions.

The experience of helping a single father with three young boys, who was threatened with prison for being unable to pay the poll tax, led to the foundation of the Zacchaeus 2000 Trust (Z2K) in 1997. I was Team Vicar in the Hambleton Valley Group of Churches where, with the Parish Church Council, I later gave permission for the filming of the Vicar of Dibley. Z2K now helps over 2000 cases of the poorest Londoners every year.

The activities of the Charity Commissioner in stopping the entirely reasonable tweet of OXFAM, which described the cutting of social security since the 2008 financial crisis as a 'Perfect Storm', led me to remove myself from the chair of Z2K to set up Taxpayers Against Poverty (TAP), which is not a charity. It was founded by a letter in *The Guardian* on the 16<sup>th</sup> February 2012. I wrote:

*As a citizen who pays income and council tax, VAT and the excise duty on my evening glass of wine, I steam with indignation each time I am used by ministers to justify such draconian measures making people poorer.'*

Now Ken Loach has released his *Palme D'Or*-winning *I, Daniel Blake* on the 21<sup>st</sup> October (reviewed on page 24). The dire circumstances of the poorest UK citizens claiming benefits have been written about with devastating accuracy and powerful acting in this important film.

The film portrays the impact on the health and well-being of a single unemployed man with a heart condition and a single mother with two young children of laws passed by Parliament and implemented by the Department of Work and Pensions (DWP) since the 2008 financial crisis. The characters have been given the shining integrity that is normal among unemployed citizens of the UK. They become victims of laws implemented by one powerful government department, the DWP. My experience is that there are three powerful government departments which descend, uncoordinated and simultaneously, on a single household, causing

debt, hunger and ill health; they are the DWP, the Department for Communities and Local Government (DCLG) and the Ministry of Justice (MOJ). This important film, with its tragic and truthful content, understates the consequences of the 2008 financial crisis for the poorest tenants in the UK. OXFAM's 'Perfect Storm' tweet was a mild rebuke to the government under the circumstances.

## Christian solidarity with vulnerable and impoverished citizens

Since starting Z2K I have tried to express Christian solidarity with the poorest citizens, not only by helping them when they are forced into unmanageable debt, distress, hunger and ill health by bad law, but also by lobbying parliament for procedures which require decision-takers in jobcentres, local authorities, magistrates' courts and the bailiffs to take into account the vulnerable circumstances of benefit claimants. I have learnt the hard way that all that is agreed by Ministers in the Westminster bubble is very often not implemented when decisions are made locally. If it had been, *I, Daniel Blake* would never have been written.

Our first Z2K 'success' at requiring vulnerable situations to be taken into account by decision-takers was with the 2001 Ministry of Justice guidance in *The National Standards for Enforcement Agents*. It was re-named in 2014 *Taking Control of Good National Standards*. It includes the following list of potentially vulnerable situations (see para 78):

- *the elderly;*
- *residents with a disability;*
- *the seriously ill;*
- *the recently bereaved;*
- *single parent families;*
- *pregnant women;*
- *unemployed residents; and*
- *those who have obvious difficulty in understanding, speaking or reading English.*



Rev Paul Nicolson protesting outside the Department of Work and Pensions on March 9<sup>th</sup> 2016. Photo: [guardian.com](http://guardian.com)

The guidance recommends that bailiffs should return such cases to the court, creditor or the local authority when they meet them on the doorstep. It is relevant evidence for all governmental decision-takers.

Councils issue the summonses to late and nonpayers of Council Tax thousands at a time. They contain these threats which can be devastating to the vulnerable and impoverished individual or family. If a liability order is granted the council will be able to take one or more of the following actions:

- *Instruct bailiffs to take your goods to settle your debt – this can include your car. You will be liable to pay the bailiffs costs which could substantially increase the debt.*
- *Instruct your employer to deduct payments from your salary or wages.*
- *Deduct money straight from your Jobseeker's Allowance or Income Support.*
- *Make you bankrupt.*
- *Make a charging order against your home.*
- *Have you committed to prison.'*

Councils cannot enforce the tax without a

Magistrates' Liability Order. They are rubber-stamped by the magistrates, who are totally unaware of vulnerable circumstances, thousands at a time and 3.5 million a year in England and Wales.

All that is done despite the DCLG *Guidance to Local Councils on Good Practice in the Collection of Council Tax Arrears*, which refers to the *National Standards for Enforcement Agents*, produced by the MOJ. In particular, this (DCLG) guidance deals with **the kinds of help and support that Local Authorities should be giving to vulnerable people, both in the run up to enforcement activity taking place and afterwards.**

Councils do help vulnerable people, both before and after the summons to court, but only when the vulnerable get in touch with the council. There is no proactive search to ensure the councils are not worsening the health of the already mentally or physically sick or disabled.

After starting TAP I initiated the case against Haringey Council's 2012 Council Tax consultation. The case was taken on by a brave single mother claiming benefits applying for Legal Aid. Haringey Council lost. The Supreme Court

(UKSC) took account of the vulnerable circumstances and probable hardship of low income Haringey Residents in their Judgment in *Moseley v Haringey*:

*Those whom Haringey was primarily consulting were the most economically disadvantaged of its residents. Their income was already at a basic level and the effect of Haringey's proposed scheme would be to reduce it even below that level and thus in all likelihood to cause real hardship, while sparing its more prosperous residents from making any contribution to the shortfall in government funding. The protest of the Reverend Nicolson in his letter dated 10 December 2012 was well-directed.*

From: UKSC 2013/0116 29th October 2015.  
See paras 22 and 29.

That insight of the Supreme Court was totally ignored by Haringey Council and by 258 other councils who have been taxing benefit incomes since April 2013.

The Wednesbury Principles require governmental decision-takers to have regard for all relevant evidence, to disregard irrelevant evidence and to be rational. During the passage of the Welfare Reform Act 2012 Lord Freud gave the following assurance to Parliament as a result of an amendment tabled at my request by Lord Ramsbotham:

*Lord Freud: We spoke about the Wednesbury principles at our seminar, and I can reassure noble Lords that the decision-making process is and will continue to be consistent with these fundamental principles of public law. The department strives to ensure that no decision is influenced by irrelevant factors and that decision-makers act in a rational and fair manner, taking into account all relevant matters before exercising a discretion. For example, the primary legislation expressly sets out that a conditionality sanction applies only if there is no good reason for the failure. In determining whether there is such good reason, decision-makers will have to consider all relevant matters raised by the claimant within a particular time period, including information about a claimant's health condition and financial circumstances.*

(PN emphasis) Hansard 25 Jan 2012: Column 1061

Lord Freud wrote to me on the 3<sup>rd</sup> March 2016:

*The Chancellor announced on the 8th July 2015...the four principles that have underpinned these reforms. First, the welfare system should support the elderly, vulnerable and disabled people.*

The government's intentions to protect vulnerable people could not be clearer. Sadly, all that effort to urge national and local government to take account of vulnerable situations over the past 19 year years simply led to empty promises as I, *Daniel Blake* illustrates.

## The devastating impact of benefit sanctions

I met John Smith (name changed) after his three month sanction had ended. He lived in a fifth floor council flat and was wondering whether to throw himself off the balcony. He had a history of depression. I do not like to speculate what would have happened if he had been left on his own.

The council was chasing him for rent and council tax arrears with threats of eviction, prison and the bailiffs. The arrears had piled up during the three months' sanction when he had no income. His adult unemployment benefit was £73.10 a week, from which various debts were already being deducted. The penalty of a benefit sanction is experienced as unpaid debt for many months after the sanction ends.

He had been sanctioned for three months by the Tottenham High Road jobcentre for attending a job-related interview a day late. His GP immediately sent him to the NHS for twelve sessions of therapy. The rent and council tax arrears had piled up because the Tottenham jobcentre's computer is connected to Haringey council's computer. When John's £73.10 Jobseeker's Allowance (JSA) was stopped by the sanction at the Tottenham Jobcentre its computer sent a signal to the council's computer telling it that John was no longer eligible for JSA. That signal automatically cancelled his eligibility for housing and council tax benefits, which were then stopped by the council's computer.

While we were working with the council to reduce the two weekly deductions from his JSA to as little as possible, the bailiffs called at 7.30 in the morning, demanding £400 the next day for a TV licence fine that John did not know existed.

He called me at 8 am and I called the bailiffs, telling them that they should not waste time enforcing that fine because we were taking the case back to the magistrates to seek remission of the debt and their fees. I also reminded them that there is guidance issued by the Ministry of Justice which advises them to return to the magistrate's court cases involving 'vulnerable situations.'

I then sent the case to the Magistrates at Highbury Corner Magistrate's Court, asking them to re-hear John Smith's case. We were duly given a date. I went with him as a McKenzie Friend and the magistrate let John off the remaining £135 of his fine and dismissed the bailiffs without their fees.

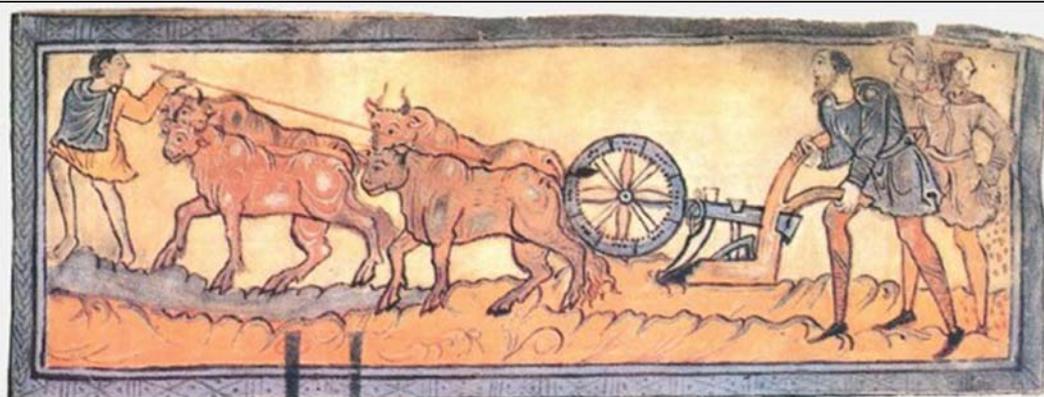
Anyone summoned to court who attends without legal representation is allowed a McKenzie Friend; so called because the person who won the right to a friend in court was called McKenzie. I have supported people that way for many years. It is not always straight-forward, because we are not allowed to speak without the permission of the Magistrate. In John's case we had the following tussle in court:

Me: *'I would like to speak for Mr Smith.'*  
 Clerk: *'You are not allowed to speak, Reverend Nicolson.'*  
 Me: *'I am allowed to speak with the permission of the Magistrate.'*  
 John: *'I have asked the Reverend Nicolson to speak for me.'*  
 Magistrate: *'Please speak.'*

The next thing to hit John Smith was the news that his council flat was due to be demolished. The mismatch between benefit income and rent is the cause of much debt, hunger, homelessness and illness. It is even worse when people are incapacitated by the stress of having no income. Governments have been told for years by the Royal College of Psychiatrists and other authorities that there is a link between debt and mental health problems. They report. 'One in four adults will have a mental health problem at some point in their life. One in two adults with debts has a mental health problem. One in four people with a mental health problem is also in debt. Debt can cause – and be caused by – mental health problems.'

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Paul Nicolson is the founder of Taxpayers against Poverty. He is a retired vicar living and campaigning in Tottenham, London. [taxpayersagainstopoverty.org.uk/](http://taxpayersagainstopoverty.org.uk/)



## The Oxen

Christmas Eve, and twelve of the clock.  
 'Now they are all on their knees,'  
 An elder said as we sat in a flock  
 By the embers in hearthside ease.

We pictured the meek and mild creatures where  
 They dwelt in their strawy pen,  
 Nor did it occur to one of us there  
 To doubt they were kneeling then.

So fair a fancy few would weave  
 In these years! Yet, I feel  
 If someone said on Christmas Eve,  
 Come, see the oxen kneel

'In the lonely barton by yonder coomb  
 Our childhood used to know,'  
 I should go with him in the gloom,  
 Hoping it might be so.

Thomas Hardy, 1915