



Enforcement Agent Code of Practice

FOR USE BY OLDHAM COUNCIL AND ITS PARTNERS

Date: 20th March 2014

1. The Council will ensure that all Enforcement Agents have an appropriate knowledge and understanding of all relevant legislation, case law and powers, and at all times act in accordance with them.
2. The Enforcement Agent must at all times carry and provide photographic proof of their identity (County Court general certificate issued under Section 7 of the Law of Distress amendments Act 1888) when visiting a property to distrain. The Enforcement Agent must at all times make clear to the debtor the purpose of his visit and the fact that he is acting on behalf of the Council.
3. The Enforcement Agent must at all times carry the written authorisation of the Council, to be shown on request and must hand to the debtor or leave on the premises the relevant documentation including details of costs incurred and procedure, Taking Control of Goods 2013 and any additional guidance notes. The debtor will be invited/ required to sign a Taking control of goods agreement in the presence of the debtor/partner only after its meaning has been explained and understood by the debtor.
4. Only a certificated Enforcement Agent may enter into a controlled goods agreement in respect of liability orders on behalf of the Council.
5. Enforcement Agents must be aware that they represent the Council in their dealings with debtors. They should at all times act lawfully and in accordance with the provisions of the Local Government Finance Act 1992. They should also act in a responsible, professional and courteous manner and be aware that their behaviour, appearance and attitude have a great influence on the success of the debt recovery process.
6. The Enforcement Agent must adopt a firm but correct attitude when dealing with the public, they must be polite and courteous and avoid being provoked by vexatious debtors. In the event of a breach of the peace occurring as a result of a visit, the Enforcement Agents supervisor must be debriefed of the circumstances as soon as practicable.
1. The Enforcement agent must comply with Data Protection legislation where applicable and should be aware of the relevant Articles in Human Rights legislation.
2. Where more than one Liability Order is held for a debtor, the Enforcement Agent will attend the property for all liability orders at the same time, with only one set of costs being made. ‘
3. If on attendance, contact is made with the debtor, the Enforcement Agent should attempt to recover the amount as quickly as possible, taking into account the circumstances of the debtor. Wherever possible, if payment is not made in full at the time of the first visit, the debtor should be given the opportunity to enter into a controlled goods agreement or instalment arrangement Enquiries should be made as the eligibility of discount/rebate. Information regarding employers / benefit details should be requested.

4. If an Enforcement Agent has evidence the debtor is vulnerable in line with Oldham Corporate fair debt policy, enforcement action should cease immediately and other recovery options explored.
5. Arrangements for payment of the total amount due can be agreed at the Enforcement Agents discretion over a period of up to 10 weeks for NNDR. Council Tax arrangements should be made over a period of 20 weeks but a period of up to 52 weeks can be considered if the debtor's circumstances warrant this. If the arrangement for payment offered is beyond these timescales and the Enforcement Agent considers it inappropriate to remove goods or there are exceptional circumstances the Enforcement Agent should refer back to the Enforcement Agent supervisor before agreeing to an arrangement exceeding these timescales
6. The Enforcement Agent must take no action if it appears that no responsible adult is present at the debtor's address. If an adult is present the Enforcement Agent must attempt to establish their identity.
7. If the debtor is unavailable the Enforcement Agent must ascertain when they will be available. No reference will be made to the nature/purpose of their visit. The Enforcement Agent should be aware of the sensitive and confidential nature of this work and should take care to ensure that information regarding the debtors circumstances are not passed on to or discussed with a third party. If children are present the Enforcement Agent should be encouraged to ask them to leave the room. Any documents must be left, marked private & confidential, in a sealed, clearly addressed envelope.
8. The Enforcement Agent should at all times **use his professional judgement** to refer back to the Enforcement Agent supervisor if he considers that, due to the personal circumstances of the debtor, it would be inappropriate to proceed to levy distress. In particular, cases such as:
 - a) Appears to be elderly and it appears may be easily confused.
 - b) Appears to be physically or mentally ill, severely disabled or suffering mental confusion.
 - c) Has young children under 5 years old and severe social deprivation is evident
 - d) Is disputing liability or claims to have paid, applied for rebate, discount or any other relief not yet granted, recommend, levy distress and then report to the bailiff supervisor.
 - e) Is heavily pregnant.
 - f) Is in mourning due to recent bereavement.
 - g) Is having difficulty communicating due to profound deafness, blindness or language difficulties.
 - h) Is unemployed and provides proof that they are in receipt of Income Support or Job Seekers Allowance or Pension Credit from the DWP and details are obtained of the debtors N.I. number.
 - i) Long term sickness or serious illness including the terminally ill.

NB Points c; e and h do not apply to NNDR
9. Before attending with a van in order to remove goods, the Enforcement Agent must send to the debtor, a letter warning of the intention to send a van. However, if there are circumstances that indicate the giving of prior notice may compromise the ability to remove goods (i.e. company about to go into liquidation or debtor about to abscond) then attendance with a van can be made without a letter being issued.

15. In the event of the need to force entry to the debtor's premises, the Enforcement Agent must obtain the express permission of the Head of Revenues before doing so.
16. When the debtors' goods are removed and sold at public auction, the debtor should be notified of the date, time & place of sale, to give the opportunity to make payment and return their goods. Any goods uplifted must be transported & stored with due care & attention whilst in their care, with relevant security & insurance provisions. The Enforcement Agent should not remove goods for sale unless it is anticipated that the sum realised will be sufficient to settle a reasonable proportion of the amount outstanding to the Council (30% to 50%), including costs. Rule of thumb is that the value of the goods can be divided by 5 to give an approximate auction value. NB. For NNDR in some cases you may still wish to proceed to remove if the value is less than 30 - 50%, i.e. so that ongoing trading ceases or if it is likely to become insolvent.
17. In the case of Council Tax debts, no goods should be removed for sale which fall within the categories listed in (The Taking Control of goods) Regulations 2014 (as amended) being:
- a) items or equipment (for example, tools, books, telephones, computer equipment and vehicles) which are necessary for use personally by the debtor in the debtor's employment, business, trade, profession, study or education, except that in any case the aggregate value of the items or equipment to which this exemption is applied shall not exceed £1,350;
 - b) such clothing, bedding, furniture, household equipment, items and provisions as are reasonably required to satisfy the basic domestic needs of the debtor and every member of the debtor's household, including (but not restricted to)—
 - (i) a cooker or microwave;
 - (ii) a refrigerator;
 - (iii) a washing machine;
 - (iv) a dining table large enough, and sufficient dining chairs, to seat the debtor and every member of the debtor's household;
 - (v) beds and bedding sufficient for the debtor and every member of the debtor's household;
 - (vi) one landline telephone, or if there is no landline telephone at the premises, a mobile or internet telephone which may be used by the debtor or a member of the debtor's household;
 - (vii) any item or equipment reasonably required for—
 - (aa) the medical care of the debtor or any member of the debtor's household;
 - (bb) safety in the dwelling-house; or

- (cc) the security of the dwelling-house (for example, an alarm system) or security in the dwelling-house;
- (viii) sufficient lamps or stoves, or other appliance designed to provide lighting or heating facilities, to satisfy the basic heating and lighting needs of the debtor's household; and
- (ix) any item or equipment reasonably required for the care of—
 - (aa) a person under the age of 18;
 - (bb) a disabled person; or
 - (cc) an older person;
- (c) assistance dogs (including guide dogs, hearing dogs and dogs for disabled persons), sheep dogs, guard dogs or domestic pets;
- (d) a vehicle on which a valid disabled person's badge is displayed because it is used for, or in relation to which there are reasonable grounds for believing that it is used for, the carriage of a disabled person;
- e) a vehicle (whether in public ownership or not) which is being used for, or in relation to which there are reasonable grounds for believing that it is used for, police, fire or ambulance purposes; and
- f) a vehicle displaying a valid British Medical Association badge or other health emergency badge because it is being used for, or in relation to which there are reasonable grounds for believing that it is used for, health emergency purposes.

NB In the case of NNDR (a) does not apply.

18. Only goods belonging to the debtor may be seized, goods subject to H.P. or credit sale will not be removed in accordance with the Consumer Credits Act 1974.

19. Costs charged to the debtor should be strictly in accordance with the provisions of the Council Tax (Administration and Enforcement) (Amendment) (No. 2) Regulations 1993 (as amended) or the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989(as amended) as appropriate.

20. Where the Enforcement Agent is unsuccessful in his attempts to obtain payment and the liability order is to be returned to the Enforcement Agent supervisor, it should be returned endorsed to the effect that the person Taking control of goods as unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy. It should also be returned with a report summarising the action taken by the bailiff together with any details ascertained concerning the financial / personal circumstances of the debtor.

21. A minimum of 3 unsuccessful visits to the debtor's address are required before the case is returned as unpaid. At least one of these visits should be made to the debtor's address outside normal office hours (i.e. Monday to Friday 8.30am to 5.30pm. Documentation must be left at the property after each visit is made and give details of the date and time of the visit the debt and charges incurred; it must give the name of the Enforcement Agents and a contact telephone number.

22. If it is ascertained that the debtor is no longer resident, the Enforcement Agent should make appropriate discreet local enquiries to ascertain the debtor's date of leaving and new

address if available. This information or lack of it should then be referred back to the debt recovery team.

23. Enforcement Agents need to be aware that they should not attend at a Director's personal address when the liability order is not in his specific name.

24. All complaints should be escalated to the Enforcement Agent supervisor. The Enforcement Agent supervisor shall be responsible for ensuring that any complaints received from debtors or their authorised representatives by the Council are handled efficiently and promptly.

25. The Council reserves the right to make amendments / add new procedures at any time resulting from changing practices.