

Enforcement Agent Code of Practice – Wigan Council

Obligations

Wigan Council has a responsibility to ensure that the Enforcement Agents employed to enforce warrants and orders are properly vetted and have an appropriate knowledge of the current legislation. All staff that will engage in a direct customer facing position must be subject to a check with Disclosure & Barring Service.

Wigan Council will ensure that appropriate and regular training is available to all Enforcement Agents in order to maintain their knowledge of legislation and Codes of Practice.

The Enforcement Agent must, at all times during the course of their duties, act responsibly and professionally, in a calm and dignified manner. They must act within the scope of the current enforcement legislation and The National Standards for Enforcement. They must maintain the objective of recovering the amount outstanding as quickly as possible, without causing hardship.

Enforcement Agents must comply, at all times, with Health and Safety, Equality, Human Rights and Data Protection Legislation and where appropriate, the Freedom of Information Act.

The Enforcement Agent must keep a complete record of all financial transactions.

Regular performance reviews will be carried out in order to identify any training needs along with any incidents and complaints.

Comprehensive insurance must be in place including; professional indemnity, public and employers liability and cover for seized goods, including goods in transit.

Throughout the recovery process, Wigan Council will focus on the need for personal contact with the debtor and other advice agencies.

The Council will make every effort to assist debtors where they demonstrate a willingness to co-operate with them.

Wigan Council is mindful that in some circumstances individuals may not have the ability to pay back what they owe. We will work with services and partners to help people by offering debt advice and support.

Where English is not a debtor's first language, an independent interpreter service is available and must be offered where necessary. Bills and invoices will be available in both large print and braille.

Where it is known that a debtor is difficult or aggressive, cases will be marked with an indicator so that the Enforcement Agent is prepared.

Working with partners and other advice agencies

Wigan Council aims to operate best practice at a local level when working with their partners and agencies that are advising debtors in relation to council tax and have regular liaison with those agencies to provide policy and procedural updates.

Wigan Council is committed to sign up and adherence of the 'Citizens Advice Local Government Association Good Practice Protocol' to help ensure that taxpayers pay their council tax bills on time while accessing timely debt advice when needed.

Information

Literature will be provided regarding the powers Certificated Enforcement Agents hold. Such information will include charges Enforcement Agents are allowed to make by law, how to complain about an Enforcement Agent's behaviour and processes to check the Enforcement Agent's certification. The enforcement agency will ensure that information is available on where to access further help from the local authority or other advice agencies.

The enforcement agency will provide details on different direct debit dates available and promote contact as soon as possible should a debtor be unable to make their payments.

The enforcement agency will set down a clear procedure for people to report complaints about recovery action.

Attendance at a debtor's address and difficult situations

The Enforcement Agent will carry and when requested provide Wigan Council photographic identification and Court Certification during all visits to a property to take control of goods. Prior to identifying himself/herself as an Enforcement Agent, they shall take reasonable steps to ensure that they are speaking directly with the debtor. Where the debtor is unavailable, any relevant documents must be left at the address in a sealed envelope addressed to the debtor.

The name of the Enforcement Agent must be clearly identified on any correspondence left with the debtor or at the premises. Relevant telephone numbers must be displayed along with any reference numbers.

Before discussing any confidential account details, the Enforcement Agent must be satisfied that the person they are talking to is the correct liable party.

The Enforcement Agent must withdraw from domestic premises if the only person present is, or appears to be, under the age of 18; they can enquire as to when the debtor will be home. If the only person present is under the age of 12, the Enforcement Agent must withdraw without making any enquiries.

If any children are present, the Enforcement Agent must encourage that they leave the room.

If contact is made with the debtor, the Enforcement Agent must, where possible, attempt to get payment in full, taking into account the debtors circumstances. The Enforcement Agent must not demand unrealistic payments.

The Enforcement Agent must distinguish between a person who cannot pay and a person who will not pay.

Once contact has been made with the debtor, enquires should be made as to the eligibility of any discount, exemption or rebate they may be entitled to. Employment or benefit details should also be sought.

Payment arrangements for the total amount due can be made at the Enforcement Agents discretion over a 10 week period for NDR or 20 weeks for Council Tax, although this can be extended to 52 weeks for Council Tax should the Enforcement Agent feel the debtor's circumstances warrant this.

If on the first attendance full payment is unsuccessful, the debtor must be given the opportunity to enter into a Controlled Goods Agreement. Only Certificated Enforcement Agents may enter into such an agreement.

Enforcement Agents must at all times attempt to minimise embarrassment for the debtor.

The Enforcement Agent must not be deceitful by misrepresenting their powers, capabilities or abilities while carrying out their duties for example, imply that they are anything to do with Police.

A family member or any other 3rd party should not be forced into pay the outstanding balance on behalf of the debtor although voluntary payments may be accepted.

If the Enforcement Agent is subject to any threats of violence, or any matters of concern, must be reported immediately to management.

Attendance must not be carried out on a Sunday's, Bank Holidays, Good Friday or Christmas Day. Enforcement should only be carried out during the hours of 6am to 9pm or any time during trade hours.

Religion and cultures of the debtors should be respected at all times. The Enforcement Agent should make efforts to be aware of religious festivals and take into account whether enforcement action is appropriate during these periods.

If an Enforcement Agent feels the debtor is becoming aggressive, take a step backwards to indicate you are giving them space. Speak calmly, be aware of body language and keep hands on show. If this continues, the Enforcement Agent must remove him or herself as soon as it is practical and safe to do so.

When entering a property, the Enforcement Agent must always situate nearest to a door so an escape route is available, if required. Leave the property immediately, return to the vehicle, shut all windows and lock all doors and drive to a safe place. Once at a safe area, telephone the Police to report the incident and report to your manager. Do not return to the property.

Vulnerability

Where evidence is provided, in line with Wigan Council's Fair Debt Policy, that a debtor is vulnerable, enforcement action should cease immediately and alternative recovery methods explored.

Discretion is required at all times, not only to protect the debtor but also the Enforcement Agent, who should avoid taking action which may in turn lead to accusations of inappropriate behaviour.

The Enforcement Agent should use their professional judgement if they believe it would be inappropriate to take control of goods. Particular cases could include;

- a) They appear to be elderly and easily confused.
- b) They are physically or mentally ill or severely disabled.
- c) Has young children under 5 years old and severe social deprivation is evident.
- d) They are heavily pregnant.
- e) Had a recent bereavement.
- f) Suffers from profound deafness, blindness, understanding, speaking or reading English.
- g) Suffers from long term illness, including terminally.
- h) Is unemployed and provides proof that they are in receipt of one of the following; Jobseekers Allowance, Employment & Support Allowance, Income Support, Guaranteed Pension Credit or Universal Credit.

Where the debtor may have outstanding claims for council tax support or housing benefit which are contributing to arrears, recovery may be suspended once it is established that a legitimate claim is pending.

Please note: (c), (d), and (h) do not apply to NDR

Entry to a Premises and Removal of Goods

Prior to seeking access to the premises, the Enforcement Agent, where possible, must ensure that the debtor is still resident.

In situations where the debtor is no longer resident, the Enforcement Agent should make discreet local enquires to try and ascertain the debtors new address and vacation date.

The Enforcement Agent should not attend the home address of a director if the liability Order is not in his/her name.

Force should not normally be used to gain entry in the first instance and deception should never be employed. Force may only be used in limited circumstances. The Enforcement Agent must not misrepresent his/her powers to gain entry.

In the event that force is required to gain entry, permission was be sought by Senior Management before doing so.

Having lawfully gained access and upon taking control of goods, a full inventory of the goods must be made. This must identify individual items and must not group items together. It must be clear as to what items have been taken control of.

The Enforcement Agent must only take goods in accordance with regulations. Under no circumstance should goods be taken control of which appear to be solely used by a child. Other items that may not be taken control of for Council Tax are:

- 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; EXCEPT that this exemption of 'tools of the trade' does NOT apply to the execution of a Liability Order for Non-Domestic Rates.
- b) 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):-
 - a cooker or microwave;
 - a refrigerator;
 - a washing machine;
 - a dining table large enough, and sufficient dining chairs, to seat the debtor and every member of the debtor's household;
 - beds and bedding sufficient for the debtor and every member of the debtor's household;

- 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;
- c) any item or equipment reasonably required for:-
- the medical care of the debtor or any member of the debtor's household;
 - safety in the dwelling-house;
 - security of the dwelling-house (for example, an alarm system) or security in the dwelling-house;
- d) 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;
- e) any item or equipment reasonably required for the care of:-
- a person under the age of 18;
 - a disabled person;
 - an older person;
- f) assistance dogs (including guide dogs, hearing dogs and dogs for disabled persons), sheep dogs, guard dogs or domestic pets;
- g) 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;
- h) 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;
- i) 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.
- j) In addition, under reg.5, TCG Regs also exempt are:-
- Goods that constitute a dwelling, such as a caravan, boat, tent, etc., if being used as a person's principal home.

There are various other remedies or ways to enforce a Council Tax Liability Order. If you do take control of goods there is the option of a controlled goods agreement but other possible enforcement remedies are:-

- a) Power to obtain information about employment and any jointly liable person;
- b) Attachment of earnings
- c) Deductions from specified state welfare benefits (Job-seekers' allowance, income support, pension credit, employment support allowance) (When implemented, deductions will apply to Universal Credit);
- d) Charging Order;
- e) Insolvency proceedings;
- f) Attachment of councillors' allowances (if the liable person is an elected member of any local authority);
- g) Committal (private individuals only).

Please note that (a) does not apply to NDR

Only goods that belong to the debtor may be seized, any goods subject to Hire Purchase or credit sale may not be removed in accordance with the Consumer Credits Act 1974.

The Enforcement Agent must ensure that the goods seized do not amount to more than the outstanding debt.

The goods must be handled with reasonable care pending sale, including reasonable storage facilities and adequate insurance cover. All sales must be publicised and buyers encouraged to attend, in order to secure the best possible price.

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