

1. BACKGROUND

The purpose of this document is to outline the policies and practices of the London Borough of Sutton (the Council) in relation to the collection of Council Tax arrears.

This Policy aims to ensure that the collection of Council Tax arrears is undertaken in a manner which is consistent, accountable and fair.

In drawing up the Policy the Council has consulted both local independent debt advice agencies and Enforcement Companies.

The Policy is written to comply with the statutory provisions and duties of:

- the 'Council Tax (Administration and Enforcement) Regulations 1992/613' (as amended),
- the 'Non Domestic Rating (Collection and Enforcement)(Local Lists) Regulations 1989/1058' (as amended),
- the 'Tribunals, Courts and Enforcement Act 2007'
- the 'Taking Control of Goods: National Standards 2014'
- the 'Data Protection Act 1998', and the 'Equality Act 2010'.

2. DEFINITIONS

In the context of this Policy, a debtor is a person who has a legal obligation to pay Council Tax but, for whatever reason, has failed to do so.

But they also have rights when Enforcement Agents are instructed to recover those debts.

Priority debts are those where a debtor may lose their possessions, accommodation or could be sent to prison if the debts are not paid.

'Serious hardship or detriment' is defined as leaving the debtor being unable to provide food, heating, accommodation, clothing, medical treatment, education or other necessities for themselves or their family, or other people for whom they are responsible, or to pay other priority debts.

An 'affordable' payment is defined as an amount that can be paid by the debtor without imposing serious hardship or detriment to the debtor or their dependents.

3. THE COUNCIL'S RESPONSIBILITIES

The Council's first responsibility is to seek to recover the debt as quickly as reasonably practicable without imposing serious hardship or detriment to the debtor or their dependents.

The Council will, prior to forwarding any debt to the enforcement agent, examine every option other than enforcement action in order to maximise the effectiveness of the enforcement agent's action and to avoid where ever possible those who are most vulnerable having to deal with an enforcement agent at their door.

4. RECOVERY PROCESS PRIOR TO INSTRUCTING AN ENFORCEMENT AGENCY

The use of enforcement agents will be considered as a last resort for the collection of arrears and only following an assessment of the debtor's situation to ascertain whether enforcement action is appropriate. In order to make this assessment the Council will make checks of its automated systems:

- to confirm that the debt has not been paid;
- to establish whether the debtor has been granted or has a claim pending for Council Tax Reduction, Housing Benefit, discounts and/or reliefs, where appropriate;
- to try to establish whether the debtor or the debtor's partner is in receipt of Income Support, Jobseekers Allowance, Employment and Support Allowance, ;Disability Living Allowance, Attendance Allowance or Pension Credit Guarantee;
- to try to establish whether the debtor or the debtor's partner is working; for any outstanding issues which could affect the amount of debt pending enforcement agent referral.

Having made the checks outlined above and where they reveal the debtor or their partner is in receipt of one or more of the above benefits or is thought to be vulnerable or at risk of being vulnerable, enforcement action may still be taken but other means of engagement and collection may also be used. At the discretion of the Council these might include:

- a home visit from an appropriately trained Council officer;
- seeking an order for attachment of earnings or benefits if deductions are not already in place;
- use of other payment arrangements at the discretion of the Council.

Where no further evidence is found and enforcement action is judged to be appropriate, following an application in the Magistrates Court, a notification (called the *Council Tax notice of liability order*) will be sent to the debtor advising that a liability order has been obtained. This notification will be in writing and will include:

- a request for information about their employment status, income and expenditure;
- a 14 day warning notice of enforcement action;
- a description of what is happening to them, their options, their obligations, what may happen if they do not pay and the action they can take to avoid it;
- a summary of payment options and methods including where to make payments; contact details of national independent advice agencies, and other resources that can help them resolve their debt issues;
- contact details for Revenues and Benefits;
- details of all charges and fees that can be made by enforcement agents

5. PROFESSIONALISM AND CONDUCT OF ENFORCEMENT AGENTS

Enforcement agents must comply with this Policy at all times whilst carrying out their duties.

Enforcement companies employed by the Council to undertake specific tasks are required to ensure that they, their employees, contractors and agents comply with this Policy at all times.

All enforcement agents must carry:

- photo identification (ID) from the enforcement company. – This must be shown to all debtors at first contact and on each subsequent visit.
- their County Court enforcement agent's certificate. - This must be shown to all debtors at first contact and on each subsequent visit.
- written authorisation to act on behalf of the Council – This must be produced on request.

Enforcement agents must act within the law at all times and observe all health and safety requirements in carrying out enforcement.

Enforcement agents must not discriminate on any grounds including those of age, disability, ethnicity, gender, race, religion or sexual orientation that is likely to make the Council liable or potentially liable to a claim under the Equality Act 2010.

Enforcement agents must carry out their duties in a professional, calm and dignified manner at all times and adopt a polite and respectful attitude toward debtors and other persons they make contact with in the course of their duties.

Enforcement agents must be aware that they are agents for the Council and should act accordingly.

As representatives for the Council, enforcement agents will, from time to time, be called upon to liaise between debtor and Council.

Enforcement agents must not misrepresent their powers, qualifications, capacities, experience or abilities.

Enforcement agents will maintain an acceptable standard of dress consistent with the provision of a professional service.

Enforcement agents should, so far as it is practical, avoid disclosing the purpose of their visit to anyone other than the debtor.

All information obtained during the administration and enforcement of Liability Orders must be treated as confidential.

Enforcement agents should provide clear and prompt information to debtors and where appropriate, to the Council.

If it is found that the debtor is residing in a refuge or safe house the enforcement agent will cease collection and inform the Council.

6. PARTICULARS OF ENFORCEMENT ACTION

The enforcement agent's initial contact with a debtor will be with the intention of seeking immediate and full payment of the debt including the Compliance Stage fee liable under statute. Where a debtor cannot afford to pay the full amount owing, and cannot make an agreement to pay, the enforcement agent will advance to the enforcement stage and take control of goods, a payment arrangement should still be established, which the enforcement agent must monitor.

For the purposes of taking control of goods, removal or sale, enforcement agents shall, without the use of unlawful force, try to gain access to the debtor's goods. The enforcement agent will produce an inventory of goods taken control of and leave it with the debtor, or at the premises, with any other documents that are required by regulations, statute or this Policy.

Enforcement companies must ensure that legislation restricting enforcement activity to certificated enforcement agents is complied with.

Enforcement agents have a right to expect to be treated in a civil, polite and honest and non-threatening manner and with respect and courtesy whilst carrying out their agreed duties.

In circumstances where the Council requires it, and always where there have been previous acts or threats of violence by a debtor or someone in their household, a risk assessment should be undertaken by the enforcement company prior to the enforcement agent attending a debtor's premises.

Communication:

- The enforcement company shall ensure that there is a rapid, effective and reliable means of communication between debtor and enforcement agent and debtor and enforcement company.
- The enforcement agent will provide debtors with contact telephone numbers for themselves and the enforcement company whilst enforcement operations are in progress.
- The enforcement company will ensure that all those in telephone contact with debtor have up to date knowledge of policies and practices, charges and methods of payment.
- Enforcement agents should have in place arrangements for quickly accessing translation services when they are needed such as for the purposes of communicating with the debtor.
- Where enforcement agents face difficulties in situations where only minority languages are spoken, they should refer the case to the Council.
- Enforcement companies must provide, on request, information in large print or in Braille for debtors with impaired sight.
- Enforcement companies and their agents must be prepared to deal constructively with both debtors and independent advice agencies working on behalf of debtors by, for example:
 - returning calls promptly;
 - entering into negotiations about payment amounts in good faith;
 - following up payment offers.
- Enforcement agents must have ready access to this Policy when visiting debtors so that they can give a copy to the debtor on request.
- Enforcement agents must have ready access to the complaints procedure when visiting debtors so that they can give a copy to the debtor on request
- Whatever the debtor's status, enforcement agents will provide:
 - a clear explanation of the process the debtor is undergoing and the consequence of the seizure of a debtor's goods and
 - clear information about how to access local and national independent debt advice agencies such as Citizen's Advice and National Debtline
 - Information about how to contact the Council regarding their debt
- Whatever the debtor's status, enforcement agents will ensure:
 - the debtor understands the process they will be going through;
 - that debtors are aware of the consequences, including additional charges that will be incurred if payment is not made.
- Enforcement Agents must make no attempt to enter domestic premises if the only persons present are children who are or appear to be under the age of 12. If they have already entered the property they must withdraw immediately. Under these circumstances, they are not permitted to make any enquiries.
- Enforcement Agents must make no attempt to enter domestic premises if the only person present is, or appears to be, under the age of 18. If they have already entered the property they must withdraw immediately. However, under these circumstances they may enquire when the debtor is likely to return home.
- Enforcement Agents must withdraw from premises immediately if one of the Council's designated officers considers it appropriate to do so.
- Enforcement Agents will on each and every occasion when a visit is made to a debtor's property, leave a notice detailing the fee charged to date.

- On returning any un-executed Liability Orders the enforcement company should report the outcome to the Council and provide further appropriate information, where this is requested.
- When the enforcement agent of enforcement company is or becomes aware that the debtor or one of their dependents falls within the vulnerability risk categories they will cease collection activity and ensure that the Council is also aware of this information and await further instructions.

7. TIMES AND HOURS

Enforcement agents will be respectful of the religion and culture of others at all times. They should be aware of the dates for religious festivals and carefully consider the appropriateness of undertaking enforcement on any day of religious or cultural observance or during any major religious or cultural festival.

Enforcement action can be taken 7 days per week. The Council will use its discretion to extend restrictive periods when appropriate (e.g. to cover Christmas/New Year period and other religious and cultural festivals at the Council's discretion).

Enforcement should only be carried out between the hours of 6.00am and 9.00pm at domestic properties. Visits may only be made outside these times by prior approval of a designated officer of the Council.

8. INFORMATION: QUALITY, AVAILABILITY AND CONFIDENTIALITY

The Council, enforcement companies and enforcement agents will ensure that all notices and other documentation left or sent to the debtor are neither ambiguous nor misleading and will include all appropriate reference numbers, telephone numbers, and addresses.

All notices, correspondence and documentation issued by the Council, enforcement companies and enforcement agents must be clear and unambiguous and be approved by the Council prior to use.

Copies of the Taking Control of Goods: National Standards 2014 and this Policy must be freely available from individual enforcement agents and the offices of the Council and the enforcement company on request. They will also be displayed and available for download on the Council's website.

All documentation left with the debtor or at their property will be on pre-printed stationery. Any documents left at the property in the absence of the debtor will be in a **sealed** plain envelope addressed to the debtor.

The Council, the enforcement company and their representatives must maintain strict client confidentiality and comply with Data Protection legislation when handling data and, where appropriate, the Freedom of Information Act.

All protocols, standards, procedures, charges and fees shall be freely available and specified in various formats available on request and via the Council's and enforcement company's websites.

9. COMPLAINTS AND DISCIPLINE

Enforcement companies must operate complaints and disciplinary procedures with which enforcement agents must be fully conversant.

The complaints procedure should be set out in plain English, have a main point of contact, set time limits for dealing with complaints and outline an independent appeal process where

appropriate.

A register will be maintained to record all complaints.

Enforcement companies should make use of the complaints and disciplinary procedure of their professional association, the Association of Civil Enforcement Agencies.

Enforcement companies and enforcement agents must make available details of their complaints procedure on request or when circumstances indicate it would be appropriate to do so.

Facilities should be in place to ensure that the complaints procedure is available in a form that is readily understandable by people with sight difficulties, or whose first language is not English.

The enforcement company and their enforcement agents will provide a copy of their complaints procedure upon request.

10. TRAINING AND CERTIFICATION

Enforcement companies will ensure that all employees, contractors and agents are provided with appropriate training to ensure that they fully understand and are able to act, at all times, within the scope of current legislation. This training should be provided at the commencement of employment and at intervals thereafter to ensure that the agent's knowledge is kept up to date.

Enforcement companies must ensure that all employees, contractors and agents will at all times act within the scope of current legislation, i.e. The Companies Act, VAT, Inland Revenue provisions, Data Protection, Health and Safety, The Equality Act etc, and have an appropriate knowledge and understanding of it and be aware of any statutory obligations and provide relevant training.

All enforcement agents carrying out the lawful acts of listing or seizing and removing goods shall hold a valid Enforcement Agent certificate issued by the County Court.

Enforcement agents should be trained to recognise risk factors and triggers that may be signs of vulnerability.

Enforcement agents should be trained to recognise and avoid potentially hazardous and aggressive situations and to withdraw when in doubt about their own or others safety.

11. LISTING, SEIZURE, REMOVAL AND SALE OF GOODS

As a matter of Council Policy, enforcement agents, for the purpose of recovering the arrears shall, without the use of unlawful force, try to gain access to the debtor's goods. The enforcement agent may take control and remove the debtor's goods wherever they are found, subject to the Council's instructions. An inventory of such items must be prepared and a copy should be given to the debtor.

The Council will provide the enforcement agent with authority to take control of debtors' goods on its behalf.

When the enforcement agent has listed and claimed any allowable goods, the debtor should be invited to sign a 'control of goods agreement'. If the debtor refuses to sign, or refuses to make payment, or defaults on payment, the goods should, subject to contrary instruction from the Council, be removed at the earliest opportunity.

Where goods are seized, enforcement agents should advise the debtor in writing at the time of seizure how they may recover the goods. An inventory must be taken of all goods removed, a copy of which will be handed to the debtor if present. If the debtor is not in

attendance, the inventory will be left in a prominent position. This inventory must include a full description of the item and must list any obvious defects apparent before removal.

If the enforcement agent cannot get access to the debtors' goods they are permitted to set up a payment arrangement without one.

The enforcement companies will ensure that the removal of goods is always supervised by a certificated enforcement agent.

In all cases where control and removal takes place, whether by actual or via a 'control of goods agreement, the enforcement agent shall produce that authority to any person having good reason to require sight of it. In all cases the appropriate documentation as required by regulations is to be left at the premises or given to the debtor.

Enforcement companies will seek further authorisation from the Council prior to any removal of goods or vehicles. The Council will then again check its records for any recent correspondence and any details of the debtor's current circumstances and will provide authorisation in appropriate cases.

Due care will be exercised to avoid unnecessary damage and goods will be handled with due care and attention and properly secured for the purposes of transporting them. The employer of the enforcement agent shall also ensure that the goods are adequately insured, so that if damage occurs during transit, this is covered by the policy, and will ensure that the goods are safely stored pending sale.

The employer of the enforcement agent shall take all steps possible to obtain the best price and shall impose a reserve price at any auction when required to do so by the Council, under this Policy or otherwise. The employer of the enforcement agent shall consider whether an auction is the appropriate method of obtaining the best price and in particular shall do so where the item concerned is of a specialist nature or of particular value.

Upon request the employer of the enforcement agent shall report the place and timing of the sale to the debtor at least seven clear days **before** such sale is to take place.

Where a sale has taken place, the designated officer or the external enforcement company shall report to the debtor the place and time of the sale that took place and the prices of each item which has been sold

Enforcement agents should take all reasonable steps to satisfy themselves that the value of the goods impounded is proportional to the value of the debt and charges owed.

Enforcement agents should not list, seize or remove items that are to all intents and purposes valueless. If the debtor does not own items of sufficient value to recover the debt and associated fees the enforcement agent should refer the debt back to the Council.

Enforcement agents must only remove goods in accordance with all appropriate regulations, and this Policy.

Enforcement agents must obey the Council Tax (Administration and Enforcement) Regulations 1992 as amended by SI 1993/773, which outlines items protected from listing and seizure.

12. STATUTORY OR FINANCIAL REQUIREMENTS FOR ENFORCEMENT COMPANIES

Enforcement companies must ensure that audited accounts are kept and available on request. An audit of the firm's accounts by independent accountants should be undertaken at least once a year for businesses where this is appropriate.

Enforcement companies must comply with all statutory obligations.

A separate account for monies due to the Council should be maintained. In addition, accurate books and accounts should be kept and made available to establish monies owed to the Council.

Enforcement companies must keep a complete record of all financial transactions.