



**MANCHESTER**  
CITY COUNCIL

## **Parking Services**

# **Bailiff Code of Practice for the Recovery of Unpaid Penalty Charge Notices**



### **Introduction**

This code of practice outlines the way that Bailiff Companies collecting debts on behalf of Manchester City Council's Parking Service should conduct themselves. It includes:

- The professional standards they must adhere to;
- The procedures they must follow;
- Guidance on how quickly the money should be repaid; and
- When it is inappropriate to take action.

### **Professional standards**

The Council and the Bailiff Company will ensure that the company is a member of a recognised Trade Association. That all bailiffs employed to recover parking debts are Certified Bailiffs. That employees of the Bailiff Company and any contractors/agents have an appropriate knowledge and understanding of all relevant legislation, case law and powers, and at all times act in accordance with them. The bailiff must comply with Data Protection legislation where applicable and should be aware of the relevant Articles in Human Rights legislation.

Bailiffs and employees, contractors and agents of the bailiff firm must be aware that they represent the Council in their dealings with debtors. They should also act in a responsible, professional and courteous manner and be aware that their behaviour, appearance and attitude have a significant influence on the debt recovery process.

The Bailiff should be aware of the sensitive and confidential nature of this work and should take care to ensure that information regarding the debtor's circumstances are not passed on to, or discussed with, a third party. Any documents must be left, marked 'Private and Confidential', in a sealed, clearly addressed plain envelope.

The Bailiff Company must at all times have:

- Professional indemnity insurance, ensuring the fullest indemnity against legal proceedings resulting in compensation awards due to illegal or irregular distress. Details of such insurance should be made available to the Council on request.

The bailiff must adopt a firm but correct attitude when dealing with the public, they must be polite and courteous and avoid being provoked. In the event of a breach of the peace occurring as a result of a bailiff visit, the Council must be informed in writing of the circumstances as soon as practicable.

Bailiffs must:

- Have photographic proof of their identity
- The bailiff must when attending properties make it clear to the debtor the purpose of his visit and the fact that he is acting on behalf of, and, as agent to Manchester City Council.
- Visits to premises will only be carried out after 8am and before 9pm, with no visits on Sundays or bank holidays.
- Written authorisation of the Council should be shown on request and the bailiff must hand to the debtor or leave on the premises the relevant documentation including details of costs incurred and procedure, legislation relating to distress and any additional guidance notes.

### **Arrangements to pay the debt**

If, on attendance, contact is made with the debtor, the bailiff should attempt to recover the full amount as quickly as possible. Where payment cannot be made in full a payment arrangement can be negotiated, normally over a period of three months, however this can be extended to a maximum of six months if considered appropriate.

### **Execution of Warrants**

The bailiff will attempt to obtain payment of the outstanding debt by negotiation with the debtor.

Only in exceptional cases should the bailiff, for purpose of recovering the debt seek to seize goods. The bailiff must produce an inventory or receipts of any goods seized and provide a copy to the Respondent. The bailiff should use their professional judgement that the impoundment of goods is proportional and relative to the value of the debt owed to the Council, and must be able to demonstrate this.

Bailiff action should cease immediately on notification from the Council that a Late Statutory Declaration has been received.

No goods will be removed from sale which fall within the categories listed below:

1. Basic clothing, beds, bedding and household linen.
2. The main form of cooking - if the debtor has a cooker and a microwave oven, it would be in order to seize the microwave oven. If the debtor only has a microwave oven, this must not be seized.
3. Fridges, freezers and essential room heaters.
4. Dining table and chairs.
5. Washing machine, vacuum cleaner and iron.
6. Toys primarily for the use of any child who is a member of the debtor's household.
7. Articles reasonably required for the care or upbringing of a child who is a member of the debtor's household.
8. Medical aids or medical equipment reasonably required for the use of the debtor or any members of the debtor's household.
9. Articles which are required for safety reasons in the home.
10. Any goods bought with a Social Fund loan or grant.
11. Any items of a personal nature with a nominal or no cash value, for example, videos of family occasions, family photographs or pictures, etc.
12. Any other items protected by law.
13. Such tools, books, vehicles and other items of equipment as are necessary to the debtor for use personally by him or her in his or her employment or business.

### **When the bailiff should consider taking no action**

The Bailiff should at all times use their professional judgement to refer back to the Council if they consider that, due to the personal circumstances of the debtor, it would be inappropriate to proceed with the execution of the warrant.

The Bailiff must take no action if it appears that no responsible adult is present at the debtor's address.

### **Where the bailiff is unsuccessful**

A minimum of 3 visits to the debtor's address are required before the case is returned to the Council as no contact. At least one of these should be made to the debtor's address outside normal office. Documentation issued to debtors must be agreed with the Council and be in plain English. 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 Bailiffs and a contact telephone number. It must be left in a sealed envelope addressed to the debtor.

### **Where the debtor has left the property**

If the debtor is no longer resident, the Bailiff should make appropriate discreet local enquiries to ascertain the debtor's date of leaving and new address. This

information (or lack of it) should be referred back to the Council. If the debtor has moved locally within the Council boundaries, the bailiff may levy at the new address and then refer the information back to the Council.

In the normal course of events, cases should be completed within three months of being issued by the Council as debtors have either paid in full or the bailiffs have not been able to make contact or collect money.

### **Reporting requirements**

Payments and payment schedules must be submitted weekly to the Council on the agreed days. The Bailiff Company must account for all monies received.

Weekly/Monthly statistical reports in the agreed format must be submitted to the Council.

Monthly meetings will be held to discuss the progress of the warrants and any other issues. These meetings will be minuted and actions agreed.

### **Management Information/Access to Records**

The Company will provide monthly reports to include the following:-

Number of existing cases

Number of new cases

Status of cases

Payments received

Balance outstanding

Number of cases on hold showing dates, the reason, and on whose authority they are waiting.

Number of cases returned with reasons analysed as follows:-

- Nulla Bona
- Gone Away
- As Requested by client
- Guidelines
- No Contact
- Bankrupt

### **Responsibility**

The Council's Authorised Officer together with the Principal of the Bailiff Company will be responsible for the operation of this Code of Practice.

The Council reserves the right to make amendments and add new procedures at any time resulting from changing practices. The Bailiff Company will be notified in writing of any proposed changes and invited to make comments.

### **Complaints**

The Bailiff Company must establish and maintain an internal complaints procedure overseen by a senior member of staff. The Bailiff Company shall be responsible for ensuring that any complaints received from debtors or their

authorised representatives are dealt with efficiently and promptly. Complaints will be recorded in database which will be sent to the Council on a monthly basis.

In a situation where the Council receive a Complaint the Bailiff Company will be instructed to cease all action until the complaint has been fully investigated. The Council will require the Bailiff Company to provide a written report, within five working days, which will include actions and recommendations. The complaint will be logged at stage one of the Council's own complaints procedure.

The Report from the Bailiff Company will be evaluated by the Council, a written response will issued to the complainant no later than ten working days from the date the complaint was received in the office.

If the complainant is still not satisfied with the response then the complaint will next be dealt with at stage two of the Council's own internal complaints procedure, with a manager further reviewing the case.