



MANCHESTER
CITY COUNCIL

Business Rates Service
Revenues and Benefits Unit

Enforcement Agency Code of Practice
and Council expectations 2019/20

Introduction

This code of practice outlines the way that any enforcement agency collecting debts on behalf of Manchester City Council's Business Rates Service (the Council) 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 enforcement agency will ensure that all enforcement agents will have an appropriate knowledge and understanding of all relevant legislation, case law and powers, and act in accordance with them at all times. The enforcement agent must comply with Data Protection legislation where applicable and should be aware of the relevant Articles in Human Rights legislation.

Particular emphasis must be placed on compliance with the requirements of enforcement agents introduced by the Tribunals, Courts and Enforcement Act 2007 from 6 April 2014 and the specific requirements of the Council under these arrangements.

Enforcement agents and employees, contractors and agents of the enforcement agency must be aware that they represent the Council in their dealings with debtors. They should act lawfully at all times and in accordance with the provisions of the Local Government Finance Act 1992 and the Tribunals, Courts and Enforcement Act 2007. 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.

The enforcement agency must at all times have:

- Professional indemnity insurance, ensuring the fullest indemnity against legal proceedings resulting in compensation awards. Details of such insurance should be made available to the Council on request. The enforcement agency must also maintain a separate client bank account for monies received from debtors, evidence of which must be supplied to the Council on demand.
- Enforcement agents that are properly certificated in line with the legislation.

When an account is referred to the enforcement agency.

The enforcement agency must issue a seven-day written notice to the debtor. This entitles them to charge the £75 administration fee for each Liability Order they have been passed. The enforcement agency will then seek to recover both their fee and the outstanding debt.

Details of attempted contacts must be formally recorded on the debtor's record held by the enforcement agency. Details of these must be made available to the Council on request.

When an enforcement agent visits a debtor

Visits can be made after 6 am and before 9 pm and, where the premises are used for the conduct of a trade or business at other times, any hours where the premises can reasonably expect to be open for the conduct of that trade or business. Visits can be made on any day of the week.

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 debtors. In the event of a breach of the peace occurring as a result of an enforcement agent visit, the enforcement agency should ensure all relevant facts are recorded so that any subsequent complaint can be accurately dealt with.

Where more than one liability order is held for a debtor, the enforcement agent, where practicable, will attend the property for all liability orders at the same time, charging just one enforcement fee.

At all times, enforcement agents must:

- Carry proof of their identity as prescribed by legislation which must be shown when visiting a property to take control of goods. When meeting a debtor, the enforcement agent must explain the reason and purpose of the visit and the fact that he is acting on behalf of, and as an agent of the Council.
- Provide the debtor with the relevant documentation including the details of any costs incurred, the procedure to be followed, details of the legislation relating to controlled goods orders and any additional guidance notes. The debtor, or other responsible person, will be invited to sign the control of goods order (which lists all goods that form part of the order) at the time that the order is made. This must be done after its meaning has been explained and understood by the debtor.
- Wear video cameras. Once the debtor has agreed to filming, the video camera should be switched on throughout the visit. The enforcement agent should make sure that they have sufficient batteries to comply with this.

When the enforcement agent makes contact with the debtor, they must in all cases expressly request the telephone number (landline and mobile) and email address. This should be recorded on the debtor's account by the enforcement agency and should be provided to the Council on request.

The enforcement agent must take no action if it appears that no responsible adult is present. The only exception would be where the enforcement agent can take control of a vehicle on the street that belongs to the debtor

Arrangements to pay the debt

If, on attendance, contact is made with the debtor, the enforcement agent should attempt to recover the amount inclusive of all costs immediately.

Arrangements for payment of the total amount due can be agreed at the enforcement agent's discretion over a period of up to three months for business rates. 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 he should refer back to the Council before agreeing to an arrangement exceeding these timescales.

Where no arrangement can be made

Where no arrangement can be made, the enforcement agent will attempt to take control of the debtor's goods. This means listing goods belonging to the debtor that may be removed and sold at auction with the proceeds being paid towards the amount owed to the Council and costs incurred by the enforcement agent. Only an enforcement agent properly certificated, vetted and trained by the authorised firm and under the control of an enforcement agent who is certificated by the County Court may take control or remove goods in respect of liability orders on behalf of the Council.

Where a debtor can demonstrate they have raised their case with their local councillor or Member of Parliament the enforcement agent should call the Council to seek advice.

Removing goods

Before removing goods, the enforcement agent must inform the debtor of the additional sale fee costs that will be added to the account if goods removed are sold. The enforcement agent should also indicate the additional costs that will be incurred in respect of the removal and auctioning of the goods.

It is important that enforcement agents are aware that they should not take enforcement action at a company director's personal address when the liability order is not in their specific name unless they have reason to believe that company assets are being held at the director's home.

In the event of the need to force entry to the debtor's premises, the enforcement agent must prove to the court that there are or are likely to be

goods of the debtor on the premises and obtain the express permission of the Council's representative before doing so.

Only goods belonging to the debtor may be listed on the control of goods order. Goods subject to higher purchase or credit sale agreements will not be removed (in accordance with the Consumer Credits Act 1974). The relevant agreement must be provided.

When the debtor's goods are removed, at least seven days must pass before they can be sold at public auction. After the sale, the Council and the debtor must be provided with a full statement which:

- lists the goods sold;
- lists the amount realised;
- lists the costs incurred; and
- details the amount subsequently outstanding or overpaid as appropriate.

The debtor should be notified of the date, time and place of sale, to give them the opportunity to make full payment and arrange the collection and return of the goods. Any goods taken must be transported and stored with due care and attention whilst in their care including relevant security and insurance provisions. Any disbursements incurred during this process can be recovered by the enforcement agent in the form of additional fees (for example storage, cost of locksmith, auctioneers' fees).

Where the enforcement agent is unsuccessful

A minimum of three unsuccessful visits to the debtor's address are required before the case is returned to the Council as unpaid. This is not necessary if the premises are clearly abandoned by the debtor. At least one of these visits should be made to the debtor's address outside normal office hours of Monday to Friday 8 am to 6 pm, unless the premises are known to be closed outside these hours. 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 giving details of the date and time of the visit and the debt and charges incurred. It must give the name of the enforcement agents and a contact telephone number. It must be left in a sealed envelope addressed to the debtor.

Where the enforcement agent is unsuccessful in their attempts to obtain payment and the liability order is to be returned to the Council, it should clearly show that the person attempting to take control of goods was unable, for whatever reason, to find any or sufficient goods of the debtor. It should also be returned with a report summarising the action taken by the enforcement agent together with any details ascertained concerning the financial or personal circumstances of the debtor.

Where the debtor has left the property

If the debtor is no longer at the business premises, the enforcement agent should make appropriate, discreet local enquiries to ascertain the debtor's date of leaving and new location. This can be a business or residential address where the law allows. This information, or lack of it, should be referred back to the Council. The enforcement agent may take control and remove goods from 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 enforcement agent has not been able to make contact or collect money.

Responsibility

A Senior Revenues Manager together with a senior representative of the enforcement agency will be responsible for the operation of this Code of Practice and for resolving any complaints from the debtor. The enforcement agency must establish and maintain an internal complaints procedure overseen by a senior member of staff. The Authorised Officer shall be responsible for ensuring that any complaints received from debtors or their authorised representatives by the Council are handled efficiently and promptly.

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

Complaints

Any complaint received about an enforcement agency or the actions of an enforcement agent will immediately be logged at stage one of the Council's own complaints procedure. At this stage a senior manager for the Council will determine if it is appropriate to hold recovery action whilst the complaint is investigated.

In the first instance, the Council will then instruct the enforcement agency concerned to provide it with a written report within five working days. This should provide details of their records relating to the case in question and their comments on the issues identified in the complaint.

Once the response to the complaint from the enforcement agency has been evaluated by the Council, a written response will be issued to the complainant no later than ten working days from the date the complaint was received in the office.

When a complaint is sent directly to the enforcement agency, a response should be issued by the enforcement agent within the same time frame as described above. The enforcement agent must then send to the Council a copy of the complaint with a copy of the response which will be recorded on the Council's complaints database.

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

All complaints will be reviewed at the regular meetings between companies and Business Rates Managers to ensure they are properly dealt with and to identify any trends or reoccurring problems.

Review of this code of practice

This code of practice will normally be reviewed on an annual basis.