



**MANCHESTER
CITY COUNCIL**

**Council Tax Service, Revenues and Benefits Unit
And Parking and Bus Lanes Service**

**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 Revenues Service and Parking and Bus Lane 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 enforcement agency will ensure that all enforcement agents, employees, contractors and agents 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 understanding and complying with the requirements of enforcement agents introduced by the Tribunals, Courts and Enforcement Act 2007 from 6 April 2014 and the specific requirements of Manchester City Council under these new 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 at all times act lawfully 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 legislation.

When an account is referred to the enforcement agency.

The enforcement agency must issue the prescribed notice of enforcement to the debtor giving no less than seven clear days to pay. This entitles them to charge the £75 administration fee for each Liability Order or Penalty Charge Notice (PCN) they have been passed. The enforcement agency will then seek to recover both their fee and the outstanding debt through a combination of different contact methods. These will include the following as a minimum:

- Where a telephone number is known or can be obtained, four attempts to contact the debtor by phone, including one attempt between 7am and 12 noon, one between noon and 6pm, one between 6pm and 9pm and one on a Saturday or Sunday.

- Sending at least four letters for Council Tax debts and two letters for PCNs (including the initial notice of enforcement in both cases) to the debtor. The text of these letters to be agreed with the Council, but must include a warning of potential future costs: An enforcement fee, £235.00, when a first visit is made and the additional 7.5% costs on any amount of the debt over £1,500.

Details of these 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.

It is not appropriate under any circumstances to suggest that a debtor consider a high interest or 'pay day' loan to repay the outstanding Council Tax debt and costs.

Before the enforcement agency adds the enforcement fee, they must, using their professional judgement, explicitly consider whether the debtor falls into any of the following vulnerability categories:

- Appears to be severely mentally impaired or suffering severe mental confusion.
- Has young children and severe social deprivation is evident.
- Is disputing liability or claims to have paid, applied for a rebate, Council Tax Support (CTS), discount or any other relief not yet granted. Under these circumstances the enforcement agent should report this back to the Council.
- Is heavily pregnant and there are no other adults available in the household.
- Is in mourning due to recent bereavement (within one month).
- Is having difficulty communicating due to profound deafness, blindness or language difficulties. In these cases, the Council would make arrangements for the appropriate support in terms of a signer or translation services etc.
- Has severe long-term sickness or illness including being terminally ill.

This judgement must be based on telephone conversations, written responses, visits by company employees not acting as enforcement agents and visits by enforcement agents. A clear statement that the debtor's vulnerability has been considered must be recorded on the debtor's record before the enforcement fee is added. When an enforcement agent makes the first visit to the property and decides that the debtor is vulnerable, no enforcement fee should be added and the account should be returned to the Council.

For parking related matters, the warrant must be returned clearly marked as vulnerable with a sub-category relating to the appropriate categories listed above.

Debtors receiving benefits including Universal Credit

The Council will not normally send a Council Tax account to Enforcement Agents for collection where the debtor is in receipt of maximum Council Tax Support (currently 82.5% of the total charge). Exceptions to this approach include cases where it is known that there is a capital asset or non-dependants in the household and other recovery methods have failed.

However, under the new Universal Credit regime it is possible that the total income, including benefit and wages, can be significant and these cases will be referred for recovery. Cases should be treated on their own merit and, as above, Enforcement Agents must make a decision based on the facts in front of them as to whether the degree of poverty is such that the debtor is vulnerable. If this is the case, they should return the case to the Council.

When an enforcement agent visits a debtor

Where more than one Liability Order or PCN is held for a debtor, the enforcement agent, where practicable, will attend the property for all Liability Orders or PCNs at the same time, charging one enforcement fee. Where possible, details of multiple instructions must also be recorded on the debtor's records and indicators to be highlighted on the client web portals.

Visits must be made after 6 am and before 9 pm, on any day of the week. Body-worn video cameras must be carried and turned on to record the entire visit unless the debtor asks for it to be switched off or the enforcement agent decides it is inappropriate to film (eg. because of the debtor's attire). Sufficient spare batteries must be carried to ensure the whole visit can be captured. Data obtained by body worn cameras will be retained for a minimum of three months and longer as requested in individual cases.

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 an enforcement agent visit, the Council must be debriefed of the circumstances as soon as practicable. The Council may request 3 recordings per month of Body Worn Camera Footage for parking matters to ensure procedures are being adhered to.

At all times, enforcement agents must carry:

1. Proof of their identity as prescribed by legislation which must be shown when visiting a property to take control of goods. The enforcement agent must always make clear to the debtor the purpose of his visit and the fact that he is acting on behalf of, and as an agent of the Council.
2. Written authorisation of the Council should be shown on request and the enforcement agent must hand to the debtor or leave on the premises the relevant documentation including details of costs incurred and procedure to be followed, legislation relating to controlled goods orders and any additional guidance notes. The debtor 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.

When the enforcement agent makes contact with the debtor, they must in all cases expressly request the following details: Name and address of employer and any telephone number (landline and mobile) or email address. This should be recorded on the debtor's account.

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. If the debtor is unavailable the enforcement agent must ascertain when they will be available. No reference will be made to the nature or 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 debtor's circumstances are not passed on to, or discussed with, a third party. If children are present the debtor should be encouraged to ask them to leave the room. Any documents must be left, marked 'Private and Confidential', in a sealed, clearly addressed plain envelope.

Arrangements to pay the debt

If, on attendance, contact is made with the debtor, the enforcement agent should attempt to collect the amount owed to the Council including costs as quickly as possible, taking into account the circumstances of the debtor. If payment is not made in full; the debtor should be given the opportunity to enter into an agreement or instalment arrangement (instalment arrangement at no cost to the debtor other than the direct cost of making a payment). Enquiries should be made about possible eligibility to a discount or rebate. Information regarding employer or benefit details should be requested, recorded and passed to the Council.

Arrangements for payment of the total amount due can be agreed at the enforcement agent's discretion. Council Tax arrangements should normally be made to clear the full amount due, including costs, within a period of up to six months. Parking arrangements should last no more than three months. However, the enforcement agent also has discretion to agree a payment plan with a repayment period of up to 52 weeks for Council Tax debts. For parking the discretionary period would be to the end of the warrant life. 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 entering a debtor's property and listing goods belonging to the debtor that may be removed and sold at auction with the proceeds being distributed between the fees and the council debt in accordance with the legislation.

Where a debtor states that 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 from a debtor's home

Before attending to remove goods, the enforcement agent must send a letter to the debtor warning of the intention to remove goods and 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.

However, if there are circumstances that indicate that by telling the debtor it may compromise the ability to remove goods (for example if a company is about to go into liquidation or the debtor is about to abscond) then attendance can be made without a letter being issued.

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

If there is a 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.

For Council Tax debts, no goods should be removed for sale which fall within the categories listed in The Council Tax (Administration and Enforcement) Regulations 1992 (as amended) and the Tribunals, Courts and Enforcement Act 2007 being:

- Basic clothing, beds, bedding and household linen.
- A Cooker or a microwave.
- A Refrigerator, freezers and essential room heaters.
- Dining table and chairs.
- A Washing machine, a vacuum cleaner and an iron.
- Toys primarily for the use of any child who is a member of the debtor's household.
- Articles reasonably required for the care or upbringing of a child who is a member of the debtor's household.
- Medical aids or medical equipment reasonably required for the use of the debtor or any members of the debtor's household.
- Articles which are required for safety reasons in the home.
- Any goods bought with a DWP budgeting loan or under the Council's Welfare Provision Scheme.
- Any items of a personal nature with a nominal or no cash value, for example, videos of family occasions, family photographs or pictures, etc.
- Any other items protected by law.

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).

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 payment of the full amount owed to the Council including all costs, and to arrange the collection and return of their 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 costs (eg. storage, cost of locksmith, auctioneer's fees). 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 account outstanding to the Council (30% to 50%), including costs. As a general rule, the value of the goods can be divided by five to give an approximate value if auctioned.

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. At least one of these visits should be made to the debtor's address outside normal office hours (Monday to Friday 8 am to 6 pm). 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 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 marked as hand delivered.

Where the enforcement agent is unsuccessful in his attempts to obtain payment and the liability order or warrant 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 resident, the enforcement agent should make appropriate, discreet local enquiries to ascertain the debtor's date of leaving and new address. A certified trace should be conducted and this information (or lack of it) should be referred back to the Council. The trace results should be submitted with any warrant reseal requests to confirm the source and the accuracy of the data. The enforcement agent may take control of goods at the new address and then refer the information back to the Council.

In the normal course of events, cases should be completed within twelve 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 Council 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 agencies 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/draft response 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 drafted 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 draft 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 about enforcement agent behavior, whether first made to the Council or the Company, will be formally reviewed and discussed at quarterly performance meetings between the Company and the Council to establish any patterns of behavior or other serious issues.

Review of this code of practice

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