



Department for
Communities and
Local Government

Council Tax

Guidance to local councils on good practice in the collection
of Council Tax arrears

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Introduction

- 1.1 The Coalition Agreement pledged to provide more protection against aggressive bailiffs and unreasonable charging orders. This document sets out guidance to local authorities on the enforcement of council tax arrears and aims to clearly set out the Government's position. It replaces the previous ODPM Guidance, *ODPM Council Tax Collection Good Practice*, published in 2005. In particular this guidance deals with the kinds of help and support that Local Authorities should be giving to vulnerable people, both in the run up to enforcement activity taking place and afterwards. It should not be seen as an inexhaustible compendium of good practice, nor does it seek to define the circumstances in which people might be particularly vulnerable, as every situation is different. It draws from, highlights and should be seen alongside a range of existing good practice, including that set out in the original council tax codes of practice and the National Standards for Enforcement Agents.
- 1.2 Enforcement is a necessary and important part of Local Authority activity. Every penny of council tax that is not collected means a higher council tax for the law-abiding citizen who does pay on time. However, it is important that councils are sympathetic to those in genuine hardship, are proportionate in enforcement and do not overuse bailiffs.
- 1.3 A big part of this is about how Local Authorities engage and deploy enforcement agents – but it does go wider than that and includes how Local Authorities interact with bill payers throughout the process - as they begin enforcement action, before instructing bailiffs and whilst bailiffs are acting.
- 1.4 Publication of this guidance, focussing on the role of Local Authorities, is part of a wider coordinated programme of work across Government that includes:
 - The publication in January 2012 of an updated version of the National Standards for Enforcement agents, which places new emphasis on the role of the creditor.
 - Updating information available to the public on GOV.UK to include guidance for bill payers and information on where people can go for help if they feel they have been a victim of unacceptable behaviour.
 - Proposals to reform and modernise the bailiff industry following substantive consultation¹, over the spring and summer of 2012.
- 1.5 The Government published its intention to move ahead with a number of the proposals set out in the Transforming Bailiff Action consultation in January 2013. This short guide supplements that work, looking more widely at the enforcement of council tax and helping Local Authorities think about their activity in the run up to

¹ Transforming Bailiff Action, How we will provide more protection against aggressive bailiffs and encourage more flexibility in bailiff collections, Ministry of Justice 2012

enforcement activity being taken, as well as reminding Local Authorities about their duties as responsible creditors.

- 1.6 It also coincides with the introduction of the new Council Tax support system. Some Local Authorities have chosen to put in place schemes, which will see people paying Council Tax for the first time.
- 1.7 The guidance is designed to bring together and signpost a range of existing guidance and to help Local Authorities begin to think about the groundwork they need to put in place ahead of the work on bailiffs that the Government is now taking forward.

Information

Providing guidance

- 2.1 Information to all residents should be geared towards avoiding the need for enforcement action in the first place, warning about the implications of not paying and the benefits of engaging early with the Local Authority.
- 2.2 Local Authorities should ensure that clear information is provided about the enforcement process to all residents and in particular to those in arrears. Local Authorities should publicise details of where to go for help and advice, this might include providing contact details of third parties, such as free to use debt advisers, with bills and other letters and documentation².

Intelligence

- 2.3 Local Authorities should endeavour to take individual circumstances into account before proceeding with action against bill payers. Although in many scenarios, the first face-to-face contact with a person may be through a bailiff, nonetheless there will be some additional avenues that Local Authorities can draw on, for example, where individuals are known through previous action or where information is available through the Local Authority systems. Local Authorities will want to consider the practicalities of proceeding with enforcement action against individuals where there are outstanding claims for benefit or appeals already in the system.

Working with Debt Advisers

- 2.4 Local Authorities should look at the role that non-fee charging debt advisers can play in helping them to develop their enforcement strategies.
- 2.5 Local Authorities should work with non fee charging debt advisors and the Local Authority bailiffs to design protocols for enforcement action, including agreeing what might constitute a vulnerable situation and how people in these circumstances will be dealt with. There is more detail on this later in the guidance.
- 2.6 Local Authorities should also consider how they can best work with bill payers and their debt advisers in specific cases, using advisers both as a source of information and evidence. Local Authorities should be willing to negotiate payments at any point in the process and should work with bill payers to agree affordable and sustainable payment plans which ensure that the debt is paid off within a reasonable period.

² The Office of Fair Trading's Arrears Information Sheet offers a good starting point. This is at: http://www.of.gov.uk/shared_of/consumer_leaflets/credit/OFT965-arrears-col.pdf

ENFORCEMENT

- 3.1 When Local Authorities do not hold information and the bill payer is uncommunicative, it is likely that they will need to take enforcement steps. Where a payment is overdue, a bill payer should receive at least three statutory communications before further action is taken:
- Reminder for payment
 - Court summons
 - Notification that the liability order has been granted and unless the amount owing is paid, bailiffs are likely to follow
- 3.2 Local Authorities should ensure that at each stage full information is provided about what the bill payer can do to avoid the situation, where they can go for help and advice and be clear about the next steps.
- 3.3 Charges for the court summons and for liability orders should be clear on all documentation with clear information on how they can be paid and how they will be collected if not.
- 3.4 Local Authorities are reminded that they are only permitted to charge reasonable costs for the court summons and liability order. In the interests of transparency, Local Authorities should be able to provide a breakdown, on request, showing how these costs are calculated. While it is likely that authorities will have discussed costs with the Clerk to Justices it should be recognised that the Court may wish to be satisfied that the amount claimed by way of costs in any individual case is no more than that reasonably incurred by the authority.
- 3.5 A Local Authority should take all reasonable steps to exhaust other options available to them prior to obtaining a liability order. Once a liability order has been granted a Local Authority should explore other enforcement options which are available to them, such as direct deductions from benefit or an attachment of earnings order.

WORKING WITH BAILIFFS

- 4.1 Power is given to Local Authorities to levy distress. Bailiffs are simply working on the Local Authority's behalf – it is therefore the Local Authority's responsibility to ensure bailiffs, whether directly employed or private companies, are working within the law and the Local Authority who can be held accountable if they are not. Bailiffs should make it clear to the debtor whether they, the bailiff, is employed directly by the authority or by a private bailiff firm.
- 4.2 Local Authorities should have robust contracts in place with their bailiffs. When contracting and working with bailiffs, they should at all times be guided by the National Standards for Enforcement Agents. These clearly set out the expectations of a responsible creditor. Equally Local Authorities should expect bailiffs they work with to uphold the standards.

Actively managing contracts

- 4.3 We would expect Local Authorities to actively manage their contracts with bailiffs, ensuring that they are aware of how their bailiffs are operating; this should include regular communications, monitoring/spot checks and assessment of informal and formal complaints and feedback from individuals and advisers. Local Authorities should ensure processes are in place to keep bailiffs fully informed about the latest state of the bill payer's account.
- 4.4 Arrangements should seek to safeguard against bailiffs entering into punitive repayment arrangements directly with bill payers. Local Authorities should consider how they manage their relationships with bailiffs to have oversight over such arrangements and set parameters for such agreements. They should be mindful of the impact that repeat visits may have.
- 4.5 Local Authorities should remain prepared to deal directly with individuals at any point. It is perfectly within their gift to call action back from the bailiffs at any time and where there is a case to do so they should consider such action.
- 4.6 Local Authorities should be aware of and discuss fees with their bailiffs. Fees and charges should be in line with those set out in regulations. Local Authorities will want to be satisfied that fees are reasonable where regulations do not specify specific charges. Local Authorities should ensure that fees are transparent to the public and open to scrutiny, for example by publishing their standard scale of fees on their website.
- 4.7 Local Authorities must ensure that bailiffs provide clear and accurate information about costs to the bill payer, including a breakdown of costs, outlining how much has been charged for the bailiff action. It is inappropriate for authorities to receive extra payment or profit-sharing from the use of bailiffs and the charging of fees. Contracts should not involve rewards or penalties which incentivise the use of bailiffs where it would not otherwise be justified.

People in vulnerable situations

- 4.8 The National Standards for Enforcement Agents gives examples of potentially vulnerable situations. The reality is that judgements need to be made on a case by case basis.
- 4.9 There should be clear, agreed protocols in place between Local Authorities and their bailiffs governing the approach that should be taken in vulnerable situations and the kinds of cases which should be raised with, or referred back to, local authorities for further consideration when encountered.
- 4.10 This might mean agreed indicators of vulnerable circumstances and ensuring there is a clear and efficient mechanism to refer cases back to the Local Authority where bailiff action is not the most appropriate route.

COMPLAINTS

- 5.1 Local Authority contracts with bailiffs should include a clear procedure for people to report complaints about recovery action. Local Authorities should monitor the performance of those recovering debts on their behalf and ensure that contractual and legal arrangements are adhered to.
- 5.2 Bailiffs should provide standard documentation explaining how to query the action or complain and refer back to the Local Authority if there is evidence of payment.
- 5.3 Where bill payers get in contact with the Local Authority directly, concerns should be investigated properly, not simply referred back to the bailiff. Local Authorities should consider whether complaints, either formal or informal, from individuals and advice agencies, constitute evidence of problems with collection or enforcement with their bailiffs.
- 5.4 Documentation should make it clear about where people should go if they want to make a complaint, the process that will take and cover recourse through either the courts or the Local Government Ombudsman. The Citizens Advice Bureau guidance on council tax collection recommends: "Recovery officers should provide the debtor with a contact number should they wish to speak to the billing authority." The Bureau also wants all Local Authorities to sign up to the good practice debt collection protocol, drawn up with the Local Government Association, which shows how councils can work with debt advice agencies to develop fair debt collection policies, cut down on bailiff use and protect vulnerable residents. The Government would also encourage local authorities to sign up to the protocol.
- 5.5 Local Authorities will find the Ombudsman's focus report on bailiff complaints³ a useful guide to their approach. They would usually view any breach of the National Standards for Enforcement Agents, the Civil Enforcement Association Code of Conduct and Good Practice Guide (if the firm employing the bailiff were members), or any breach of an agreement between the Local Authority and bailiff, as maladministration (though this should not be seen as a definitive list).
- 5.6 Local Authorities remain responsible for the action of contractors. Councillors should regularly scrutinise the operation of outsourced contracts; and the broader use of such recovery action must command and continue to command public support and confidence."
- 5.7 Public concern has been raised about the practice of some bailiffs undertaking 'phantom visits' – charging fees for action when no action was actually taken.
- 5.8 The Government consider that any fraudulent practices should be reported to the police as a criminal offence under the Fraud Act and that Local Authorities should terminate any contract with companies whose activities are proved fraudulent.

³ 'Taking Possession: Councils' use of bailiffs for local debt collection'

FURTHER READING

6.1 Local Authorities will also wish to be guided by the range of other documents available, which include:

- National Standards for Enforcement Agents, Ministry of Justice January 2012. Available at: <http://www.justice.gov.uk/downloads/courts/bailiffs-enforcement-officers/national-standards-enforcement-agents.pdf>/Gov proposals
- Collection of Council Tax Arrears Good practice protocol, Local Government Association/Citizens Advice, July 2009. Available at: <http://www.citizensadvice.org.uk/pdf-ct-protocol.pdf>