

<b>REPORT TO:</b>	SCRUTINY AND OVERVIEW COMMITTEE 6 <sup>TH</sup> SEPTEMBER 2022
<b>SUBJECT:</b>	<b>COUNCIL TAX COLLECTION, RECOVERY AND ENFORCEMENT</b>
<b>LEAD OFFICER:</b>	Catherine Black – Head of Payments Revenues Benefits & Debt
<b>CABINET MEMBER:</b>	Clr Jason Cummings Cabinet Member for Finance
<b>PUBLIC/EXEMPT:</b>	Public

<b>ORIGIN OF ITEM:</b>	This item has been requested by the Chair of the Scrutiny & Overview Committee as part of the Committee's ongoing review of items linked to the cost of living crisis.
<b>BRIEF FOR THE COMMITTEE:</b>	The Scrutiny & Overview Committee is asked to review the information provided on Council Tax collection, recovery and enforcement.

## 1. EXECUTIVE SUMMARY

- 1.1. Following enquiries from several Members about the use of enforcement to collect Council Tax arrears, the Scrutiny and overview committee have asked for clarification around the use of enforcement for the purposes of collection of Council Tax.
- 1.2. This report not only sets out the use of Enforcement Agents in the collection of Council Tax, but it also clarifies the end-to-end process of budget setting and the setting of Council Tax, through Council Tax collection, recovery, and enforcement.
- 1.3. The Council uses Enforcement Agents for the collection of Council Tax, Business Rates or National Non-Domestic Rates (NNDR), and Parking warrants. This report focuses on collection of Council Tax.

## 2. Council Tax Collection Recovery and Enforcement

### 2.1. Background

- 2.2. The Local Government Act 2000 states that it is the responsibility of the full council, on the recommendation of the executive or the elected mayor to approve the Councils budget which sets the Council Tax for the following financial year. Budget setting is generally agreed in February.
- 2.3. The Council has a statutory obligation to administer and collect Council Tax, so once the Council Tax has been set as part of the budget setting process, the Council produces and sends annual Council Tax bills. The annual bills are issued during March in the name of the liable party who is responsible for payment of Council Tax. Council Tax bills are issued to each domestic dwelling in the borough, and we have approximately 168k domestic dwellings in Croydon. When the annual bills have been issued this enables

residents to commence payment of their Council Tax through monthly instalment from April. Monthly instalment can be paid over 10 months from April to January each financial year or over 12 months from April to March.

- 2.4. The value of all the Council Tax bills issued, less any Council Tax Support, exemptions, discounts and disregards that have been awarded to reduce the value of the bill, is called the Net Collectable Debit (NCD) or the Council Tax Base and the NCD for 2022/23 is £271m.
- 2.5. Council Tax bills are made up of 3 components,
- London Borough of Croydon precept (set by the Council)
  - Adult social care precept (set by the Council),
  - GLA precept (we have no control over this)
- 2.6. The 3 components make up the Council Tax charge depending on which valuation banding the property is placed into.
- 2.7. The Valuation Office Agency (VOA) has the responsibility for placing each domestic dwelling into a property band ranging from A to H, depending on the market value of the property as of 1st April 1991.

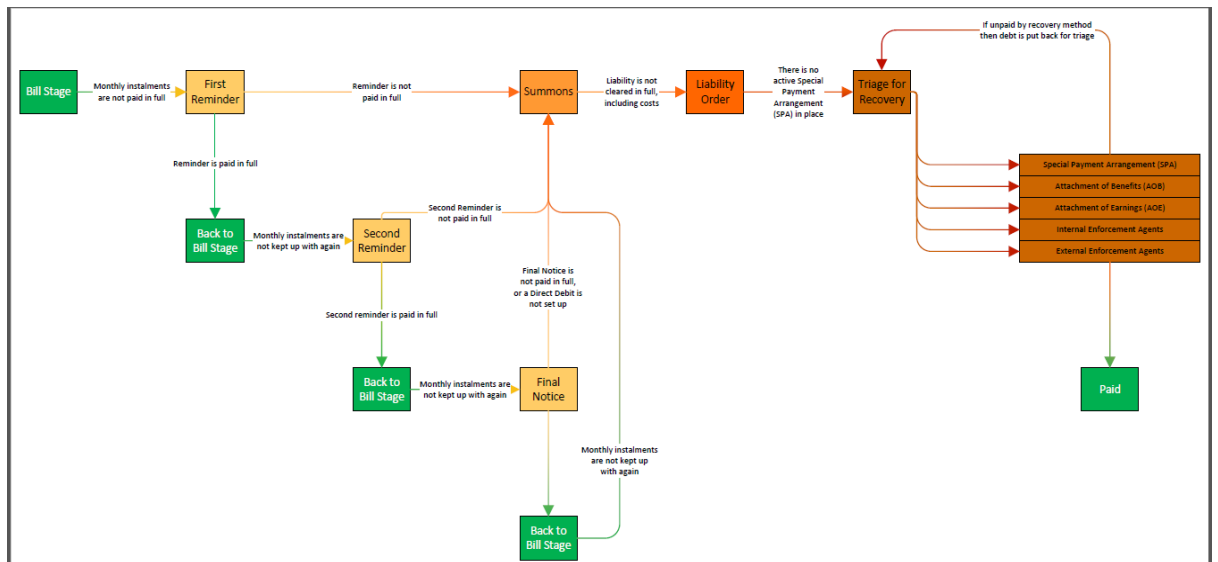
Property Band	Value as at 1 April 1991
A	up to £40,000
B	£40,001 to £52,000
C	£52,001 to £68,000
D	£68,001 to £88,000
E	£88,001 to £120,000
F	£120,001 to £160,000
G	£160,001 to £320,000
H	more than £320,000

- 2.8.
- 2.9. The VOA then advise the Council, on all new entries on the valuation lists, as well as any deleted properties, and any changes to property banding.
- 2.10. The Council Tax payable for each property banding is detailed in the table below and as you can see someone who lives in a band H property pays twice as much as someone who lives in a band D property. Someone who lives in a band A property pays 1/3 of band H property and 2/3 of band D property.

Band	2022				Total Council Tax	Ninths
	LBC	ASC	Total Croydon	GLA		
A	922.91	123.81	1046.72	263.73	1310.45	6
B	1076.72	144.44	1221.16	307.68	1528.84	7
C	1230.54	165.08	1395.62	351.64	1747.26	8
D	1384.36	185.71	1570.07	395.59	1965.66	9
E	1692.00	226.98	1918.98	483.50	2402.48	11
F	1999.63	268.25	2267.88	571.41	2839.29	13
G	2307.27	309.52	2616.79	659.32	3276.11	15
H	2768.72	371.42	3140.14	791.18	3931.32	18

- 2.11.

- 2.12. In setting the budget the Council assumes an overall collection rate of 98.5% for Council Tax, and in year collection rates are also monitored. Prior to covid the in-year collection rate was 97.25%, however since the pandemic the in-year collection rate has dropped by approximately 2%.
- 2.13. The Council keep 80% of in year collection and 20% is given to the GLA. The in-year Council Tax collection makes up a large part of the Council's finances, which is used to pay for front line services and to protect our most vulnerable residents. It is vital to the Council's financial position that we collect as much Council Tax as possible. The Council's 2022/23 budget projects Council Tax income of £214.11m
- 2.14. **Council Tax Recovery Process**
- 2.15. The regulations governing the collection and recovery of Council Tax is known as The Council Tax (Administration and Enforcement) Regulations 1992 and as a Council we must follow these regulations.
- 2.16. The diagram below (2.18) illustrates what happens if a resident does not keep up to date with payment of their monthly Council Tax instalments, following the issue of their annual or adhoc bill.
- 2.17. If a monthly instalment is not paid in full a reminder notice is issued to the liable party, requesting that payment is brought up to date within 7 days. If the resident makes payment in accordance with the reminder notice, they continue to pay by monthly instalments as per their bill. If a resident fails to make payment as per the reminder notice, their names is entered onto a complaint list for Summons at court. Once a summons has been granted the resident has lost their right to pay by monthly instalments, which means the full year balance is due to be paid, and £117.50 summons costs is added to the bill. A summons letter is sent to the resident advising them of their outstanding balance, and they are advised that proceeding will be stopped if they pay now, ie before the virtual court hearing. They are also asked to call the Council immediately to make payment, set up an arrangement to pay or discuss their account. Failure to pay their account in full before the court hearing results in a Liability Order which will incur further costs of £15. The Liability Order gives the Council the power to enforce recovery action by other methods, eg attachment of Benefit, attachment of Earning, or to send an Enforcement Agent to collect the debt or remove goods.



2.18.

2.19. **Liability Orders**

2.20. The table below confirms the numbers of Liability Orders granted over the previous 4 financial year and the current year to date. To note Croydon is a multi-year billing authority which means a Liability Order can be granted for multiple years debt. You can see below the number of households receiving a Liability Order, the value of the Liability Order, the NCD for that financial year, and the value of the Liability Orders as a percentage of the NCD.

Year	Total Households who have not paid	Total Liability Order Value	NCD	% of NCD
2018	16,658	£ 19,980,995.09	£ 210,162,379.27	9.51%
2019	15,592	£ 20,165,772.84	£ 224,146,425.26	9.00%
2020	4,255	£ 3,371,371.44	£ 232,009,043.47	1.45%
2021	17,421	£ 37,574,257.14	£ 250,920,981.62	14.97%
2022 (to date)	8,269	£ 20,453,553.60	£ 271,380,820.56	7.54%

2.21.



2.22.

2.23. The average value of a Liability Order has increased significantly from 2018 and 2019 where it was £1.2k and £1.3k to £2.2k and £2.4k in 2021 and 2022. This is due to several factors. In March 2020 when the pandemic hit, the courts closed, and the law was changed to prevent any recovery or enforcement action for Council Tax collection. During 2021 the courts re-

opened virtually, and the Council had to catch up recovery from the previous year when recovery was prevented, as well as in year recovery. Due to the pandemic and the changes to the Council Tax support scheme, the Council committed to not taking any court action against anyone in receipt of Council Tax Support. Anyone in receipt of Council Tax Support is excluded from Summons or Liability Order action.

2.24. Once a Liability Order is granted the account is triaged to understand what the best route of recovery is, based on the individuals' circumstances. Only when we have not been able to agree a repayment plan or attachment of benefits or earnings, or we have received no contact from the liable party, would we consider either sending the Liability Order to the internal Enforcement Agent team, if the liable party was resident in Croydon, or one of our six external Enforcement Agent teams, if the liable party is not a Croydon resident, or if the internal team was unable to trace someone.

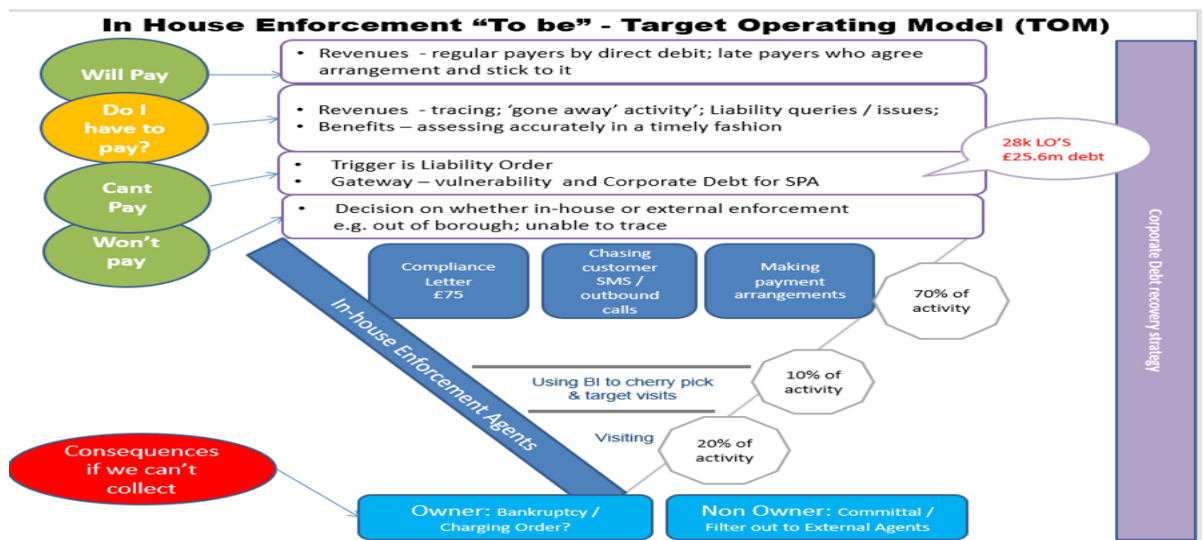
2.25. **Internal Enforcement Agents (EA) (formerly known as Bailiffs)**

2.26. As part of our Corporate Debt Recovery strategy the Council agreed to an internal EA team from April 2016.

2.27. Members signed up to a vision of

- Those who can pay, will pay
- Those of can't pay, we will support to do so through arrangements
- Those of won't pay, we will take a tough stance through enforcement

2.28. The Target Operating Model of the internal EA team:



2.29.

2.30. The team was seen as forming part of an effective Corporate Debt strategy.



2.31.



2.32.

2.33. Generally, if a resident lives within the borough and we need to send an EA to visit the property, we would pass the case to the internal team to deal with in the first instance. The team is made up of 1 Manager, 5 back-office members of staff and 3 EA. We have trained 2 previous members of staff to become fully accredited EA, so we were growing our own EA and investing in our people. EAs are qualified to at least Level 2 Taking Control of Goods Act, and it is a condition of employment in line with statutory regulations that govern EA, that they maintain an accreditation certificate with the County Court, and this is renewed every 2 years. It is also a condition of employment that each EA have a valid bond (insurance) and that the certificate and bond must be maintained and run concurrently.

2.34. All our EA staff are trained on ethical debt collection principles and how to recognise and understand vulnerability. Our EA are subject to the same performance monitoring as any other member of staff, eg they are set smart objectives and they have monthly appraisals, attend team or individual meetings with their manager.

2.35. The EA must sign up to the Council's Code of Conduct which is local guidance for our EA and sets out our responsibilities, obligations, professionalism and conduct of EA, training, and vulnerable situations. It should be noted that our external EA partners must also sign up to Croydon's code of conduct. (Appendix A)

2.36. When it has been decided that a Liability Order should be placed with the internal EA team for collection of the debt, there are legal processes that must be followed. The regulations that govern these processes is The Taking Control of Goods Regulations 2014. It should be noted that the way in which debt can be enforced by EA was completely overhauled in 2014, with the introduction of these regulations, legislation was also introduced at the same time to set the level of fees that can be charged. There are 2 stages to the process, stage 1 is called the compliance stage (£75 fee) and stage 2 is called the enforcement stage (£235 fee plus 7.5% of the value of the debt that exceeds £1,500).

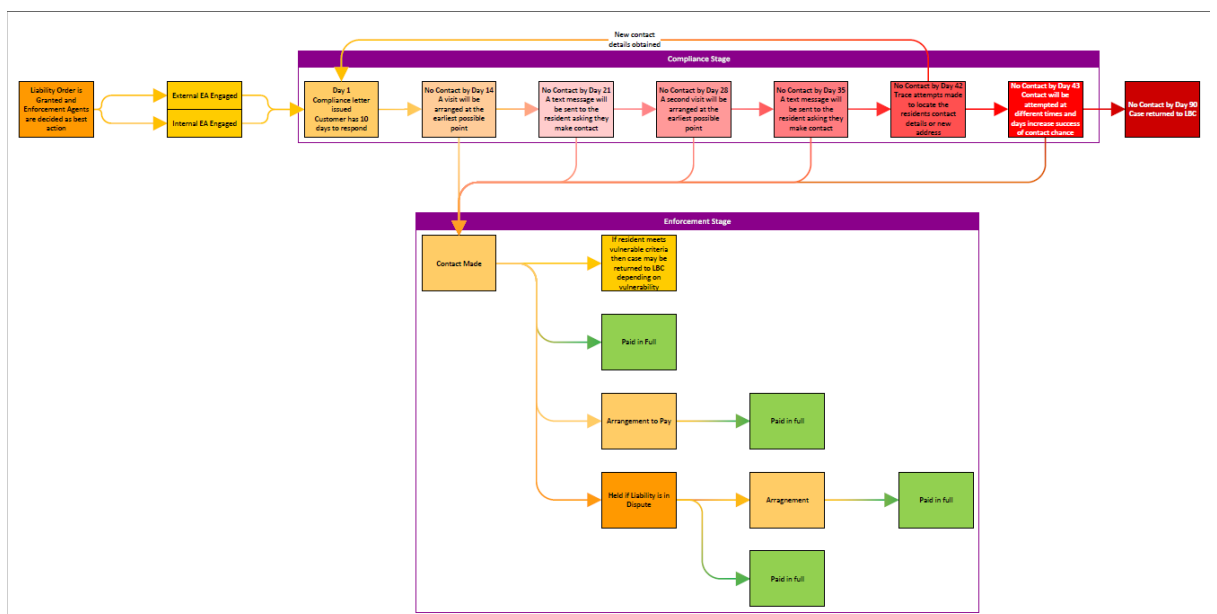
2.37. **Compliance Stage**

2.38. When the internal EA team receive a liability order they must issue a Notice of Enforcement. This notice must provide the date of the notice and the date and time by when full payment or a payment arrangement must be set up. This is known as the “compliance stage”. An EA must give by law a minimum period of seven clear days before making a personal visit to a property. The compliance fee of £75 is payable for each Liability Order.

2.39. **Enforcement Stage**

2.40. If during the compliance stage, full payment or a payment arrangement is not made or if a previous payment arrangement is broken, the case will progress to the enforcement stage. This is where the EA will make a personal visit to a property. The purpose of the visit would be to “take control of goods”, however the reality is much different. The enforcement fee of £235 becomes payable only when the EA has visited the property, it cannot be charged before a visit takes place. If an EA is enforcing more than one LO, only one enforcement stage fee is charged. We do not apply multiple enforcement fees.

2.41. The journey of a LO when reaching the internal EA team is illustrated below.



2.42.

- 2.43. When an EA knocks on a resident's door they must provide the resident with their ID to confirm their identity. They explain who they are, and the nature of the debt with the person named on the liability order. They will not discuss the debt with anyone else in the household. They will either agree payment in full, payment in part i.e., payment arrangement or refer the debt back to the Council Tax team, if there are and issues/questions regarding the outstanding amounts due, or if it is deemed that the resident is vulnerable. Our EAs are also very aware of the cost-of-living crisis, and they are much more accepting of longer re-payment plans for smaller values, based on individuals' ability to pay. They are not knocking on the door to take control of good.
- 2.44. As an organisation we work with partners to support our most vulnerable residents, we are a referral partner of Money and Pensions Advice Service (MAPS). MAPS is the largest single funder of free debt advice in England and works alongside partners across the UK to make debt advice easier and quicker to access, and to improve standards and quality across the sector. We also work with CAB, and we were one of the first LAs in London to sign up to the Council Tax collection protocol, we work with Southwest London Law Centre, Step Change, AgeUK, MIND, and CroydonPlus Credit Union. This list is not exhaustive.
- 2.45. The value of debt collected, and the running costs of the team are detailed below. During 2021/22, the running costs of the internal EA team were £630k. The fee income received into the council was £1m, they collected £3.7m in Council Tax, £46k in Business Rates income (NNDR), and £123k in parking warrants.

	Running Cost	Fee Income Total	Ctax Collection	Ctax fee Income	NNDR Debt Collection	NNDR Fee Income	Parking debt Collection	Parking Fee Income
21/22	£630,161.13	£1,001,479.10	£3,672,165.62	£899,951.68	<b>£46,865.05</b>	£8,221.00	<b>£122,951.67</b>	£93,306.42
20/21		£305,988.56	£550,770.75	£111,547.39	£69,095.03	£1,265.70	£130,180.83	£193,175.47
19/20		£1,024,972.70	<b>£2,528,997.88</b>	£700,353.93	£548,632.25	£66,739.49	£198,795.85	£257,879.28

- 2.46.
- 2.47. **External Enforcement Agents**
- 2.48. The Council has contracted with 6 external EA companies for collection of Council Tax, Business Rates liability orders and Parking warrants.
- Newlyn
  - Jacobs
  - Chandler
  - CDER
  - Bristow & Sutor
  - Marston
- 2.49. Where the debtor does not live within the borough, and we have a liability order for non-payment of Council Tax this is sent to an external agent for collection. Alternatively, if the internal EA team cannot make contact with a resident who lives in the borough, this is sent to one of the external EAs for collection.
- 2.50. The same compliance stage and enforcement stage of the collection process is followed by the external EAs.



2.51. The value of collection from the external teams is detailed below.

	Internal	External
18/19	£3,123,142.07	£ 1,469,751.20
19/20	£2,528,997.88	£ 2,068,005.11
20/21	£550,770.75	£ 701,355.72
21/22	£3,672,165.62	£ 2,558,980.08

2.52.

2.53. As well as being signed up to Croydon's code of conduct the external agents are also compliant with their own codes of conduct, and the Civil Enforcement Association (CIVEA) code of conduct, CIVEA is the principal trade association representing civil enforcement agencies employing around 2000 certificated enforcement agents that operate in England and Wales. Please see below. (Appendix B, Appendix C)

2.54. Revenues have monthly performance meetings with each EA company, and quarterly steering group meetings are held to monitor against the contract.

### 2.55. **Complaints**

2.56. There have been no complaints this year, made against the behaviour of the internal EAs.

2.57. There have been 2 complaints this year regarding the behaviour and approach of the external EAs.

### 2.58. **The Future of Enforcement Agents**

2.59. The bailiff service was overhauled and regulated in 2014. Gone were the days where a bailiff could climb up a ladder and enter someone's home through an open window. The law was changed, and the fee structure was regulated. Bailiffs are now called EA.

2.60. The regulatory enforcement body is called Civil Enforcement Association (CIVEA). CIVEA is the principal trade association representing civil enforcement agencies employing around 2,000 certificated enforcement agents that operate in England and Wales.

2.61. There is also a new enforcement conduct board being established because of ground-breaking collaboration between CIVEA and debt advice sectors, with the support of the Centre for Social Justice. The new regulatory body will be launched in the autumn of 2022.

2.62. This has been created to provide an independent, oversight of the Enforcement Sector. The board members have a mix of skills and experience that will enable them to work with CIVEA as they navigate the incredibly challenging task of assisting local authorities and central government with revenue collection while protecting people hit hard by the cost-of-living crisis."

2.63. The Enforcement Conduct Board will have a mandate to protect the financially vulnerable, balance the critical financial needs of local councils and ensure fairness for all.

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**APPENDICES TO THIS REPORT**  
**Appendix A,B and C below**

# Enforcement Agents Code of Conduct

*Local guidance for enforcement agents  
and external enforcement agencies*

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# INTRODUCTION

Our code of conduct, for enforcement agents, reflects the values of Croydon Council and the behaviours that we want to be known for.

Our values guide the way we behave and give us standards by which to measure ourselves and our partners working with us, and how we interact with and support our customers.

## **Our values**

### **One team**

Crossing boundaries to work together towards shared goals with colleagues, partners and communities.

### **Proud to serve**

Striving to always do our best for the community, getting the most from limited resources and using taxpayers' money wisely.

### **Honest and open**

Working hard to build trust by treating everyone with honesty and integrity.

### **Taking responsibility**

Encouraging and supporting each other to take responsibility and show what we can do, learning together and recognising all of our contributions.

### **Valuing diversity**

We make the most of the many perspectives that make Croydon distinctive.

The code of conduct sets out the guidelines for acceptable behaviour, compliance with all applicable legislation, appropriate use of good judgment, standards of learning and development, commitment to equality and diversity, confidentiality and data protection, monitoring and complaints.

This code of conduct does not replace the Council's disciplinary, performance and employee Complaints policies and procedures or, the terms and conditions specified in the Enforcement Agents employment contract. The Council reserves the right to review and amend this local procedure.

These standards are intended for all enforcement agents, both internal and external.

It covers Croydon Council's enforcement agency which employs internal enforcement agents and external enforcement agencies acting on behalf of Croydon Council, employing or engaging their own enforcement agents. It also applies to the council

teams that use their services, specifically, the responsible council debt portfolio owners and officers.

All enforcement agents and the representatives of the enforcement agencies **must confirm** that they have read this document before undertaking enforcement activity for Croydon Council.

In order to improve the public's perception of the profession, enforcement agents and those who employ them or use their services, must maintain high standards of business ethics and practice

This code applies to the conduct of enforcement agents in the collection of the following debts:

- Council tax
- Non-domestic rates (Business rates)
- Business improvement district levy (BID levy)

In addition to local priorities and needs this document also incorporates appropriate good practice standards from the ministry justice (Taking control of goods, national standards) and the civil enforcement agency (CIVEA) code of conduct and good practice guide.

#### Terms used

<b>Creditor</b>	The organisation the debt is recoverable for. This is the Croydon Council
<b>Debtor</b>	The person liable to pay the debt
<b>Enforcement</b>	The lawful process of warrant and taking control of goods (Enforcement powers referred to as 'Schedule 12 Procedure')
<b>Enforcement Agency</b>	The business that employs enforcement agents. This includes both Croydon's internal enforcement agency and external agencies acting on behalf of Croydon council
<b>Enforcement Agent</b>	Someone who is authorised (certificated) to take enforcement action

#### What is covered in the code

- The council's responsibility as a creditor
- Enforcement agencies' obligations (internal and external)
- Professionalism and conduct of enforcement agents,
- Training and certification standards
- Vulnerable situations
- Debtors' obligations,
- Documentation, data and record keeping
- Fees and charges

- Taking control of goods
- Complaints and disciplinary procedures



## 1.0 CROYDON COUNCIL'S RESPONSIBILITY AS CREDITOR

### 1.1 Business standards

For the enforcement process to work effectively, the council service which is pursuing recovery of the debt must be fully aware of its own responsibilities. These should be observed and set out in the terms of the service level agreement (SLA) with the enforcement agency.

The council must never seek payment from an enforcement agency or enforcement agent in order to secure a contract.

The responsible council debt portfolio owner is responsible and accountable for the enforcement agents acting on their behalf.

### 1.2 Responsibility to the debtor

- Act proportionately when seeking to recover debt, taking into account debtors' circumstances.
- Notify the debtor that if payment is not made within a specified period of time, and that action may be taken to enforce payment.
- Provide a contact point at appropriate times to enable the enforcement agent or agency to make essential queries, particularly where they have cause for concern.
- Ensure that there are clear protocols agreed with their enforcement agents governing the approach that should be taken when a debtor has been identified as vulnerable.
- Should a debtor be identified as vulnerable, be prepared to take control of the case, at any time, if necessary.
- A clear complaints' procedure must be in place to address complaints regarding their own enforcement agents or external enforcement agents acting on their behalf.

### 1.3 Responsibility to the enforcement agency

- Notify the enforcement agency of all payments received and other contacts with the debtor, including repayment agreements made with the debtor.
- Avoid using enforcement agencies when they have evidence that a debtor falls within the category considered 'vulnerable'. The definition of vulnerable is covered in section 5.
- Council services must not issue a warrant knowing that the debtor is not at the address, as a means of tracing the debtor at no cost.
- If agreeing the suspension of an order or warrant, or if they make a direct payment arrangement with debtors they must give appropriate notification to the enforcement agent
- All background information relating to the debtors circumstance or health/welfare, together with any relevant case history, should be given to the enforcement agency when they are instructed to collect the debt.
- Consider the appropriateness of referring debtors in potentially vulnerable situations to enforcement agents and, if they choose to proceed, must alert the enforcement agent to this situation.
- Inform the enforcement agency if they have any cause to believe that the debtor may present a risk to the safety of the enforcement agent.

## 2.0 ENFORCEMENT AGENCIES' OBLIGATIONS

### 2.1 Responsibility for conduct

Enforcement agencies must ensure that enforcement is conducted in accordance with prevailing legislation and in a professional, ethical and proportionate manner. The objective should be the recovery of the sum outstanding as quickly as possible, without causing unnecessary hardship

Enforcement agencies have a responsibility to ensure that all personnel engaged to enforce warrants and orders are properly vetted and possess an appropriate knowledge and understanding of all relevant legislation, case law and powers, and at all times act in accordance with them.

Procedures must be in place to ensure that all enforcement personnel are subject to regular appraisal and performance reviews, at a minimum of yearly intervals. Internal enforcement personnel will be covered by Croydon Council's appraisal scheme.

Such appraisal should include identification of learning, development and training needs as well as a review of incidents and complaints.

Enforcement agencies must work in a way that, so far as possible, allows them to distinguish between debtors who can't pay and those who could pay or who won't pay.

Enforcement agencies must ensure that legislation restricting the enforcement activity to enforcement agents is complied with.

### 2.2 Statutory and financial requirements

An audit of the agency's accounts by independent accountants should be undertaken at least once a year. This requirement is mandatory and applies to large and small companies and sole traders.

An audit of individual enforcement agents must be conducted at least annually. Ideally this audit should be independent of the officer's line management.

Enforcement agencies must keep a complete record of all financial transactions in

whatever capacity undertaken. A separate account for monies due to the creditor should be maintained and accurate books and accounts should be kept and made available to establish monies owed to the council..

All payments to the council received by the internal enforcement agency will be paid into fund 34 via the council's main payment system AIM.

Enforcement agencies must maintain suitable and comprehensive insurance cover to include:

- Professional indemnity
- Public and employers liability
- Cover for goods taken into control including goods in transit.

### 2.3 Customer services

All enforcement agencies must maintain sufficient telephone lines, with sufficient trained and competent staff available to answer debtor calls. Telephone calls must be answered within a reasonable time limit.

## 3.0 PROFESSIONALISM AND CONDUCT OF ENFORCEMENT AGENTS

### 3.1 Requirement to act within the law

Enforcement agents must act within the law at all times, including all relevant legislation and observe all health and safety requirements in carrying out enforcement. They must maintain strict client confidentiality and comply with data protection legislation and, where appropriate the Freedom of Information Act.

Enforcement agents must act in accordance with the Human Rights Act 1998 and the Equality Act 2010. They must not discriminate unfairly on any grounds including those of age, disability, ethnicity, gender, race, religion or sexual orientation.

### 3.2 Misrepresentation

Enforcement agents must not attempt to misrepresent their status or imply they are anything to do with the police or any other government agency.

They must not be deceitful by misrepresenting their powers, qualifications, capacities, experience or abilities, including, but not restricted to, falsely implying or stating that:

- Action can or will be taken when legally it cannot be taken by that enforcement agent
- A particular course of action will ensue before it is possible to know whether such action would be permissible
- Action has been taken when it has not
- A debtor's refusal to allow entry to a property is classed as an offence.
- They are an officer of Croydon Council (if they are not)
- They are an officer of the court

Enforcement agents must not seek to enforce the recovery of fees where an enforcement power has ceased to be exercisable. For example where someone else is now liable and they are not liable for the original debt

### 3.3 Identification and evidence to be provided

When visiting a property the enforcement agent must attempt to speak to the customer before leaving a notice. This applies to all visits.

It is a fundamental principle of this code that all enforcement agents must always introduce themselves and produce photographic identification issued by the council or external enforcement agency and a copy of the letter of authorisation in respect of enforcement proceedings.

**When required by legislation the written authorisation from the council must also be shown to the debtor if requested**

### 3.4 Appropriate behaviour

Enforcement agents must carry out their duties in a professional, calm and dignified manner in accordance with relevant legislation and codes of practice. They must dress and speak appropriately and act with discretion and fairness.

They must conduct themselves in a humane, firm but fair manner, act responsibly and shall do nothing to prejudice the reputation and integrity of the council.

Enforcement agents must not act in a threatening manner by making gestures or taking actions which could reasonably be construed as suggesting harm, or risk of harm to debtors, their families, appointed third parties or property.

For the purpose of taking control of goods, enforcement agents must never gain access to the goods by using force or implying that they can use force. The enforcement agent must produce all relevant notices and documents, such as controlled goods agreements, that are required by regulations or statute.

Enforcement agents shall at all times attempt to act in a way which will minimise inconvenience and distress to the debtor and their family. In particular they must avoid responding immediately to provocation.

Enforcement agents must not act in a way likely to be publicly embarrassing to the debtor, either deliberately or negligently (that is to say through lack of care) They shall at all times, act to minimise any embarrassment to debtors. Wherever possible the debtor should be interviewed in private unless the debtor wishes otherwise or declines the invitation.

### 3.5 Information and confidentiality

When attending a domestic property to meet with an individual debtor, the enforcement agent shall take reasonable steps to ensure they are speaking directly to the debtor, before identifying themselves as an enforcement agent. If the debtor is unavailable the enforcement agent must ascertain when they will be available. Where the debtor is not seen the relevant documents must be left at the address in a sealed envelope addressed to the debtor.

The enforcement agent should seek to establish the identity of all those present, and inform the debtor (when present) of the purpose of the visit, and where appropriate explain the powers of the enforcement agent.

If the person answering the door claims that they are not the debtor and do not know of their whereabouts, the enforcement agent should ask for their name and identification. If they refuse to give this, the enforcement agent should contact the responsible council debt portfolio owner before proceeding.

If the enforcement agent is in any doubt about the occupancy of the address, they should try to establish who is in occupation by requesting proof of occupation for example, a lease or a utility bill. If occupation remains in doubt they should contact the responsible council debt portfolio owner.

If the debtor disputes the liability in person, the enforcement agent must contact the responsible council debt portfolio owner before proceeding further. If required, the enforcement agent will provide the debtor with a telephone number that can be used to contact the council during normal office hours.

Every effort should be made to avoid discussing the nature or purpose of their visit with anyone other than the debtor. The enforcement agent shall take care to ensure that the debtor's circumstances are not disclosed or discussed with a third party other than to someone nominated by the debtor, for example an advice agency representative. This might be relaxed when speaking with a partner or close relative of the debtor.

When attending a business and the debtor is not available, the enforcement agent may deal with a person in apparent authority who is on the premises where those premises are used either wholly or in part to carry on a trade or business

The enforcement agent shall clearly state to the debtor the purpose of the visit. Informing the debtor which enforcement agency they are employed or engaged by and that they are acting on behalf of Croydon Council They should explain that the warrant or order instructs the enforcement agent to take control of goods, to secure payment of the debt under threat of the removal and sale of these goods.

The relevant documentation including details of costs incurred to date must be handed to the debtor or left at the premises. Where the debtor is not seen, the relevant documents must be left at the address in a sealed envelope addressed to the debtor.

All information obtained during the administration and enforcement of warrants or orders must be treated as confidential.

The name of the actual enforcement agent attending the premises must be made clear on any documents left with the debtor or left on the premises. All relevant contacts and telephone numbers must be clearly displayed as must the relevant reference numbers.

The consequences of a failure to pay, together with the details of the fees that have already been incurred and any additional fees/costs that may be incurred, must be fully explained. If settlement is not immediately forthcoming the enforcement agent should consider the appropriateness of a controlled goods agreement, with a suitable payment arrangement.

If the debtor disputes liability over the phone, the enforcement agent must contact the responsible council debt portfolio owner before proceeding further. If required, the enforcement agent will provide the debtor with a telephone number that can be used to contact Croydon Council during normal office hours.

## **4.0 TRAINING AND CERTIFICATION**

### **4.1 Recruitment**

Only staff who have been subject to appropriate pre - employment vetting and who are able to provide verifiable and satisfactory references must be engaged as an enforcement agent.

All staff that will be engaged in a direct customer facing position must be subject to a check with the Disclosure and Barring Service. As a result of legislation introduced in 2006, Enforcement Agents are exempt from the provisions of the Rehabilitation of Offenders Act.

Staff directly engaged in enforcement by taking control of goods must not have previously been convicted of any (unspent) criminal offence or any offence involving fraud, dishonesty or violence or have any current County or High Court judgments made against them.

Recruitment must not discriminate unfairly on any grounds including those of age, disability, ethnicity, gender, race, religion or sexual orientation

#### 4.2 Training

Enforcement agencies must ensure that all enforcement agents, employees and contractors are provided with appropriate training to ensure that they understand and are able to act, at all times, professionally and within the bounds of the relevant legislation.

This training should be provided at the **start** of employment and at intervals afterwards to ensure that their knowledge is kept up to date. Professional training/assessment should be to a standard that complies with relevant legislation.

Legislation covering enforcement includes but is not restricted to:

- The Tribunals, Courts and Enforcement Act 2007
- The Tribunals, Courts and Enforcement Act 2007 (Consequential, Transitional and Saving Provision) Order 2014
- The Taking Control of Goods (Fees) Regulations 2014
- The Taking Control of Goods Regulations 2013
- The Certification of Enforcement Agents Regulations 2014 and
- Council tax and Business rates legislation

Enforcement agencies must ensure that legislation restricting the enforcement activity to enforcement agents is complied with.

Enforcement agencies must ensure that all employees, contractors and agents will at all times, act within the scope of current legislation, for example:

- The Companies Act,
- HMRC provisions,
- Data Protection,
- Health and Safety,
- Equality and the Human Rights Acts etc.

They must ensure that they have appropriate knowledge and understanding of it and be aware of any statutory obligations and provide relevant training.

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.

Enforcement agents should be trained to recognise vulnerable debtors (see section 5.0, to alert the responsible council debt portfolio owner where they have identified such debtors and when to withdraw from such a situation.

#### 4.3 Equality and human rights legislation

Relevant aspects of the Human Rights Act 1998

- Article 1. Right to the peaceful enjoyment of possessions**  
But this is subject to the conditions provided for by law and does not prevent the right to ensure the payment of taxes or other contributions or penalties
- Article 8: Right to respect for private and family life and home.**  
But this is subject conditions provided by law and when it is necessary in the interests of the economic well-being of the country or for the protection of the rights of others.
- Enforcement agents must be able to confirm their authority to act within the exceptions to the act, Enforcement agents must be able to confirm their authority to act within the exceptions to the act,
- Action taken by enforcement agents must be proportional, prescribed by law and not discriminatory
- Enforcement agents must act fairly and in good faith, have respect for individuals and their property.

Relevant aspects of the Equality Act 2010

- Enforcement agents must not act in a discriminatory way on grounds of age, disability, ethnicity, gender, race, religion or sexual orientation)
- The Act provides the legal sanction for breaches of the national standards for enforcement agents.

#### 4.4 Certification of enforcement agents

Internal and external enforcement agents must have a current unexpired certificate in order to act on behalf of Croydon Council in the enforcement of powers of taking control of goods.

Internal enforcement agents are required to have a certificate showing Croydon Council named as their employer. Newly appointed enforcement agents may act temporarily for the council in enforcing powers of taking and control of goods as long as

They have a current, unexpired certificate and



- The court has been notified of the change of employer with the intention of arranging a court hearing for the issue of a replacement certificate and
- The enforcement agent has bond security to act for the council and
- The enforcement agent has a letter of authority to act on behalf of the council

An individual, who is not an enforcement agent, may act in the presence and under the direction of a certificated enforcement agent. An enforcement agent can take other people on to a debtor's premises to assist them in exercising any power but they must not remain on the premises without the enforcement agent. Such experience will form an essential part of the training and development of trainees seeking to qualify and achieve certification as an enforcement agent.

#### 4.5 Renewal certificates and bonds

Both the enforcement agency and the enforcement agent are responsible for ensuring timely renewal of certificates and bonds. A certificate expires two years from the date it was issued. Before expiry an enforcement agent must apply to the court for a renewal certificate. This will involve attending an interview with the District Judge.

A security bond expires two years from the date it was issued. The bond must be renewed before it expires. If the bond has expired and has not been renewed the enforcement agent's certification is invalidated even if the certificate has not yet expired.

Failure to renew your Certification and bond to the Council's satisfaction, have your Certification and bond withdrawn, or allow your Certification and bond to lapse on more than one occasion, will be considered a disciplinary offence and the Council's formal disciplinary process will apply.

#### 4.6 Requirements before certification

For an individual to become an enforcement agent they must fulfil the following criteria

- They must have passed the qualifying examination in taking control of goods at or above level 2 of the Qualifications and Credit Framework or equivalent as determined by a nationally accredited body, such as the Chartered Institute of Credit Management (CICM)
- To be eligible to take the examination they must have registered as an affiliate member of the CICM
- They have undertaken appropriate training and work experience
- Booked the examination at a Pearson Vue Centre

Those who have passed the examination successfully must then fulfil the additional criteria:

- Complete an application form for a certificate to act as an enforcement agent and
- Provide evidence with the application that they are a fit and proper person to act as an enforcement agent, which will include:

- ❑ Two references which may be from the applicant's employer or from an approved officer of the Civil Enforcement Association or the High Court Enforcement Officers Association and
- ❑ A certified copy of the results of a search of the register of judgments, orders, fines and tribunal decisions and
- ❑ Certified copies of evidence of their CICM qualification and
- ❑ Copies of the forms the applicant intends to use when exercising powers and that these conform to legal requirements and
- ❑ Attend an interview with the District Judge who will want to be satisfied that the applicant is a fit and proper person to hold a certificate and has sufficient knowledge and experience of the taking control of goods process, the national standard and legislation
- ❑ Provide a certified copy of a criminal conviction certificate and
- ❑ Evidence that the applicant has lodged bond security for £10,000

#### 4.7 Continuing Professional Development

Qualification at level 2 is the minimum standard required for certification. But enforcement agents should be encouraged to develop and update their skills. Enforcement agencies should provide appropriate development opportunities

## 5.0 VULNERABLE SITUATIONS

### 5.1 Risk assessments

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

Where enforcement agents have identified vulnerable debtors or situations, they should alert the responsible council debt portfolio owner and ensure they act in accordance with all relevant legislation.

### 5.2 Identifying vulnerability

Enforcement agencies, enforcement agents and the council must recognise that they all have a role in ensuring that the vulnerable and socially excluded are protected; and that the recovery process includes procedures for dealing with such situations and are agreed between the agent/agency and the council.

A debtor may be considered vulnerable if, for reasons of age, health, disability or severe financial insecurity, they are unable to safeguard their personal welfare or the personal welfare of other members of the household.

Although there is no definition of vulnerability in the legislation, the appropriate use of discretion is essential in every case and no amount of guidance could cover every situation. Therefore the enforcement agent has a duty to contact the Council and report the circumstances in situations where there is evidence of a potential cause for concern.

Enforcement agents should be aware that vulnerability may not be immediately obvious. Some groups who might be vulnerable are listed below. However, this list is not exhaustive. Care should be taken to assess each situation on a case by case basis.

Potential vulnerability might include:

- Elderly persons
- People with a disability
- People with mental impairment or learning difficulties
- People experiencing serious illness
- Recently bereaved
- Lone parent families;
- Pregnancy;
- Unemployed people;
- People with obvious difficulties understanding English.

### 5.3 Elderly Persons

An elderly person is not necessarily vulnerable and many elderly people are financially secure and both mentally and physically healthy. However, some elderly people are frail, confused, ill, and living on fixed and limited incomes and, therefore, are considered to be vulnerable.

If it is evident that the debtor either falls into the latter categories no attempt to take control of goods should be made without first consulting the responsible council debt portfolio owner.

### 5.4 People with a disability

A person with a disability is not necessarily vulnerable; however, where the disability affects the person's ability to deal with their financial affairs they should be considered to be vulnerable.

Regardless of the severity of the disability, the enforcement agent should **never take control of goods that are necessary to the wellbeing of the person due to their disability**. If it is evident that the debtor has a disability that is anything other than a relatively minor disability, no action should be taken without consulting the responsible council debt portfolio owner.

### 5.5 Persons with mental impairment or learning difficulties

If it is evident that the debtor has a mental impairment or learning difficulties they should be considered to be vulnerable and no action should be taken without consulting the responsible council debt portfolio owner

### 5.6 Persons experiencing serious illness, including mental illness

Where the debtor (or the debtor's partner) appears to be suffering from any condition which is serious or life threatening they could be considered to be vulnerable. No action should be taken if the debtor (or the debtor's partner) is suffering from any condition

which is serious, life threatening, or where the enforcement agent has concern that further action may be seriously detrimental to the person's welfare.

### 5.7 Recently bereaved

A person suffering the recent bereavement of a close relative could be considered to be a vulnerable person. Bereavement affects different people in different ways and the enforcement agent will need to exercise discretion in determining whether a person that has experienced recent bereavement is vulnerable based on the individual circumstances. Where the debtor (or the debtor's partner) is obviously still extremely distressed the enforcement agent should seek guidance from the responsible council debt portfolio owner before proceeding even though some time may have passed.

### 5.8 Lone parent families

A lone parent is not necessarily a vulnerable person and it is recognised that some lone parents are financially secure. However, lone parents, and in particular those with very young children, may have difficulty in undertaking employment and, therefore, rely on welfare benefits. The enforcement agent should exercise discretion and consult the responsible council debt portfolio owner before taking action where there is reason to believe that a lone parent may be vulnerable.

### 5.9 Pregnancy

A woman in the later stages of pregnancy may find dealing with serious financial issues stressful, particularly if they are not supported by a partner, or if they are on a low income or benefits. This may be compounded by any additional essential expenditure due to the pregnancy or birth of a child. Where it is evident that a debtor, or their partner, is pregnant, the enforcement agent should take care to avoid causing stress as this could be detrimental to the person's wellbeing. Where the enforcement agent has concerns that further action may be detrimental to their welfare they should seek further advice from the responsible council debt portfolio owner

### 5.10 Unemployed people

Unemployment does not automatically mean the debtor is vulnerable. For example a person may have received a substantial redundancy payment and be financial secure in the short-term. However, loss of employment may result in serious financial difficulties if a person is suddenly unable to meet their existing financial commitments.

A person who has recently become unemployed after a long period of employment may be unfamiliar with processes for claiming benefits and may need additional assistance to understand their entitlements. If it is evident from the enforcement agent's observation of the debtor's circumstances that the debtor may be vulnerable, no action should be taken without consulting the responsible council debt portfolio owner.

If a debtor appears to have significant financial issues having consulted with the council it may be appropriate to make a referral to Gateway services.

### 5.11 People with obvious difficulties understanding English

Where a person does not understand either spoken or written English they should be considered to be vulnerable, particularly if they do not have support from family members who can speak and read English.

Where the enforcement agent has reason to believe a person may have difficulty understanding English this should be reported to the responsible council debt portfolio owner who will provide advice on how to proceed.

## 5.12 Action when vulnerability is identified

The appropriate use of discretion is essential in every case and no amount of guidance could cover every situation, therefore the enforcement agent has a duty to contact the responsible council debt portfolio owner and report the circumstances in situations where there is potential cause for concern.

Where vulnerability is identified or suspected enforcement should be suspended and the matter should be referred back to the responsible council debt portfolio owner for guidance

Where the debtor is a vulnerable person the enforcement agent should give the debtor an adequate opportunity to get assistance and advice in relation to the exercise of the enforcement power.

If necessary, the enforcement agent will advise the responsible council debt portfolio owner if further action is appropriate. The exercise of appropriate discretion is needed, not only to protect the debtor, but also the enforcement agent who should avoid taking action which could lead to accusations of inappropriate behaviour. If identified at the enforcement stage, the process reverts back to the compliance stage without further action

Where the debtor is a vulnerable person, the fees due are not recoverable unless the enforcement agent has, before proceeding to remove goods, given the debtor an adequate opportunity to get assistance and advice in relation to the exercise of the enforcement power<sup>1</sup>.

The enforcement agent must be sure that the debtor or the person to whom they are entering into a controlled goods agreement understands the agreement and the consequences if the agreement is not complied with.

The enforcement agent must not enter into a controlled goods agreement with the debtor or another person if it appears to the enforcement agent that that person does not understand the effect of, and would therefore not be capable of entering into, such an agreement. This will include instances where it is evident that the debtor's understanding of English is so limited as to make this the case.

Wherever possible, enforcement agents should have arrangements in place for rapidly accessing interpretation services (including British Sign Language), when these are needed, and provide on request information in large print or in Braille for debtors with impaired sight.

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<sup>1</sup> The Taking Control of Goods (Fees) Regulations 2014 reg. 12

### 5.13 Unaccompanied children

Enforcement agents must withdraw from domestic premises if the only person present is, or appears to be, under the age of 16 or is deemed to be vulnerable by the enforcement agent; they can ask when the debtor will be home - if appropriate. The enforcement agent must not hand documentation/notices to a person who is, or appears to be, under the age of 16.

Enforcement agents must withdraw without making enquiries if the only persons present are children who appear to be under the age of 12. The enforcement agent must report this to the council's enforcement agency manager and a referral to social services will be made. The enforcement agent must wait at the property until the child's parent or carer returns.

### 5.14 Duty to report in other circumstances

It may also be appropriate for enforcement agents to report concerns for the health or safety of other potentially vulnerable people, which they identify in the course of their work. For example, concerns for the wellbeing of children who are accompanied by an adult, or for vulnerable adults who may be at risk of harm.

### 5.15 Sensitive premises

The enforcement agent must not knowingly visit sensitive venues which include but are not limited to:

- Places of worship
- Nursery schools
- Hospitals
- GP's surgeries
- Funeral directors
- Hospices
- Care homes

If this situation arises the case must be returned and the council service notified. If there is any doubt whether a venue is sensitive, the enforcement agent must contact the responsible council debt portfolio owner for guidance.

### 5.16 Times and hours for enforcement

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

Enforcement agents may not take control of goods before 6am and after 9pm <sup>2</sup>

- Unless authorised otherwise by a court, or
- If the goods are located on business premises in which case enforcement action may be taken during trading hours, or
- If the enforcement agent has begun to take control during authorised hours but to complete the action it is necessary to continue after 9pm (as long as the time spent is reasonable)

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<sup>2</sup> The Taking Control of Goods Regulations 2013 (13)(1)

Croydon council's internal enforcement agency will normally operate between the hours of 7am and 7pm.

## 6.0 DEBTORS' OBLIGATIONS

### 6.1 Debtor's conduct

A debtor is equally responsible for ensuring that an enforcement encounter is concluded in a civil, polite, honest and non-threatening manner. An enforcement agent is entitled to be treated with respect and courtesy and should not be subjected to violence, threats or intimidation.

### 6.2 Assumption of debtor's awareness

Attendance by an enforcement agent is never the first course of action by the Council and consequently the enforcement agent is entitled to assume that the debtor is fully aware of their liability. The enforcement agent is equally entitled to assume that the debtor has received and understood any documentation sent by the enforcement agency or the creditor.

Debtors should ensure that they respond immediately to correspondence and should not attempt to delay matters by making false claims or attempt to conceal their true identity. A failure to respond to correspondence and/or contact from the enforcement agency will inevitably result in the matter being escalated, with the potential for goods to be seized and removed, thus incurring additional costs, charges and fees.

Debtors should understand that any documents posted or delivered to the debtor's address, by the enforcement agents will be deemed to have been delivered.

### 6.3 Challenging the debt

If a debtor believes that they have a legitimate challenge to the debt, this must be raised immediately and progressed without delay. The grounds of any challenge must be communicated to both the council and the enforcement agency, supported by evidence.

Debtors who may feel that they fall into a vulnerable or hardship category must inform the enforcement agency immediately of their circumstances. They should be aware that such claims must be corroborated, which may involve a personal visit to observe their circumstances.

If a debtor does not understand what is happening or needs help in dealing with their debt then they should seek the assistance of a free advisory service immediately. If doing so they should provide that agency with **all** documentation they have received.

Debtors should realise that delay may increase costs, fees and charges. Ignoring a debt does not make it go away, it merely delays the inevitable and may increase costs, charges and fees.

#### 6.4 Discretion to agree arrangements

The warrant or order, that is being enforced, empowers the immediate taking of goods and there is no automatic right to have an extended payment arrangement or instalment plan. When an enforcement agent first demands payment they are seeking full payment. Any agreement for extended terms is solely at the enforcement agent's discretion.

If a payment is promised or an agreement or arrangement is reached for settlement of a debt, the debtor must keep to the strict terms of that contract. Should the terms of an agreement be breached or broken the debtor should understand that the enforcement agent will proceed to recover the full remaining debt, with additional costs.

If paying by debit/credit card or by cheque, a debtor should ensure that there are sufficient funds by which to pay the amount and realise that if the payment by card is declined or the bank return a cheque unpaid then the enforcement agent will return and further costs, charges and fees will be applied.

It is common practice for advisory agencies to recommend that a debtor should deny access to the enforcement agent and refuse to sign any documentation. The debtor should realise that by accepting this advice they could be prejudicing the potential for an instalment plan to be agreed and any accessible goods could be removed immediately.

If a debtor disputes the level or appropriateness of any cost, charge, or fee they can apply to the court for those items to be assessed, once payment has been made.

A debtor should be aware that if the enforcement agent is not successful in recovering the debt due, then the council, subject to the relevant legislation, has several other options open to it to achieve recovery of their money, which can include; attachment of earnings or benefit, administration or sequestration orders, bankruptcy or liquidation, or committal to prison

#### 6.5 Third party advisors

An enforcement agency is not legally obliged to deal with a third party advisor. Enforcement agencies will normally deal with bona fide organisations, but only if they are in possession of evidence that they are empowered to act and if their involvement is beneficial to clearing the debt.

Enforcement agents are not bound to accept any offer made by an advisor and may refuse such offers if they are felt to be unreasonable.



Advisors should restrict themselves to relevant issues, namely settlement or discussion of the actual debt. Making uncorroborated and possibly unfounded claims or allegations against the enforcement agent or their company is not conducive to bringing the matter to a satisfactory conclusion.

If an advisor believes that the debtor has a genuine grievance in respect of their treatment, this should be addressed as a separate issue, firstly to the enforcement agent or enforcement agency.

If the grievance is not resolved at this first stage, it can then be escalated through the complaints procedure (see section 10.0).

## **7.0 DOCUMENTATION, DATA AND RECORD KEEPING**

### **7.1 Standards of documentation**

All notices, correspondence and documentation issued by the enforcement agent/agency must be clear, complete and unambiguous and to the satisfaction of the responsible council debt portfolio owner. They must not use unhelpful legal or technical language and should comply with relevant legislation.

On returning any un-executed warrants, the enforcement agent should report the outcome to the responsible council debt portfolio owner and provide further appropriate information, where this is requested and, where appropriate, paid for by the responsible council debt portfolio owner.

All information obtained during the administration and enforcement of warrants must be treated as confidential between the enforcement agent, debtor, the responsible council debt portfolio owner and any third parties nominated by the debtor.

Enforcement agents should provide clear and prompt information to debtors and the responsible council debt portfolio owner

Enforcement agents should make debtors aware of the possible additional costs of enforcement which will be incurred if further action becomes necessary. If a written request is made, an itemised account should be provided.

Enforcement agents will clearly explain and give in writing, the consequences of taking control of a debtor's goods. Except where a notice or other documentation is handed to the debtor, it must be enclosed in a sealed envelope and addressed to the debtor with their full postal address on the envelope.

Documentation and notices must comply with the legislation. Failure to do so will result in the removal of the fee if applicable. The enforcement agency must answer all correspondence from debtors within 10 working days of receipt.

Failure to comply with the above requirements may result in the removal of fees charged.

The enforcement agency must retain enforcement records relating to Croydon Council for a minimum of 5 years, even if no longer representing Croydon Council.

## 7.2 Case records, notices and documentation

Action	Timescale for Revenues	Timescale for Parking
Accurate, timely records should be kept of all action on a case when it has been issued to an enforcement agency. Details of action taken, by who and when should be uploaded to the agency's system	Within 1 week of the action having taken place	By the following working day
Copies of all notices and documentation issued to the debtor should be uploaded to the agency's admin system	Within 1 week of the documentation being issued	By the following working day
Documentary evidence to support all stages of recovery taken must be uploaded to the agency's admin system	Within 1 week of the documentation being issued	within 24 hours of any activity
All events must be shown on the agency's client system. This includes telephone calls, correspondence and fees charged. This information will be used by the council when reviewing cases.	Within 1 week of any activity	Within 24 hours of any activity

## 7.3 Data Protection

The public trust us to keep their personal information safe and secure and not to disclose confidential information, unless we are authorised to do so.

As well as understanding the points below, enforcement staff should also make sure they are aware of the key points of the Data Protection Act 1998, which imposes a legal duty on

individuals and the Freedom of Information Act 2000 which promotes greater openness and accountability by giving a right of access to information held by public authorities.

The council's own policies on data protection and freedom of information are available on the council's intranet.

You must not:

- Use confidential information for own purposes;
- Disclose confidential information to anyone or third party outside the council.
- Improperly disclose, or use (directly or indirectly) any information (either about council business, employees or members of the public) that is received in the course of work or allow others to do so.
- Use data held by the council for any purpose other than that for which it is registered to be kept and used.
- Request more information than is necessary from customers
- Share customer information without their informed consent or lawful authority to do so
- Conceal any matter that it is a duty to report.

You must:

- Keep all council and personal data confidential, safe and secure whether computerised or manually held and comply with the law and council policies. This includes:
  - Not leaving it unattended or where anyone can see it.
  - Leaving it in a public place, like a café or on a train.
  - Discussing it where you could be overheard.
  - In a public place where confidential information can easily be read by a third party.
  - Sending it to a private email address.
- Check that anyone who asks for council information has a valid reason for doing so.
- Check with your director or the monitoring officer if you are unsure if information can be disclosed.
- Follow the information management and data loss procedures and guidance.

Enforcement agents shall ensure that all information coming into their possession during the performance of the contract is treated as strictly confidential and is not used for any other purpose.

All data passed to the enforcement agent by the council, or obtained by the enforcement agents in the performance of their duties and services, remains confidential and the property of the council at all times.

In particular, the company as a "data processor" must comply with obligations equivalent to those imposed on the council as a "data controller" by the seventh principle (Schedule 1, Part II, Para 12) of the Data Protection Act 1998, that is, appropriate technical and

organisational measures should be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to personal data.

Wherever possible the exchange of information between the council and the enforcement agent shall be secure to protect the interests of the debtor and the principles of the Data Protection Act 1998. This will be achieved through the encryption of data, wherever and whenever necessary.

## 8.0 FEES AND CHARGES

### Fees and charges

#### 8.1 Stages of enforcement

There are three stages of enforcement, the compliance stage, the enforcement stage and the sale stage. Specific fees are payable by the debtor, should each stage become necessary. If full payment is made at the compliance stage, only the compliance fee is incurred.

*Details of the fees and disbursements and the stages of enforcement are set out in the appendix to this document.*

Enforcement agents will clearly explain to the debtor the consequences of taking control of goods and ensure that debtors are aware of any additional charges that will be incurred.

Enforcement agencies must make payments to the council on account of monies collected within 21 days. Each payment must be supported by a schedule giving sufficient information to enable the council to credit each debtor's account correctly.

There must be adequate facilities available to allow the debtor to make payment both to an office location and directly to the enforcement agent.

Costs charged to the debtor should be strictly in accordance with the relevant regulations.

The enforcement agent must provide details of any direct charges to the debtor. Debtors must be provided with a full, clear breakdown of fees charged, including the action which triggered the costs if requested by the council, the customer or someone acting on the customer's behalf.

All documents, whether posted or hand delivered must be in accordance with the relevant legislation and should not be ambiguous or misleading

## 8.2 Order of fee payment

1. Amounts due to any co-owner (from sale of goods)
2. Auctioneer costs
3. Compliance fee, prior to collection of council's outstanding balance or additional fees.
4. Enforcement fee is paid at a pro rata rate. If the council tax element (including court costs) constitutes 75% of the total debt, the council will receive 75% of any payment.
5. Sale Stage fee is paid at a pro rata rate. If the council tax element (including court costs) constitutes 75% of the total debt, the council will receive 75% of any payment.

## 9.0 TAKING CONTROL OF GOODS

### 9.1 Entry to premises

Before seeking access to premises an enforcement agent should ensure where possible that the debtor is still resident at the property or carries on a business or trade from the premises.

Force should never be used to gain entry to premises and deception should never be used to gain physical access to premises and an enforcement officer must not misrepresent their power to force entry.

Enforcement agents should not seek to gain entry to premises under false pretences; for example asking to use the toilet. They should be clear as to why they are seeking entry to the premises.

Enforcement agents should only enter premises as part of the enforcement process.

Enforcement agents must only use a door or usual means of entry to enter premises.

*A power to re-enter premises by force applies to both residential and business premises where a controlled goods agreement is in place and the goods remain on the premises but the debtor has failed to comply with the repayment terms of the controlled goods agreement. This power should only be used to the extent that it is reasonably required and only after the debtor has been given notice of the enforcement agent's intention to re-enter.*

### 9.2 Taking payments and making arrangements

If on attendance, contact is made with the debtor, the enforcement agent should attempt to recover the full amount owed as quickly as possible taking into account the circumstances of the individual debtor.

Debtors must not be pressed to make unrealistic offers and should be asked to consider carefully any offer they voluntarily make.

A family member or third party should not be pressured into paying the sum due on behalf of an individual debtor, though the enforcement agent may accept a voluntary payment if tendered and which might avoid goods being seized or removed.

Where a council service has accepted a reasonable repayment offer, the enforcement agency must accept the terms of the arrangement as instructed by the responsible council debt portfolio owner.

All payments offered by debtors must be accepted. However, it is important that the enforcement agent explains to the debtor that acceptance of a payment does not necessarily imply that an arrangement has been agreed on the same instalment terms.

For example, if the debtor offers a payment which is less than the amount of an instalment which the enforcement agent is prepared to accept as part of a repayment arrangement. The enforcement agent must take the payment to reduce the debt but also explain to the debtor that this does not constitute the instalment terms of a repayment agreement.

If the enforcement agent experiences difficulty taking a payment, the responsible council debt portfolio owner must be contacted immediately to take the payment from the customer.

The debtor must be given a receipt for all payments giving the following details:

- Name of the debtor
- Payee (if different)
- Account reference number
- Bailiff reference number
- Liability order/warrant number
- Amount of payment
- Date
- Authorisation code for any credit/debit card payments.

Where payments are taken by an external enforcement agent, the payment must be remitted to the council within 21 working days.

### 9.3 Controlled goods agreement

If the debtor cannot pay the debt in full, the enforcement agent must be prepared to make an arrangement. The debtor should be invited to sign a controlled goods agreement which lists

all goods subject to the agreement and details the arrangement. A copy of the signed controlled goods agreement must be given to the customer.

The enforcement agent must make payment arrangements to collect the full outstanding balance in the shortest time possible having regard to the debtor's ability to pay. Only in exceptional circumstances, and only with the agreement of the responsible council debt portfolio owner should an arrangement to pay be accepted which exceeds a period of twelve months.

When compiling the controlled goods agreement the enforcement agent should be confident that if sold the sale would raise enough to cover the cost of removal, storage and sale and pay off a 'meaningful' amount of the debt. By 'meaningful', we expect at least 50% of the debt to be paid. Where this is not achievable the responsible council debt portfolio owner should be notified.

Where there are insufficient goods on which to take control, a signed certificate to this effect must be sent to the council.

#### 9.4 Debtor refuses a controlled goods agreement

Where the debtor refuses to pay the debt in full or enter a controlled goods agreement then the enforcement agent may proceed to the sale stage. In these circumstances sale stage fee can be applied on the same day as the first attendance by the enforcement agent when the only remaining remedy is the removal of goods.

In council tax only, where a controlled goods agreement is not agreed with the debtor, and no immediate payment is obtained, the enforcement agent should try to establish whether a defaulting debtor is in employment. If so, the enforcement agent should obtain the name and address of the employer. If the debtor is unemployed, the enforcement agent should determine whether claims have been made for state benefits and council tax support or housing benefit.

#### 9.5 Removing Goods

Enforcement agents must only take goods in accordance with the appropriate regulations or statute.<sup>3</sup>

All reasonable attempts should be made to ensure that the debtor is present when goods are taken into control.

Enforcement agents must ensure that goods are handled with proper care so that they do not suffer any damage or cause damage to other goods or property, whilst in their possession. Enforcement agents should have insurance in place for goods in transit so that if damage occurs this is covered by the policy.

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<sup>3</sup> The Taking Control of Goods Regulations 2013 reg. 4

A detailed and complete receipt for the goods removed should be given to the debtor or left at the premises in accordance with the appropriate regulations.

Enforcement agents should take all reasonable steps to satisfy themselves that the value of the goods taken into control to cover the sum outstanding is proportional to the value of the debt and fees owed.

Enforcement agents should not take control or remove goods clearly belonging solely to a third party not responsible for the debt. Where a claim is made, the third party should be given clear instructions on the process required to recover their goods.

Enforcement agents should be aware of circumstances where a 'no goods' (nulla bona) valuation may be appropriate, for example where no goods of sufficient value have been identified; or where the removal of goods would lead to severe hardship for the debtor. In such instances the enforcement agent should make the council aware of this situation.

#### 9.6 Multiple warrants

Where enforcement agents have multiple warrants for a single debtor, an enforcement agent must take control of goods, and sell or dispose of these goods, on the same occasion except where it is not practical to do so.

The compliance fee can be charged on each liability order received where a 7 day compliance letter is issued.

Only **one** enforcement fee and **one** sale fee can be charged in respect of a debtor across multiple liability orders/warrants sent to the enforcement agent

Where warrants are sent to the enforcement agency at different times the following applies;

- If there is no controlled goods agreement in place and the arrangement is being maintained the enforcement agent/agency must attempt to contact the debtor to add the new balance to the arrangement.
- Where it is reasonably practical to do so the liability orders/warrants must be enforced at the same time
- Circumstances where this may not be practical are where for instance, several warrants are dealt with and resolved on the same occasion, but a new warrant arises after that date and could not have been dealt with at the same time, a new separate, enforcement fee is appropriate.



### 9.7 Applications to court

No applications may be made to the court in respect of enforcement action without prior consultation and approval from the responsible council debt portfolio owner.

### 9.8 Returning liability orders and warrants

Liability orders and warrants must be returned at the responsible council debt portfolio owner's request with all fees removed from the customer balance if requested

Returns should be confirmed within 48 hours. All returns must be accompanied with a report on what action has taken place, the time and date of any activity, to include details of any payments made by the customer.

Following enforcement agency performance review, should the responsible council debt portfolio owner request cases be returned due to non-collection, cases will be returned with all fees removed.

### 9.9 Council tax: removal of goods (Sale stage)

**The enforcement agent must not remove goods without first consulting and receiving permission from the responsible council debt portfolio owner.**

Where a signed controlled goods agreement is in operation and the debtor fails to maintain the payment arrangement, a warning letter must be issued before goods are removed if the debtor is not present. A minimum of 7 days written notice to the debtor (excluding Sundays and bank holidays) is required prior to re-entry of premises, and only with permission from the responsible council debt portfolio owner

When the goods are removed the debtor must be issued with the required notices.

Where goods are removed the notice should include the location where the goods have been stored.

### 9.10 Business rates: removal of goods (sale stage)

**The enforcement agent must not remove goods without first consulting and receiving permission from the responsible council debt portfolio owner.**

In business rates, where the debtor defaults on a controlled goods agreement and the enforcement agent has grounds to believe that there is a risk of the debtor absconding with the controlled goods, the requirement for the enforcement agent to give notice prior to re-entry to the premises may be waived with the agreement of the responsible council debt portfolio owner.

When the goods are removed the debtor must be issued with the required notices.

If entry has to be forced to take control of goods, (where a signed controlled goods agreement is in place), permission must be sought from the responsible council debt portfolio owner. Following forced entry the property must be secured afterwards.

Where goods are removed the notice should include the location where the goods have been stored.

### 9.11 Vehicles

**The enforcement agent must not remove goods without first consulting and receiving permission from the responsible council debt portfolio owner**

A DVLA check must be carried out and confirmed for all vehicles that are included in a controlled goods agreement.

Vehicles must not be immobilised or removed if the tax disc indicates that it is owned by a disabled driver or the vehicle has a disabled person's badge displayed.

Vehicles must not be immobilised without gaining confirmation from the DVLA that they belong to the debtor.

Motor vehicles must not be seized if they are:

- Necessary for work (for example, a taxi), study or business, this rule does not apply if debts are for business rates or taxes
- On a hire purchase or conditional sale agreement
- Displaying a disabled blue badge and is used for transporting a disabled person
- Used by the emergency services, such as a car displaying a genuine "doctor on call" badge
- Also their home (such as a motorhome)

**The enforcement agent must not remove goods without first consulting and receiving permission from the responsible council debt portfolio owner**

**If they take a vehicle incorrectly for example, if it is an unidentified mini cab this must be returned**

### 9.12 Removal of goods

When goods are taken into control, a complete inventory of the goods covered must be made. The inventory must detail individual items and not include 'catch all' items purporting to cover goods not specifically listed. There must be no doubt as to which goods are in the enforcement agent's legal possession.

Enforcement agents must only take goods in accordance with the appropriate regulations or statute. When goods have to be removed the enforcement agent must ensure that sufficient and appropriately skilled personnel are available.

Only goods that belong to the debtor or which the debtor has an actual interest may be taken.

Enforcement agents must ensure that goods are handled with reasonable care so that they do not suffer any damage whilst in their possession and should have insurance in place for goods in transit so that if damage occurs this is covered by the policy.

Removed goods must be transported in vehicles suitable for the purpose and packed and secured in such a way as to minimise the risk of damage to them. Goods must be stored in such a place and manner as to minimise the risk of theft, damage or deterioration. Any sub-contractors engaged to assist in a removal must be directly supervised by the enforcement agent.

Enforcement agents should take all reasonable steps to satisfy themselves that the value of the goods taken into control is proportional to the value of the debt and the charges owed. Goods belonging to, or for the exclusive use of a child should not be removed.

When goods are removed the enforcement agent must comply with the legal requirements relating to notices and inventories. Reasonable care must be taken of the debtor's goods pending sale, including suitable and secure storage facilities and adequate insurance cover. Any sale which takes place must be properly publicised and as many potential buyers as possible encouraged to attend, to secure the best price available.

Certain goods are protected from being taken into control. Enforcement agents should be familiar with the circumstances when goods are exempt.

## **10.0 COMPLAINTS AND DISCIPLINARY PROCEDURES**

### **10.1 Requirement for complaints and disciplinary procedures**

Enforcement agencies must aim to provide a high level of customer care and must operate comprehensive complaints and disciplinary procedures with which enforcement agents, administrative staff, the responsible council debt portfolio owners and their staff must be fully conversant.

How to make a complaint should be clear and accessible to the debtor and obstacles must not be placed in the way of complainants

Complaints procedures must

- be set out in plain English,
- have a main point of contact
- have timescales for dealing with complaints
- an independent appeal process

Enforcement agencies must also have disciplinary policies and procedures in place to address potential misconduct by their employees or those engaged to act for them.

### 10.2 Interaction between complaints' procedures

Customers may access both the council and external enforcement agencies complaints' procedures. If in the first instance, a customer approaches the council to make a complaint about an external enforcement agent, the council will complete a full investigation and response under the council's complaints procedure and send a copy of the response with any recommendations to the external enforcement agency. It will not normally be necessary for the customer to make an additional complaint to the external agent.

However, if the customer complains directly to the external agency, then the external agency should conduct their own investigation and forward the results to the council. The council will then review the response.

External enforcement agencies must make available details of their own and the council's complaints procedure on request or when circumstances indicate it would be appropriate to do so.

External enforcement agency complaints procedure must detail any escalation procedure to the Civil Enforcement Association (CIVEA) and set out timeframes.

*CIVEA's recommendations for complaints standards are*

*It is recommended that within 10 working days of receiving a complaint (note this is a different standard to the council)*

*the enforcement agency write to the debtor, acknowledging receipt of the complaint and enclosing a copy of their complaints' procedure and*

*informing the debtor that the complaint has been registered and will be investigated in accordance with that procedure.*

### 10.3 Croydon council complaints procedure

Details of the council's complaints procedure can be found at:

<https://www.croydon.gov.uk/democracy/feedback/complaints-procedure/policy>

#### Stage 1

In the first instance the council should contact the customer within 5 working days, with the aim to resolve the complaint or to provide details of when they will receive a full response.

The council has **20 working days** in which to send the customer a full response. If there is a delay the customer should be notified by the department.

#### Stage 2

If the customer is dissatisfied with the investigation at stage 1 of the process, they have the right to ask for an independent review which forms the final stage of the corporate process. Once accepted and acknowledged, the customer should receive their response within 20 working days.

If the council requires information to help resolve a complaint, a full report must be emailed to the council within 48 hours of the request. This must include answers to specific questions. Information must be clear, unambiguous and include evidence to support it where possible. If the police were present, full details of this should be included in the report and a crime reference number must be provided if applicable.

Local Government Ombudsman

If, after a stage two investigation, a customer is still not satisfied then they have the right to refer their complaint to the local government ombudsman.

### 10.4 Compensation

Where a complaint is upheld due to misconduct or noncompliance with relevant legislation or noncompliance with this code of conduct; enforcement and sale fees may have to be removed or compensation paid.

Where this occurs the enforcement agency involved will be responsible for making compensation payments as determined or refunding any fees as determined.

### 10.5 Complaints monitoring and review

Enforcement agents must register all complaints they receive and maintain records of investigations, outcomes and responses. Monthly reports on complaints activity should be provided for the council.

Representatives of external enforcement agencies and council managers should liaise monthly. There should be quarterly reviews of complaints. The objective of reviews is to facilitate organizational learning from complaints to recommend changes to the service, processes, procedures and training as appropriate.

## Scrutiny Template

## Appendix: The statutory fee structure

Fees must not exceed the statutory amounts listed in the fee table. No additional charges should be made for any reason

Stage	Fee	Frequency	Trigger	Comments
<b>Compliance stage</b>	<b>£75.00</b>	Fee can be charged on each liability order	When EA receives instruction and then issues a compliance letter (known as a Notice of Enforcement) in prescribed format. They can then charge compliance stage fee	<p>The Notice of Enforcement letter is also known as a 7 day compliance letter, as legally the debtor must be given at least 7 clear days' notice (not including Sundays or Bank holidays before the Enforcement stage can begin).</p> <p>However, Croydon council's policy (also recommended by CIVEA's code of conduct) is that at least 14 clear days will be given to allow for post delays</p>



## Scrutiny Template

<p><b>Enforcement stage</b></p>	<p><b>£235.00</b></p> <p><b>Plus 7.5%</b></p> <p>(for liability orders where the total is over £1,500)</p>	<p>Fee can be charged once only regardless of the number of liability orders, when enforced at the same time</p>	<p>Enforcement Fee can be only be charged</p> <ul style="list-style-type: none"> <li>• after 14 clear days (not including Sundays and bank holidays) from the date that the compliance letter was sent <b>and</b></li> <li>• Where an arrangement has not been set at compliance stage, or the arrangement set has been broken <b>and</b></li> <li>• Where the EA has made a First Attendance with the intention of entering a signed controlled goods agreement and/or setting an arrangement.</li> </ul>	<p>All three conditions must be met before the Enforcement stage fee can be charged.</p> <p>So the 14 day notice period must have been given and the debtor has not made an arrangement or has broken an arrangement and the Enforcement Agent must have attended at the debtor's address.</p> <p>The intention of the EA when attending is to enter a signed controlled goods agreement and/or making an agreement with the debtor.</p>
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# Scrutiny Template

<p><b>Sale stage</b></p>	<p><b>£110.00</b></p> <p><b>Plus 7.5%</b></p> <p>(for liability orders where the total is over £1,500)</p>	<p>Fee can be charged once only regardless of the number of liability orders, when enforced at the same time</p>	<p>First attendance for the transportation of goods to place of sale, up to completion of sale.</p>	<p>Goods subject to a signed controlled goods agreement must be removed first.</p> <p>This fee can only be applied on the same day as the first attendance by an EA where the debtor refuses to pay or enter into a controlled goods agreement, and the only remaining remedy is the removal of goods.</p> <p>In all circumstances an EA must give the debtor the opportunity to pay, or enter into a controlled goods agreement, before starting removal.</p> <p>This fee cannot be applied if permission to remove is not given by Croydon Council</p>
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## Scrutiny Template

<b>Disbursements</b>	Reasonably incurred		<p>Locksmith charges, storage charges</p> <p>The enforcement agent MUST, as far as practicable, minimise the disbursements recoverable from the debtor by dealing with the goods taken into control pursuant to the instructions together, and on as few occasions as possible.</p>	
<b>Auctioneer</b>	<p>Costs not to exceed:</p> <ul style="list-style-type: none"> <li>•15% of the sum realised, where sold at public auction</li> <li>•7.5% of the sum realised, where sold on site</li> <li>•7.5% of the sum realised, where sold via internet auction</li> </ul>		<p>Goods cannot be sold until at least 7 days has expired since the date they were removed</p>	

## Scrutiny Template

### APPENDIX B



CIVEA\_Code\_final.pdf

### APPENDIX C



Newlyns Code of  
Conduct (003).pdf