

Code of practice for enforcement agents

Contents

1. Introduction
2. Fees and charges
3. The enforcement agent
4. The debt
5. The debtor
6. Removal of goods

Appendix

1. The Enforcement Services Associations code of practice

1. Introduction

- 1.1 The main objective for an enforcement agent together with colleagues in the Council's Billing and Debt section is to provide an effective and efficient enforcement service in the collection of council tax and non-domestic rates (NDR). The enforcement agent is well placed to reflect the corporate objectives and core values of Cheshire West and Chester Council.
- 1.2 This code has been drawn up to achieve the best practice in the conduct and performance of external certificated enforcement agents.
- 1.3 The enforcement agent firm and its employees shall act for Cheshire West and Chester Council at all times, subject to the conditions set out in this code.
- 1.4 The enforcement agent firm must embrace the guidelines set out in the 'National standards for enforcement agents' and the code of practice laid down by the 'Enforcement Services Association'.
- 1.5 The enforcement agent firm must act at all times in such a manner to ensure the name of Cheshire West and Chester Council is not brought into disrepute.
- 1.6 The enforcement agent firm must comply with all required legislation including Freedom of Information Act, Data Protection Act and the Human Rights Act.
- 1.7 Cheshire West and Chester Council reserves the right to appoint more than one firm of enforcement agents as it sees fit.
- 1.8 Cheshire West and Chester Council reserves the right to terminate the enforcement agent services for unreasonable behaviour. In this event all outstanding work will be returned within 14 days.
- 1.9 The enforcement agent should indemnify Cheshire West and Chester Council fully against any claim or civil action which may result from the execution of the enforcement agent's service howsoever caused. The enforcement agent firm must maintain employer's liability and public liability.
- 1.10 Where a reference is made to consulting the council in this document, the enforcement agents or their office representative should speak to the Council's supervising officer.
- 1.11 Quarterly review meetings to be held between senior representatives from both the Council and the enforcement agent firm.

2. Fees and charges

- 2.1 For the services provided by the enforcement agent in accordance with any agreement the enforcement agent shall have the right to receive the fees and charges from council tax and non-domestic ratepayers in accordance with respective legislation.
- 2.2 Where more than one liability order is held for a debtor, the enforcement agent (where practicable) will attend the property for all liability orders at the same time.
- 2.3 Enforcement agent costs may be reduced / remitted in certain circumstances by agreement of both parties or at the discretion of the enforcement agent.

3. The enforcement agent

- 3.1 The enforcement agent shall act on instructions from Cheshire West and Chester Council in respect of liability orders issued by the Magistrates' Court for non-payment of council tax and non – domestic ratepayers in accordance with relevant legislation.
- 3.2 The enforcement agent firm must provide, upon request, a full list of up to date details for individual Enforcement agent/s working on behalf of Cheshire West and Chester Council, this includes full names and copies of warrant certificates.
- 3.3 The enforcement agent will execute their duties in a courteous, polite but firm attitude and should avoid provocation in all matters involving members of the public.
- 3.4 The enforcement agents will at all times carry identification which will be produced upon request. It must always be made clear to the debtor the nature of the enforcement agent's employment and the purpose of the visit.
- 3.5 The enforcement agent will be professional and portray such an image in the execution of their duties.
- 3.6 The enforcement agent will comply with all known and relevant legislation and maintain the highest standard of business ethics.
- 3.7 The enforcement agent will respect confidentiality – leave letters in sealed envelopes addressed to the debtor.
- 3.8 The enforcement agent will not attempt to gain entry to any premises if it appears there no person over the age of 18 is present. Enquiries can be made as to the identity of the persons present and establish when the debtor is due to return home.
- 3.9 The enforcement agent will seek to ensure they are speaking with the debtor and respect the principals of Data Protection.
- 3.10 The enforcement agent will be available by mobile phone during working hours and operate an appropriate voicemail for customers.

- 3.11 The enforcement agent will advise the Council's supervising officer immediately of any cases they feel may lead to a complaint. This must be accompanied with details of the case.
- 3.12 The enforcement agent will visit in line with the national standards for enforcement visits (between 6 am and 9 pm, not on a Sunday, Bank holidays, Good Friday or Christmas Day)
- 3.13 The enforcement agent will be mindful of other religious holidays.
- 3.14 The enforcement agent must not act in any manner to affect Cheshire West and Chester Council's good working relationship with any voluntary organisation, such as the Citizens Advice Bureau.
- 3.15 The enforcement agent must respond promptly to requests for information such as progress reports. These requests may be in the form of email/ fax/ written. Where a written report is requested this must be submitted to the council's supervising officer within 24 hours.

4. The debt

- 4.1 Upon receipt of any instruction the enforcement agent shall ensure that the council's terms of reference for the compliance stage are adhered to.
- 4.2 The enforcement agent firm will always try to seek full and immediate payment of the debt.
- 4.3 Referred cases should normally not be kept any longer than 12 (twelve) months.
- 4.4 If enforcement agents need to negotiate a suitable payment arrangement then any agreement should not exceed nine months. This time can be extended at the discretion of the enforcement agent to a maximum of twelve months if it is considered the circumstances of the case justify the extension.
- 4.5 Any agreement over twelve months must be with the approval of an appropriate officer at Cheshire West and Chester Council.
- 4.6 The enforcement agent must be mindful of vulnerable groups when collecting debt and if in any doubt must seek advice from the council's supervising officer. The enforcement agent will always make a record on the account of the debtor's (and family) personal circumstances especially where there are apparent disability, mental illness or impairment issues. The following provides an indication of such groups but is not exhaustive. Any advice provided must be noted by the enforcement agent.
- any person aged 70 or over and infirm.
 - recent family bereavement (case to be reviewed in two to three months)
 - Where a debtor is considered to have a mental disability/a severe state of confusion or sensory disability such as being deaf or blind.
 - If debtor or partner in final weeks of pregnancy.

Cheshire West & Chester Council

- Communication difficulties, any case where English is not spoken or read and an interpreter would be useful.
- Severe financial difficulties where total household income is equal to or below Income Support/ Jobseeker's Allowance.
- Any exceptional circumstances which would make recovery action undesirable.

4.7 Receipts must be issued for each payment collected on behalf of Cheshire West and Chester Council.

4.8 All monies collected should be paid to Cheshire West and Chester Council within two weeks of its receipt along with the necessary paperwork detailing costs. Payment to the council should be at least twice monthly.

4.9 Where the enforcement agent is unsuccessful in obtaining payment and the liability order is to be returned to the council, it should be endorsed to the effect that the enforcement agent was unable (for whatever reason) to find sufficient goods on which to take control of goods. A certificated report should be provided summarising the action taken together with any employment/income details obtained.

5. The debtor

5.1 The enforcement agent will be mindful of a debtor's circumstances and remove goods in a caring manner, ensuring their safe keeping and current value.

5.2 The enforcement agent will provide a receipt and authorised possession notice to the debtor if goods are removed under the sale or disposal stage.

5.3 The enforcement agent will advise the debtor where any goods will be stored and the anticipated date and place of public auction.

5.4 The enforcement agent will not remove goods if any of the following circumstances are encountered without first reference to the appropriate supervising officer at Cheshire West and Chester Council.

- Groups as listed in 4.7 above

6. Removal of goods

6.1 The enforcement agent when executing a council tax liability order will not take control of the following goods or any other such items as prohibited by legislation;

- Bedding and household linen.
- Beds, chairs – where this would leave the premises without one bed and one chair for each occupant.
- Curtains and floor coverings.
- Heating/ cooking/ lighting appliances – if this would leave the premises without any means of preparing a hot meal or adequately heating and/ or lighting the home.

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- Refrigerator and food.
- Toys for the use of any child who is a member of the household.
- Medical aids and/ or medical equipment.
- Work clothes and equipment such as tools/ books/ vehicles– items of equipment that is necessary to the debtor in the course of their business/ vocation or education.
Note; any vehicle must be owned by the debtor

- 6.2 If the removal of goods is in respect of non-domestic rates and it is clear that removal of such goods would cause the closure of a business then authority must be sought from the council's supervising officer prior to any action to remove goods.
- 6.3 Nothing other than the goods properly listed on the taking control of goods (TCOG) form shall be removed.
- 6.4 No entry should be forced on any property or part of any property for the purposes of TCOG.
- 6.5 Before leaving any premises the enforcement agent shall as far as possible ensure that the goods which he proposes to remove actually belong to the debtor.
- 6.6 The enforcement agent records in so far as they relate to Cheshire West and Chester Council must be available for inspection by any council officer or person designated by the council.
- 6.7 Enforcement agents must be conversant with and work within the standards laid down by the Civil Enforcement Association (CIVEA) code of practice – see *appendix 1*.

Appendix 1

Civil Enforcement code of practice

[http://www.civea.co.uk/editorimages/CIVEA Code of Conduct and Good Practice Guide \(10.10.12\).pdf](http://www.civea.co.uk/editorimages/CIVEA_Code_of_Conduct_and_Good_Practice_Guide(10.10.12).pdf)

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