

Gloucestershire Local Authorities **Bailiff Code of Conduct**

1. Background

The purpose of this document is to outline the processes in relation to the collection of Council Tax and Business Rates arrears by the use of bailiff's. It aims to ensure that collection is undertaken in a firm but fair manner.

In writing this document the councils have taken account of the National Standards for Enforcement Agents published in 2002 by the now Department for Constitutional Affairs.

Bailiff companies employed by the councils will be contractually obliged to meet the requirements of this document.

2. Professionalism and conduct of the bailiff

- Bailiffs should always produce relevant identification on request, such as a badge or ID card, together with a written authorisation to act on behalf of the councils.
- Bailiffs must act within the law at all times, including all defined 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.
- Bailiffs, for the purpose of distress or execution shall, without the use of unlawful force, gain access to the goods. The enforcement agent will produce an inventory of the goods seized and leave it with the debtor, or at the premises, with any other documents that are required by regulations or statute.
- Bailiffs must carry out their duties in a professional, calm and dignified manner. They must dress appropriately and act with discretion and fairness.
- Bailiffs must not misrepresent their powers, qualifications, capacities, experience or abilities.
- Bailiffs must not discriminate unfairly on any grounds including those of age, disability, ethnicity, gender, race, religion or sexual orientation.
- In circumstances where the council or bailiff company requires it, and always where there have been previous acts of, or threats of violence by a debtor, a risk assessment should be undertaken prior to the bailiff attending a debtor's premises.
- Bailiffs in all cases must give authorised receipts where a customer tenders a payment.

3. Training and Certification

- The councils and bailiff companies must ensure that all agents, employees and contractors are provided with appropriate training to ensure that they

understand and are able to act, at all times, within the bounds of the relevant legislation. This training should be provided at the commencement of employment and at intervals afterwards to ensure that the bailiff's knowledge is kept up to date.

- Bailiffs should be trained to recognise and avoid potentially hazardous and aggressive situations and to withdraw when in doubt about their own or others' safety.
- The Bailiff company must ensure that legislation restricting the enforcement activity to certificated bailiffs is complied with.

4. Information and confidentiality

- All notices, correspondence and documentation issued by the bailiff or bailiff company must be clear and unambiguous and to the satisfaction of the councils.
- On returning any un-executed warrants, the bailiff should report the outcome to the relevant council and provide further appropriate information, where this is requested by that council.
- All information obtained during the administration and enforcement of warrants must be treated as confidential.
- Copies of the *National Standards for Enforcement Agents* must be freely available from the offices of bailiff agencies, or bailiffs on request.
- Bailiffs should provide clear and prompt information to debtors and where appropriate, the councils.
- Bailiffs should, so far as it is practical, avoid disclosing the purpose of their visit to anyone other than the debtor. Where the debtor is not seen, the relevant documents must be left at the address in a sealed envelope addressed to the debtor.
- Bailiffs will on each and every occasion when a visit is made to a debtor's property which incurs a fee for the debtor, leave a notice detailing the fees charged to date, including the one for that visit, and the fees which will be incurred if further action becomes necessary. If a written request is made an itemised account of fees will be provided.
- Bailiffs will clearly explain and give in writing, the consequences of the seizure of a debtor's goods and ensure that debtors are aware of the additional charges that will be incurred.

5. Payment Arrangements with Customers

- Bailiffs will make every effort to discuss the arrears with the customer and make payment arrangements. The terms of the arrangement must be reasonable taking account of the customers circumstances with regard to income, expenditure and family circumstances. Where the customer makes an offer of payment and the bailiff deems this to be unacceptable, the bailiff must record this decision on its records and be available for the relevant council.
- In the first instance bailiffs should endeavour to make payment arrangements in the form of 'walking possession' agreements.
- Bailiffs should also endeavour to obtain and record the following details as a minimum regarding the customers circumstances :

income, expenditure, employment details, type of benefits they may be in receipt of, details of any vulnerable people living within the household.

- For any payment arrangement made, the customer must receive full clear written details of that arrangement and where and how it can be paid, and the consequences of non-payment. Contact details must also be provided should the customers circumstances change.

6. Goods

- Bailiffs must only take goods in accordance with the appropriate regulations or statute. In respect of council tax this will only be where a designated officer from the relevant council has authorised the removal. On gaining this approval, the councils will require the following information:

The name and address of the customer

The balance outstanding and amount of bailiff fees

Marital status

Number and ages of any dependants

Any special family circumstances (e.g. disabilities etc)

Details of any previous arrangements with the customer to make payment

A list of the goods to be removed and their estimated value

- Bailiffs will not remove goods, which are required for a persons basic domestic needs. The councils' definition of 'basic domestic needs' is as follows:

Clothes reasonably required for the debtor and family

Medical aids or equipment

Educational or training items, excluding home computers

Items used for the care or upbringing of a child e.g. pram

Items used for the care of vulnerable persons

Beds and bedding required by the family

A table and a chair for each member of the household

Food

Lights or light fittings, except where free standing

Heating appliances, except where free standing unless they provide the only form of heating or where required for a vulnerable person

- Bailiffs will not enter into constructive distress
- Bailiffs 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.
- Bailiffs should not remove anything clearly identifiable as an item belonging to, or for the exclusive use of a child.
- A receipt for the goods removed should be given to the debtor or left at the premises.
- Bailiffs should take all reasonable steps to satisfy themselves that the value of the goods impounded is proportional to the value of the debt and charges owed.
- Any goods removed will be held in store for a minimum of 5 working days prior to public auction, to allow the customer to make full payment. It will be the customers responsibility to arrange for collection of those goods should full payment be received.

7. Times and Hours

- Bailiff action should not be undertaken on Sundays, Bank Holidays, Good Friday or Christmas Day. The council may at their discretion extend restrictive periods.
- Enforcement should only be carried out between the hours of 7.00am and 9.00pm or at any time during trading hours, existing legislation must be observed.
- Bailiffs should be respectful of the religion and culture of others at all times. They should be aware of the dates for religious festivals and carefully consider the appropriateness of undertaking enforcement on any day of religious or cultural observance or during any major religious or cultural festival.
- A minimum of 3 visits is required to attempt to levy distress or to gain a payment arrangement. These visits must be on different days and at different times, one of which must be in the evening. The first visit should be made within 30 days of the initial receipt of the instruction.

8. Vulnerable situations

The councils recognise their role in ensuring that the vulnerable and socially excluded are protected and that the recovery process includes agreed procedures about how such situations should be dealt with. This places a duty on the bailiff or its company to contact the relevant council and report the circumstances in situations where there is potential cause for concern. The exercise of appropriate discretion is needed, not only to protect the debtor, but

also the bailiff who should avoid taking action which could lead to accusations of inappropriate behaviour.

- Bailiffs must withdraw from domestic premises if the only person present is, or appears to be, under the age of 18; they can ask when the debtor will be home - if appropriate.
- Bailiffs must withdraw without making enquiries if the only persons present are children who appear to be under the age of 12.
- Wherever possible, bailiffs should have arrangements in place for rapidly accessing translation services when these are needed, and provide on request information in large print or in Braille for debtors with impaired sight.
- Those who might be potentially vulnerable include:
 - the elderly;
 - people with a disability;
 - the seriously ill;
 - the recently bereaved;
 - those who have obvious difficulty in understanding, speaking or reading English.

9. Complaints/Discipline

- Bailiff companies must operate complaints and disciplinary procedures with which bailiffs must be fully conversant.
- The complaints procedure should be set out in plain English, have a main point of contact, set time limits for dealing with complaints and an independent appeal process where appropriate. A register should be maintained to record all complaints.
- Bailiffs/agencies are encouraged to make use of the complaints and disciplinary procedures of professional associations such as the *Association of Civil Enforcement Agencies* or the *Certificated Bailiffs Association*.
- The bailiff must make available details of the comments and complaints procedure on request or when circumstances indicate it would be appropriate to do so.

10. The Councils' Responsibilities

- The councils must not seek payment from a bailiff or bailiff agency in order to secure a contract.
- The councils must notify the enforcement agency of all payments received and other contacts with the debtor.
- The relevant council has a responsibility to tell the debtor that if payment is not made within a specified period of time, action may be taken to enforce payment.
- The relevant council must not request the suspension of a warrant or make direct payment arrangements with debtors without appropriate notification and payment of fees due to the bailiff agency.
- The relevant council must not issue a warrant knowing that the debtor is not at the address, as a means of tracing the debtor at no cost.

- Each council must provide a contact point at appropriate times to enable the bailiff to make essential enquiries particularly where they have cause for concern.

11. Statutory or Financial Requirements for Bailiff Agencies

- Bailiff agencies should ensure that audited accounts are available on request, where it is appropriate that these are kept. An annual audit of the agency's accounts by independent accountants should be undertaken at least once a year for businesses where this is appropriate.
- Bailiff agencies must comply with statutory obligations, for example, the Companies Act, Value Added Tax, Inland Revenue provisions, Data Protection, Health & Safety etc.
- A separate account for monies due to each council should be maintained and accurate books and accounts should be kept and made available to establish monies owed to each council.
- Bailiff agencies must keep a complete record of all financial transactions in whatever capacity undertaken.
- Bailiff agencies must maintain suitable and comprehensive insurance cover for both professional indemnity and other risks including employer's liability and public liability. Insurance requirements must actively be re-visited each year to the satisfaction of the councils and to ensure adequate and appropriate arrangements are in place.