

**Draft** Halton Borough Council's Code of Practice for  
Enforcement Agencies

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Halton Borough Council's  
Code of Practice  
For  
Enforcement Agencies

# Draft Halton Borough Council's Code of Practice for Enforcement Agencies

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## **Introduction:**

The purpose of this Code of Practice is to outline the way that certificated Enforcement Agencies collecting debts on behalf of Halton Borough Council's Revenues and Benefits Division, should conduct themselves.

This Code complies with the National Standards for Enforcement Agents.

This document covers:

- 1. Professionalism and conduct of Enforcement Agencies**
- 2. Training and Certification**
- 3. Enforcement Agent procedures**
- 4. Removal and Sale of Goods**
- 5. Times and Hours**
- 6. Information and Confidentiality**
- 7. Complaints/Discipline**
- 8. Statutory or Financial Requirements for Enforcement Agencies**
- 9. Halton Borough Council's Responsibilities**
- 10. Vulnerability Criteria**
- 11. Review Process**

## **1. Professionalism and conduct of Enforcement Agents**

- 1.1 The primary objective of Enforcement Agents is to recover outstanding debts as quickly as possible, without causing unnecessary hardship. This duty should be carried out in a professional, calm and dignified manner.
- 1.2 Agents should comply with this Code of Practice at all times.
- 1.3 Agents should dress appropriately and act with discretion and fairness conducting their duties in accordance with the following principles:
  - a) Act lawfully, conforming with the provisions of the 'Taking Control of Goods Regulations 2013'.

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- b) Fully adhere with the Data Protection and Freedom of Information legislation, and taking into account all guidance issued by the Information Commissioner.
- c) Observe the provisions of Health and Safety, Equalities legislation and Human Rights legislation, and any other appropriate legislation.
- d) When taking control of goods, ensure that all cases are handled with fairness and in accordance with relevant legislation.

## **2. Training and Certification**

- 2.1 Enforcement Agents representing Halton Borough Council will be fully certificated or licensed in accordance with legal requirements.
- 2.2 Halton Borough Council and Enforcement Agents will 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 will be provided at the commencement of employment and at intervals afterwards to ensure that knowledge is kept up to date.
- 2.3 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.
- 2.4 Professional indemnity insurance must be held by Enforcement Agencies which provides for the fullest indemnity against legal proceedings resulting in compensation awards due to illegal or irregular taking control of goods. Details of this insurance should be made available to Halton Borough Council on request.
- 2.5 Enforcement Agents must be aware that they represent Halton Borough Council in their dealings with debtors.

## **3. Enforcement Agent procedures**

- 3.1 In all cases where a debt is referred to an Enforcement Agency, they must at all times perform their responsibilities in accordance with the Acts and Regulations governing their activities.

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- 3.2 At all stages of the enforcement process, where there is a dispute over the amount due to Halton Borough Council, the Enforcement Agency should clarify the position with the Council before they take further action.
- 3.3 In all cases where a debt is referred to an Enforcement Agency, the following procedure will apply:

## Compliance Stage:

Enforcement Agents must:

- a) Send a 'Notice of Enforcement' to the debtor.
- b) Seek immediate and full payment of the debt including any fees or charges liable under statute and other fees agreed with Halton Borough Council.
- c) Agree a payment arrangement wherever possible in accordance with these guidelines where payment in full cannot be made.
- d) Identify any 'vulnerable' members of the household as described in section 10 of this document.
- e) Obtain the names and addresses of employer's and other financial details where applicable when negotiating a payment plan
- f) On the first occasion, when payments are not maintained under an agreed payment arrangement, send notice in writing to the debtor asking for payments to be brought up to date within seven days.
- g) If the debtor does not respond by paying the required amount, make further attempts to contact the debtor before an enforcement visit. These attempts must include:
  - Searches of data bases to obtain telephone numbers for the debtor.
  - If a mobile phone number is known, a reminder must be sent by text.
  - If an email address is known, a reminder must be sent by email.
- h) In cases where the debtor fails to make contact following the issue of a 'Notice of Enforcement', and 7 days have elapsed:

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- Send a further letter requesting payment giving 7 further clear days to respond.
- Take further steps to contact the debtor as detailed in (g) above.

3.4 If the debtor fails to bring the payments up to date following the actions taken above or fails to contact the Enforcement Agency following the actions above, proceed to the enforcement stage and make an enforcement visit for the purpose of taking control of goods.

3.5 Adopt a firm but respectful attitude when dealing with the public. They should be polite and courteous at all times.

## **Enforcement Stage:**

Enforcement Agents must:

- a) Introduce themselves as a certificated or licensed Enforcement Agent acting on behalf of Halton Borough Council and produce their photographic identification and authorisation to act to the debtor and to any other person who may have reason to view it.
- b) Make clear to the debtor the purpose of the visit and if necessary, the powers of the Enforcement Agent.
- c) Provide the debtor with the relevant documentation including details of costs incurred and procedure, legislation relating to taking control of goods and any additional guidance notes.
- d) Take no action, without contacting Halton Borough Council, if it appears that the only persons present at the address are children or vulnerable adults.
- e) Make sure that when discussing details of debts they are dealing with the debtor or someone else who is assisting the debtor at the debtors request, for example an interpreter or their legal representative.
- f) Be discreet and take care when making enquiries with neighbours.
- g) Ensure the name of the agent who visited the debtor's property is shown on any documents left with the debtor or at the property.

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- h) Documents left with debtors or at the property must be on pre-printed stationary and comply with plain English standards.
- i) Ensure that all forms and notices issued to the debtor comply with the requirements of the 'Taking Control of Goods Regulations 2013'.
- j) Follow procedures in confidence and leave letters or documents for the debtor in sealed envelopes marked 'private and confidential'.
- k) Be contactable by Halton Borough Council by means of a mobile phone during working hours and have an appropriate message on voicemail for customers.
- l) Be equipped with technology which allows for debtor accounts to be updated immediately and provides evidence of visits that have taken place.
- m) Promptly report any physical assaults or serious verbal threats or other matters of concern to the appropriate officer for Halton Borough Council and if necessary should report any serious risk of a breach of the peace to the police.

## **Enforcement Agencies' communication with the debtor**

Enforcement Agencies must:

- a) Ensure that there is a rapid, effective and reliable means of communication between the debtor and the Enforcement Agency
- b) Provide debtors with contact telephone numbers whilst enforcement operations are in progress.
- c) Ensure that agents and staff who have telephone contact with debtors have up to date knowledge of policies and practices, charges and methods of payment.
- d) Have in place arrangements for quickly accessing translation services when they are needed such as for the purposes of communicating with the debtor.
- e) Where agents face difficulties in situations where only minority languages are spoken, have access to a translation service

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f) Provide, on request, information in large print or in Braille for debtors with impaired sight.

## **4. Removal and Sale of Goods**

- 4.1 Goods will only be removed in accordance with the 'Taking Control of Goods Regulations 2013'.
- 4.2 Removal will only take place with the express consent of a designated officer from Halton Borough Council.
- 4.3 The agent will ensure that goods are not removed which are exempt by law.
- 4.4 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.
- 4.5 Where goods are seized, the agent must leave a receipt for the goods which provides a full description of the items taken and any obvious defects apparent before removal. A leaflet should also be left explaining how to recover the goods and remedies in cases of illegal or irregular taking control of goods.
- 4.6 The agency will take all steps possible to obtain the best price and shall impose a reserve price at any auction when required to do so by Halton Borough Council, under this Code or otherwise.
- 4.7 The venue for auction of goods to be sold will be at bona fide auction rooms and the debtor provided with appropriate notice of the auction. The agency may use specialist auction rooms for specialist goods.
- 4.8 Where goods are sold at auction, details of items sold and amounts raised, together with fees deducted, should be given to the debtor with a copy to Halton Borough Council.

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## **5. Times and Hours**

- 5.1 Enforcement should not be undertaken on Saturdays, Sundays or on statutory Bank Holidays. Visits will only be carried out between the hours of 9.00am and 5.30pm at domestic properties, and at any time during trading hours for Business Rates arrears.
- 5.2 To carry out enforcement outside of the stated days or times, the agency must seek authorisation from a designated officer from Halton Borough Council whose instruction will take into account relevant legislation and law.
- 5.3 Under the Equalities legislation, agencies will 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.

## **6. Information and Confidentiality**

- 6.1 All notices, correspondence and documentation issued by Enforcement Agencies will be clear and unambiguous and to the satisfaction of Halton Borough Council.
- 6.2 On returning any un-executed warrants, the agencies should report the outcome to Halton Borough Council and provide further appropriate information, where this is requested.
- 6.3 All information obtained during the administration and enforcement of warrants must be treated as confidential.
- 6.4 Enforcement Agencies will ensure that copies of the 'National Standards for Enforcement Agents' will be available.
- 6.5 Halton Borough Council's Code of Practice will be available on the Council's website.
- 6.6 Agencies will provide clear and prompt information to debtors and where appropriate, to Halton Borough Council.
- 6.7 Agents 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

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documents must be left at the address in a sealed envelope addressed to the debtor.

- 6.8 Agents 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.
- 6.9 Agencies will clearly explain and give in writing, the consequence of the seizure of a debtor's goods and ensure that debtors are aware of the additional charges that will be incurred.

## **7. Complaints/Discipline**

- 7.1 Agencies must operate complaints and disciplinary procedures with which its' staff are fully conversant.
- 7.2 The complaints procedure should be set out in plain English, have a main point of contact, set time limits for dealing with complaints and outline an independent appeal process where appropriate.
- 7.3 A register should be maintained to record all complaints.
- 7.4 Agencies must make use of the complaints and disciplinary procedures of professional associations such as the Association of Civil Enforcement Agencies.
- 7.5 Agencies must make available details of their complaints procedure on request or when circumstances indicate it would be appropriate to do so.
- 7.6 Facilities should be in place to ensure that the complaints procedure is available in a method readily understandable by people with sight difficulties, or whose first language is not English.

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## **8. Statutory or Financial Requirements for Enforcement Agencies**

Enforcement Agencies must:

- a) Ensure that audited accounts are kept and available on request. 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.
- b) Comply with all statutory obligations.
- c) Maintain a separate account for monies due to Halton Borough Council.
- d) Maintain accurate books and accounts which are available at Halton Borough Council's request.
- e) Keep a complete record of all financial transactions in whatever capacity undertaken.
- f) 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 Halton Borough Council, and to ensure adequate and appropriate arrangements are in place.

## **9. Halton Borough Council's Responsibilities**

Halton Borough Council must:

- a) Notify the Enforcement Agencies of all payments received and other contacts with the debtor.
- b) Have 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.
- c) Provide a contact point at appropriate times to enable the agent to make essential queries particularly where they have cause for concern.

Halton Borough Council must not:

- a) Request the suspension of a warrant or make direct payment arrangements with debtors without notifying the Enforcement Agency.

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- b) Issue a warrant knowing that the debtor is not at the address, as a means of tracing the debtor at no cost.
- c) Seek payment from an Enforcement Agency to secure a contract.

## 10. Vulnerability Criteria

10.1 Where a debtor appears to be vulnerable, the Enforcement Agent will use his discretion in determining the appropriate course of action to be undertaken. Where necessary, the agency will contact Halton Borough Council for further instruction.

10.2 A debtor may be considered vulnerable in the following circumstances. Where:

- a) There is evidence of a long term or serious illness.
- b) The debtor is frail because of age.
- c) The debtor has had a recent bereavement of a close family member.
- d) The family circumstances are such that the welfare of young children is put at risk.
- e) The debtor is heavily pregnant and there are no other adults available in the household.
- f) There is evidence of extreme poverty or hardship.
- g) There is evidence of physical or mental disability.
- h) There are difficulties communicating due to profound deafness, blindness or language difficulties.

The list is not exhaustive and each case will be decided on its own merits.

The agency should also seek further instruction from Halton Borough Council where the debtor states that they have:

- a) Disputed liability.
- b) Paid the debt.
- c) Applied for a discount or Council Tax Support or any other relief not yet granted.
- d) Raised their case with their local councillor or Member of Parliament.

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10.3 The Enforcement Agency must take no action if it appears that no responsible adult is present at the debtors address. If an adult is present, the agent must attempt to establish their identity. If the debtor is unavailable, the agent must ascertain when they will be available. No reference will be made to the purpose of their visit.

10.4 The agent should be aware of the sensitive and confidential nature of this work and should take care to ensure that information regarding the debtors circumstances are not passed on to or discussed with a third party. If children are present the debtor should be encouraged to ask them to leave the room.

## **11. Review**

11.1 This Code of Practice will be reviewed on an annual basis.

11.2 Halton Borough Council reserves the right to amend, suspend or discontinue any of the procedures and requirements in this Code of Practice or introduce new procedures and requirements resulting from changed circumstances. The Enforcement Agency will be notified in writing of any proposed amendments to the Code and will be invited to comment on their effect on working practices.