

**BLACKPOOL COUNCIL**

**BAILIFF CODE OF PRACTICE**

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## **1. INTRODUCTION**

These guidelines set out Blackpool Council's operating requirements for Bailiff Companies.

Failure to comply with the requirements of these guidelines and the relevant legislation may result in the Council dispensing with the services of the particular firm of bailiffs.

The Bailiff Company will ensure that all bailiffs and other employees have an appropriate knowledge and understanding of all relevant legislation, case law and powers, and at all times act in accordance with them.

All Company employees must be appropriately trained in and informed of the contents of these guidelines, and must also be capable of acting at all times within the bounds of the relevant legislation.

## **2. CORE REQUIREMENTS**

### **2.1 Conduct of Visits**

The bailiff must at all times carry on his or her person an identity card containing their photograph and contact telephone number which should be produced at each visit. The bailiff must at all times make clear to the debtor the purpose of the visit and the fact they are acting as agents for the Council.

The bailiff must at all times carry the written authorisation of the Council and this must be shown to the debtor on request.

The bailiff must hand to the debtor or leave on the premises the relevant documentation required to be left by regulations relating to distress and any other additional guidance notes that might be agreed.

An initial visit to debtors should take place within seven days of receipt of the referred case. Visits must be made between 8.00am and 9.00pm, and not on Sundays or Bank Holidays. Particular arrangements will apply over the Christmas/New Year period and these will be advised to the Company.

If the debtor is not present at the property the case should not be discussed with any other person, except for the purposes of making discreet enquiries as to the debtor's movements or whereabouts. All documentation should be left in a sealed envelope marked private and confidential.

If a child or other young person (who appears under the age of 18 years) answers the door and the debtor is not present, all documentation must be left in a sealed envelope marked private and confidential.

Where it is felt necessary, or it is apparent, that a persons first language is not English and a translation service is required or owing to impaired sight a

Braille translation service is required the Company should contact the Council for further guidance.

Where a bailiff is informed that a debtor is in receipt of Income Support they must ask for evidence of current entitlement, take appropriate details including National Insurance number and make a payment arrangement of no more than £5.00 per week. The Company should immediately inform the Council that the debtor is in receipt of Income Support. If the debtor fails to keep to the arrangement the case should be returned to the Council with the above information.

If it appears the debtor is no longer resident, the bailiff should make appropriate discreet local enquiries to ascertain the debtor's date of leaving and new forwarding address and then refer immediately back to the Council with either the relevant information or to the effect that no further information is readily available. The bailiff should also ascertain new occupier details if possible. The number of cases returned "Gone Away" will be closely monitored.

The bailiff can supply upon request the name of the Council's Recovery Supervisor.

The Company will "Link" all Liability Orders for the same debtor and should make only one visit to cover all debts at any one time provided cases are at the same recovery stage. If the balance is not paid in full all the warrants should be returned to the Council in the same batch.

Bailiffs and other employees of the Bailiff Company must be aware that they represent the Council in their dealings with debtors. They should at all times act lawfully and in accordance with the provisions of the Local Government Finance Act 1992. They should also act in a responsible, professional and courteous manner and be aware that their behaviour, appearance and attitude have a great influence on the success of the debt recovery process.

If it becomes clear to the bailiff that the debtor is unable to pay the full balance immediately then the bailiff can use discretion and allow a payment arrangement for the total amount due. In such circumstances the Council will expect the bailiff to work towards a payment arrangement and exercise flexibility in debt repayment. This is particularly important in the present economic climate in order to avoid undue hardship for the debtor. If required, guidance can be sought from the recovery supervisor.

## 2.2 Conclusion of Visits

All cases should be concluded within a nine-week turnaround period of the original referral by either: -

- Full Payment.

- The agreement of an instalment payment arrangement.
- The return of an endorsed Liability Order together with a full case report containing all details of visits made and income details obtained.

A minimum of 3 unsuccessful visits to the debtor's address is required before the case is returned to the Council as unpaid. At least one of these visits should be made to the debtor's address outside normal office hours (i.e. Monday to Friday 8.30am to 5.30pm). Documentation issued to debtors must be agreed with the Council and be in plain English. Documentation must be left at the property after each visit is made and give details of the date and time of the visit, the debt and charges incurred; it must give the name of the Bailiff Company and a contact telephone number. It must be left in a sealed envelope addressed to the debtor marked private and confidential.

Final payment in cases where instalment agreements have been agreed may run beyond the above timescale in which case regular reports concerning payment should be made.

### 2.3 Banking and Accounting Arrangements

The Company will make a pay over each week. Payments received and due to the Council must be sent within 14 days of receipt. All monies collected on behalf of the Council and fees payable to the Company must be paid into a joint bank account held in the names of Blackpool Council and the Company at The National Westminster Bank. The release of monies from the account will be upon the authorised signatories of the Company and the Council. Half yearly reconciliation of the bank account should be carried out by the Company and forwarded to the Council.

Copy Bank statements must be provided on a weekly basis.

### 2.4 Management Information/Access to Records

The Company will provide monthly reports to include the following:-

Number of existing cases

Number of new cases

Status of cases

Payments received

Balance outstanding

Number of cases on hold showing dates, the reason, and on whose authority

Number of cases returned with reasons analysed as follows:-

- Nulla Bona
- Gone Away
- As Requested by client
- Guidelines
- No Contact

- Bankrupt

Monthly reports must be submitted to the Council for those cases that are still outstanding after six months. Where a case has been outstanding for eight months or more the report must contain full details of all action taken.

The Company will provide website access to the Council to view all cases held. This should include a facility to update payments received direct as well as:

Putting cases on hold

Taking cases off of hold (if originally placed on hold by the client)

Amend balances

Change addresses

Cancel and withdraw cases direct

Add notes

E-mail instructions

The Company will also provide technology to facilitate the transfer of information and payments by electronic media.

The Bailiff Company will allow the Council access to all records as and when required.

## 2.5 Data Protection

The Company 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 bailiffs must comply with the provisions of the Data Protection Act 1984 and 1998. All data passed to the bailiff by the Council, or obtained by the bailiffs 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, i.e. 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.

The Council will provide the Company with a copy of the Councils procedures concerning computer security, which must be adhered to.

## 2.6 Insurance

The Company must at all times carry professional indemnity insurance, ensuring the fullest indemnity against legal proceedings resulting in compensation awards due to illegal or irregular distress. Details of such insurance cover must be provided to the Council annually.

## 3. FEES

The Company will provide a service to the Council based solely on allowable fees.

Costs charged to the debtor should be in accordance with the provisions of the Council Tax (Administration and Enforcement) (Amendment) (No. 2) Regulations 1993 (as amended) or the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended), the Enforcement of Road Traffic Debts (Certificated Bailiffs) Regulations 1993 (as amended), or other legislation as appropriate.

Charges to the debtor must be agreed by the Council in advance and be in line with current regulations.

The Company will on each and every occasion when a visit is made to a debtor's property which incurs a fee, leave a notice detailing the fee charged to date including the ones for that visit, and the fees that could be incurred if further action becomes necessary. If a written request is made an itemised account of all fees must be provided.

If the Company holds more than one Council Tax Liability Order for a debtor, the Company must, when recovery action for each case reaches the same stage, deal with the debt as if it is **one** amount. The Company should refrain from charging more than one set of attendance to remove/removal costs for a simultaneous action. Levy fees should be calculated on an individual Council Tax Liability Order basis as Legislation intended.

## 4. CUSTOMER CARE

Bailiffs must at all times maintain the highest standards of professional and business ethics, integrity and practice. They must carry out their duties in a calm, dignified, and polite manner, and shall do nothing to prejudice the reputation and integrity of the Council. Such personnel shall at all times act in a way to minimise embarrassment, inconvenience and distress to the debtor and/or his/her family.

As a representative of the Council they must be presentable in their manner of dress, and act with discretion and fairness. Bailiffs must not drink alcohol or smoke whilst working on behalf of the Council. If a bailiff experiences verbal

abuse they must not respond, they are expected to remain calm and objective.

Bailiffs must not discriminate unfairly on any grounds including those of age, disability, ethnic city, gender, race, religion or sexual orientation.

The bailiff should be mindful and respectful to the religions and cultures of others, and the observance by them (the debtor) of certain days as both religious and cultural festivals. Upon becoming, or having been made, aware of a particular religious or cultural day of a debtor, the bailiff should consider the appropriateness of proceeding further with action on that day. In such circumstances that the bailiff is unsure of the appropriate action the bailiff should seek the advice of both the client and their own office.

Any bailiff acting on behalf of the Council must fully observe the bailiff organisation's Code of Practice and those issued by the Association of Civil Enforcement Agencies.

All bailiffs must be PAYE employees of the Company and must hold a valid certificate issued by a County Court Judge.

The Company must reply to correspondence from the debtor within 7 working days and on request from the Council provide copies of this correspondence and its reply along with a history of the action taken and a full breakdown of costs incurred.

## **5. LEVY AND DISTRAINT**

The Council's approach to debt recovery is "firm but fair" and in this context it must be accepted that distraint is the last option. Bailiffs will be expected to explore all other avenues before removal of goods or chattels is carried out. This does not mean that distraint is not to take place, but the Company must be absolutely sure that no other course of action is available.

The Company will ensure that a certificated bailiff will always directly supervise the removal of goods.

The bailiff should at all times use his/her professional judgement to refer back to the Council if he/she considers that, due to the personal circumstances of the debtor, it would be inappropriate to proceed to levy distress. In particular, cases such as:

- a) Appears to be elderly and it appears may be easily confused.
- b) Appears to be physically or mentally ill, severely disabled or suffering mental confusion.
- c) Has young children under 5 years old and severe social deprivation is evident
- d) Is disputing liability or claims to have paid.
- e) Is heavily pregnant.
- f) Is in mourning due to recent bereavement.

- g) Is having difficulty communicating due to profound deafness, blindness or language difficulties.
- h) Is unemployed and provides proof that he/she is in receipt of Income Support, Employment Support Allowance, Job Seekers Allowance or Pension Credit from the DWP and details are obtained of the debtors N.I. number.
- i) Long term sickness or serious illness including the terminally ill.

Should the bailiff come across extreme hardship, appropriate evidence in the form of a bailiff report should be submitted to the Council to include the debtor's means, assets and financial lifestyle together with documentary evidence from Social Services, Housing Services and or Benefit Agencies.

The Council has made arrangements for independent financial advice to be provided to debtors in appropriate circumstances. If it is clear to the bailiff that the debtor urgently requires such advice the bailiff should immediately contact the recovery supervisor for guidance.

Where goods have been taken into walking possession, removal should take place after seven days, and wherever possible within 14 days, but only with the permission of a designated Council Officer. If the debtor contacts the bailiffs prior to the removal with an acceptable offer of payment this should be accepted.

No goods should be removed for sale that fall within the categories listed as being exempt from removal in any Statute or Regulation applicable to the type of debt being collected, including The Council Tax Administration and Enforcement) Regulations 1992 (as amended), The Enforcement of Road Traffic Debts Order 1993 (as amended) and/or such legislation as may apply.

- a) Basic clothing, beds, bedding and household linen.
- b) The main form of cooking - if the debtor has a cooker and a microwave oven, it would be in order to seize the microwave oven. If the debtor only has a microwave oven, this must not be seized.
- c) Fridges, freezers and essential room heaters.
- d) Dining table and chairs.
- e) Washing machine, vacuum cleaner and iron.
- f) Toys primarily for the use of any child who is a member of the debtor's household.
- g) Articles reasonably required for the care or upbringing of a child who is a member of the debtor's household.
- h) Medical aids or medical equipment reasonably required for the use of the debtor or any members of the debtor's household.
- i) Articles which are required for safety reasons in the home.
- j) Any goods bought with a Social Fund loan or grant.
- k) Any items of a personal nature with a nominal or no cash value, for example, videos of family occasions, family photographs/pictures, etc.

- l) Any other items protected by law.
- m) Such tools, books, vehicles and other items of equipment as are necessary to the debtor for use personally by him/her in his/her employment or business. ***NB In the case of National Non-Domestic Rates, m does not apply.***

If the debtor claims that any goods are subject to hire purchase, or are otherwise not in their ownership, the bailiff should ask to see a copy of the relevant documentation.

The Company must ensure that distrained 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.

A receipt for any goods removed should be given to the debtor or left at the premises.

The bailiff should take all reasonable steps to satisfy themselves that the value of the goods distrained upon is proportionate to the value of the debt and charges owed, and avoid excessive distraint.

When the debtor's goods are removed and sold at public auction, the Council must be provided with a full statement itemising the goods sold, the amount realised, a breakdown of the costs incurred and a statement of the amount subsequently outstanding or overpaid, as appropriate.

In accordance with Local Government Act 2003 information prescribed by regulations regarding information to be supplied to debtors must be adhered to.

## **6. COMPLAINTS**

The Company will provide the Council with a full response to complaints made by debtors direct to the Council concerning the activities of bailiffs within seven days of the complaint being received and will provide copies of any documents which are considered relevant to the complaint. The Council will then respond directly to the complainant in accordance with the Council's complaints procedures.

When dealing with written (including email) complaints the Bailiff Company should inform the debtor that they can use the Council's Complaints Procedure if they are not happy with the Bailiff Company response. This should include contact details.

The Company will also inform the Council of any complaints with which they have dealt directly and provide copies of all correspondence to and from the complainants. Complaints made directly to the Company should receive a response within five working days from the receipt of the complaint.

The Company will notify the Council of any legal challenges to their actions and their response to the same within 3 days of receipt of such a challenge.

A register should be maintained to record all complaints.

All complaint procedures should be set out in plain English, show a main point of contact, set time limits for dealing with complaints and demonstrate an independent appeal process where appropriate.

The Company must make available details of their comments and complaints procedure upon request or when circumstances indicate it would be appropriate to do so.

## **7. VARIATIONS**

The 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 Company will be notified in writing of any proposed amendments to the Code and will be invited to comment on their effect on working practices.