

Scrutiny & Overview Committee Agenda



To: Councillors Rowenna Davis (Chair), Richard Chatterjee (Vice-Chair), Leila Ben-Hassel (Deputy Chair), Jade Appleton, Sean Fitzsimons and Simon Fox

Reserve Members: Sue Bennett, Sherwan Chowdhury, Amy Foster, Gayle Gander, Mohammed Islam and Lee

A meeting of the **Scrutiny & Overview Committee** which you are hereby summoned to attend, will be held on **Tuesday, 11 October 2022 at 6.30 pm** in **Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX.**

Katherine Kerswell
Chief Executive
London Borough of Croydon
Bernard Weatherill House
8 Mint Walk, Croydon CR0 1EA

Simon Trevaskis
Senior Democratic Services & Governance
Officer - Scrutiny
simon.trevaskis@croydon.gov.uk
www.croydon.gov.uk/meetings
Monday, 3 October 2022

Members of the public are welcome to attend this meeting, or you can view the webcast both live and after the meeting has completed at <http://webcasting.croydon.gov.uk>

If you would like to record the meeting, we ask that you read the guidance on the recording of public meetings [here](#) before attending.

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If you require any assistance, please contact Simon Trevaskis as detailed above.

AGENDA – PART A

1. **Apologies for Absence**

To receive any apologies for absence from any members of the Committee.

2. **Minutes of the Previous Meeting**

To agree the minutes of the meeting held on 7 September 2022 as an accurate record (to follow).

3. **Disclosure of Interests**

Members and co-opted Members of the Council are reminded that, in accordance with the Council's Code of Conduct and the statutory provisions of the Localism Act, they are required to consider **in advance of each meeting** whether they have a disclosable pecuniary interest (DPI), an other registrable interest (ORI) or a non-registrable interest (NRI) in relation to any matter on the agenda. If advice is needed, Members should contact the Monitoring Officer **in good time before the meeting**.

If any Member or co-opted Member of the Council identifies a DPI or ORI which they have not already registered on the Council's register of interests or which requires updating, they should complete the disclosure form which can be obtained from Democratic Services at any time, copies of which will be available at the meeting for return to the Monitoring Officer.

Members and co-opted Members are required to disclose any DPIs and ORIs at the meeting: -

- Where the matter relates to a DPI they may not participate in any discussion or vote on the matter and must not stay in the meeting unless granted a dispensation.
- Where the matter relates to an ORI they may not vote on the matter unless granted a dispensation.
- Where a Member or co-opted Member has an NRI which directly relates to their financial interest or wellbeing, or that of a relative or close associate, they must disclose the interest at the meeting, may not take part in any discussion or vote on the matter and must not stay in the meeting unless granted a dispensation. Where a matter affects the NRI of a Member or co-opted Member, section 9 of Appendix B of the Code of Conduct sets out the test which must be applied by the Member to decide whether disclosure is required.

The Chair will invite Members to make their disclosure orally at the commencement of Agenda item 3, to be recorded in the minutes.

4. Urgent Business (if any)

To receive notice of any business not on the agenda which in the opinion of the Chair, by reason of special circumstances, be considered as a matter of urgency.

5. Call-In: Mayor in Cabinet Decision on Temporary Workers Staffing Contract (Pages 5 - 24)

A call-in request has been submitted on the decision regarding the Temporary Workers Staffing Contract taken by the Executive Mayor in Cabinet on 21 September 2022.

The Scrutiny & Overview Committee is asked to consider and respond to the Call-In in accordance with the procedure set out in the Council's constitution.

(Please Note: The confidential Appendix B is attached as item 6 on the agenda. Appendix E, a report responding to the grounds given for the Call-In is to follow.)

6. Council Tax Recovery, Collection & Enforcement (Pages 25 - 102)

The Scrutiny & Overview Committee is asked to review the information provided on Council Tax collection, recovery and enforcement.

7. Establishment of Scrutiny Sub-Committee

Report to follow.

8. Exclusion of the Press and Public

The following motion is to be moved and seconded where it is proposed to exclude the press and public from the remainder of a meeting:

“That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information falling within those paragraphs indicated in Part 1 of Schedule 12A of the Local Government Act 1972, as amended.”

PART B

9. Call-In: Mayor In Cabinet Decision On Temporary Workers Staffing Contract (Pages 103 - 108)

This item sets out the confidential Appendix B for agenda item 4 - Call-In: Mayor In Cabinet Decision On Temporary Workers Staffing Contract.

The appendix contains the confidential report considered by the Executive Mayor in Cabinet on 21 September 2022, which is subject to the call-in request.

REPORT TO:	Scrutiny & Overview Committee 6 October 2022
SUBJECT:	CALL-IN: MAYOR IN CABINET DECISION ON TEMPORARY WORKERS STAFFING CONTRACT
LEAD OFFICER:	Simon Trevaskis Senior Democratic Services & Governance Officer - Scrutiny

ORIGIN OF ITEM:	This item has been triggered by the call-in of the key decision (2422EM) taken by the Executive Mayor in Cabinet on 21 September 2022.
BRIEF FOR THE COMMITTEE:	The Scrutiny & Overview Committee is asked to consider and respond to the Call-In in accordance with the procedure set out in the Council's constitution (set out in section 3 below).

1. EXECUTIVE SUMMARY

- 1.1 The Executive Mayor in Cabinet took the decision, at the Cabinet meeting on 21 September 2022, to award a four-year contract called off from the ESPO Mstar3 Framework London Collaboration Lot 1 Temporary Workers Staffing to the provider and for the maximum contract value stated in the part B report.
- 1.2 A call-in request for the Scrutiny & Overview Committee to review this decision was received on 29 September 2022. The call-in request was submitted by the Chair, Vice-Chair, Deputy-Chair and one other member of the Scrutiny & Overview Committee.
- 1.3 The Scrutiny and Overview Committee is asked to review this call-in request, in line with the call-in procedure set out in the Council's Constitution. A copy of this procedure can be found in section 3 of this report.

2. CALL-IN: MAYOR IN CABINET DECISION ON TEMPORARY WORKERS STAFFING CONTRACT

- 2.1 At the Cabinet meeting held on 21 September 2022 a report was considered by Executive Mayor concerning the Temporary Workers' Staffing Contract. The decision taken by the Executive Mayor in Cabinet that is the subject of this call-in was to: -

'Approve the award of a four-year contract called off from the ESPO Mstar3 Framework London Collaboration Lot1 Temporary Workers Staffing to the provider and for the maximum contract value stated in the part B report.'

The Cabinet reports on which this decision was made can be found attached as Appendix A & B. Please note that Appendix B is considered to be confidential on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information). A copy of the Decision Notice is attached at Appendix C.

- 2.2 The completed call-in request is attached at Appendix D. The decision form was received on 29 September 2022 from the Chair of the Scrutiny & Overview Committee, Councillor Rowenna Davis. The call-in request received emailed support Councillor Richard Chatterjee, in his role as Vice-Chair, Councillor Leila Ben-Hassel, in her role as Deputy Chair and Councillor Sean Fitzsimons in his role as a Committee Member. This complies with the requirements for call-in as set out in paragraph 11.5 in section 4E – Scrutiny & Overview Procedure Rules in the Council's Constitution,

which state that a call-in request must be signed by either: -

- i. The Chair and Vice Chair of the Scrutiny and Overview Committee and 1 member of that Committee; or for education matters the Chair, Vice Chair and 1 voting member of that Committee or any Sub-Committee formed under Rule 1.1 above; or
- ii. 20% of Council Members (14 Members)

2.3 The reasons stated in the request as to why the Call-In has been submitted is:-

‘We need reassurance that this approach delivers value for money. We particularly want to make sure that this framework delivers the best outcome for the residents of Croydon as opposed to pursuing a more traditional competitive tendering process.

We want reassurance that due process has been followed as there is a risk of legal challenge to the decision.

We lack the information to judge whether this decision is consistent with budget framework.

We want clearer explanation as to why the MStar3 Framework is the best option for the Council rather than the other options mentioned in the report.

We want reassurance that that this decision will meet the Council’s strategic needs, particularly regarding workforce and recruitment.’

2.4 The outcomes desired from the Call-In is:-

‘Reassurance that due legal and financial process has been followed.

Reassurance that the decision provides the best value for money for residents and meets the Council’s long term strategic workforce needs.

An efficient and helpful enquiry that also offers the Council guidance and reassurance without adding to the risk of delay.’

2.5 The following information has been requested to inform the Scrutiny & Overview Committee’s consideration of the call-in request:-

- 1 Further explanation on the legal advice provided.
- 2 The report mentions benchmarking – can this information be provided along with any other work to compare our situation with other London boroughs.
- 3 An evaluation of the previous contract in terms of quantitative and qualitative data – What does good look like? How has this informed the new process?
- 4 MStar3 Framework –what version is proposed to be used and when does it expire?
- 5 How much has the Council spent annually on the Adecco contract to date? What is the likelihood of reaching the £100m top figure? How much is budgeted for this contract in the current MTFS?
- 6 How has the Council assessed its needs for temporary workers.
- 7 What is the average length of time a temporary employee is in post and how many times are these contracts re-extended?

2.6 A report from officers responding to the grounds given in the call-in request will be prepared for the consideration of the Scrutiny & Overview Committee. Given the shortened timescale for the meeting, this report, which will be attached as Appendix E, is being prepared and will follow after agenda publication.

3. CALL-IN PROCEDURE

3.1 The Council's Constitution, Part 4E Scrutiny & Overview Procedure Rule, states:

"11.9 The referral shall be considered at the next scheduled meeting of the Scrutiny and Overview Committee unless, in the view of the Monitoring Officer, this would cause undue delay. In such cases the Monitoring Officer will consult with the decision-taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny and Overview Committee may only consider a maximum of three referrals at any one meeting.

11.10 If the proposer/ supporters who initiated the Call-in want a person/s who is a Member or an officer of the authority to appear as a witness, then the permission of the Chair of Scrutiny and Overview Committee (who will agree with the appropriate Director) must be sought at least 5 clear working days prior to the date of the Call-in meeting, or with the permission of the Chair of Scrutiny and Overview Committee within 3 working days in exceptional circumstances in order to allow for members/ officers to be called.

11.11 At the meeting, the referral will be considered by the Committee which shall determine how much time it will give to the call-in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to the decision-maker for reconsideration, setting out in writing the nature of the concerns. The decision-maker shall then reconsider the decision, amending the decision or not, before making a final decision.

11.12 Where the Scrutiny and Overview Committee or Sub-Committee is of the opinion that an Executive decision is, or if made would be, contrary to or not wholly in accordance with the Budget and Policy Framework, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer. In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be presented to the Executive with a copy to every member of the Council.

11.13 The Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the relevant Scrutiny and Overview Committee or Sub-Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

11.14 The Scrutiny and Overview Committee may refer the decision to the Council if it considers that the decision taken by the Mayor or Cabinet is outside the Budget and Policy Framework of the Council. In such circumstances, the provisions of Rule 7 of the Budget & Policy Framework Procedure Rules (Part 4C) apply. The Council shall meet within 10 working days of the request by the Scrutiny and Overview Committee. The Council may decide to take no further action in which case the decision may be implemented. If the Council objects to Cabinet's decision it can nullify the decision if it is outside the Policy Framework and/or inconsistent with the Budget.

11.15 If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.

11.16 If the Council determines that the decision was within the Budget & Policy

Framework and consistent with the Budget, it will refer any decision to which it objects, together with its views on the decision, to the Cabinet. The Cabinet shall choose whether to either amend, withdraw or implement the original decision within 10 working days, or at the next meeting of the Cabinet after the referral from the Council.

- 11.17 *The responses of the decision-taker and the Council shall be notified to all Members of the Scrutiny and Overview Committee once the Cabinet or Council has considered the matter and made a determination.*
- 11.18 *If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with Rule 11.8 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.*
- 11.19 *The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process. The Chair of the Scrutiny and Overview Committee must agree that the decision proposed cannot be reasonably deferred and that it is urgent. In the absence of the Chair, the Deputy Chair's consent shall be required. In the absence of both the Chair and Deputy Chair, the Mayor's consent shall be required. Any such urgent decisions must be reported at least annually in a report to Council from the Mayor."*

CONTACT OFFICER:

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Officer)

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Appendix A: Part A Cabinet Report for the Temporary Workers Staffing Contract.

Appendix B: Confidential Part B Cabinet Report for the Temporary Workers Staffing Contract. (Please note that this appendix is listed separately as item ## in the agenda).

Appendix C: The Decision Notice for the decision taken by the Executive Mayor.

Appendix D: Completed call-in form that was received by the Monitoring Officer.

Appendix E: Is a report responding to grounds for call-in (to follow).

REPORT TO:	Cabinet 21 September 2022
SUBJECT:	Temporary Workers Staffing Contract
LEAD OFFICER:	Dean Shoemith, Chief People Officer, Human Resources
CABINET MEMBER:	Councillor Jason Cummings (Cabinet Member for Finance)
WARDS:	All

SUMMARY OF REPORT:

This report is to recommend that the Council award a replacement contract for the supply of temporary workers to enable the delivery of council services.

Having a managed service provision for an area of high spend within the Council provides economies of scale and avoids ad-hoc and therefore potentially more expensive recruitment process. In addition, expert market knowledge can source temporary staff with appropriate skills and on-board those staff using a standard recruitment process that is cost effective.

The recruitment of a skilled workforce is essential for the Council to deliver its services. The recruitment market is challenging and requires specialist skills to attract talented staff and to do this in a timely manner to avoid service delivery being impacted.

The Council has undertaken an extensive market engagement and benchmarked utilising data from other Councils to deliver a value driven recommendation for an award of a new contract.

FINANCIAL IMPACT:

The proposed award for the Temporary Workers Staffing contract starts from 7 November 2022 to 6 November 2026 up to a total contract value as set out in part B.

The budget for temporary workers is funded from existing departmental staff budgets, therefore only sourced due to vacancy of staff, or emerging short-term requirements. There is no dedicated budget for temporary workers or the temporary workers' margin and management fee associated with their use. Directorates are expected to contain these costs within their agreed salary budgets.

The contract value is a maximum ceiling, with no commitment to spend up to this value. The spend through this contract will be determined by the demand from the Council over the four-year term.

KEY DECISION REFERENCE NO.: 2422EM

RECOMMENDATION:

The Executive Mayor in Cabinet is recommended to approve the award of a four-year contract called off from the ESPO Mstar3 Framework London Collaboration Lot 1 Temporary Workers Staffing to the provider and for the maximum contract value stated in the part B report.

1. DETAIL OF REPORT

BACKGROUND

- 1.1 This report recommends the award of a four-year term contract to a preferred supplier of temporary workers following a thorough pre-market engagement for all categories of temporary workers across the Council.
- 1.2 Temporary workers are used by the Council to provide short-term resources to fill absences, vacancies and add capacity to deal with peaks in workflow. The contract will also allow for interim staff which includes highly skilled professionals who can enable the authority to fill skills gaps, work on fixed term projects and add an external perspective to the management of the organisation.
- 1.3 The Council's current contract for the provision of temporary workers with Adecco expires on 6th November 2022, with no further option to extend. In compliance with the Council's Contract Regulations and the Public Contract Regulations 2015, there is a need to renew the services to ensure best value for money and to keep up with market developments (e.g. a hybrid working approach potentially means a larger area of reach for the recruitment market).
- 1.4 The recommendation is to directly award a contract to the preferred supplier listed on the London Collaboration Lot of the Eastern Shires Purchasing Organisation (ESPO) MSTAR3 Framework. The ESPO MSTAR3 Framework provides a simple, compliant and best value route to procure a provider for temporary workers using a managed service model. All suppliers on the Framework have been preselected by ESPO as being capable of providing a comprehensive range of services that incorporates both quality and value for money.
- 1.5 A Managed Service provision oversees a large supply chain of agencies from which they fill vacancies. The Council receiving the services remains in contract only with the managed service provider and not with the supply chain, and so the provider arranges for all compliance checks of both the supply chain of agencies and the temporary workers employed by the Council.

1.6 A contract award to the supplier listed under the London Collaboration Lot of the ESPO MSTAR 3 Framework, proposes delivery of the optimum benefit to the Council. It also meets all of the critical operational requirements identified by stakeholders, while providing support on insight across all London boroughs to support efficiencies across temporary workers contracting activities.

1.7 The Council required a solution that was able to deliver the following requirements:

i) Resource

Sufficient resources to support Croydon Council, ensuring resourcing requirements and demands are met including traditionally hard to fill roles in Croydon such as within the Adult's and Children's Directorates. Effective digital compliance of temporary workers and the supply chain.

ii) Price

Maximising best value through securing best rates and margins, and working with the Council to achieve reduction in usage

iii) Technology

Technological integration with internal Croydon Council IT systems and provision of good quality management information and reporting tools

iv) General

Effective mobilisation plan and maximising operational benefits to the Council. Enhancing the candidate experience through the onboarding process and championing the Council at every opportunity.

v) Council Policies and priorities

Social value considerations, including engagement of local based people, schemes to support employability and retention in the local skills through workshops and training programmes partnering with Croydon College.

Development of good retention capacity and exploring a qualified social worker development programme.

Commitment to the real living wage for staff employed through the temporary workers staffing contract.

2. **OPTIONS CONSIDERED AND REJECTED**

Option 1 – Do Nothing. If the current contract expires without a compliant replacement, the Council will face risks associated with delivery of key services as capacity will not be available or the Council would require constant competition on the open market to engage temporary staff on an individual basis. **Not recommended.**

Option 2 – Continue as is. Continuing with the current supplier by rolling on the contract will breach the Public Contracts Regulations (PCR 2015) and the Councils Tender and Contract Regulations as there is no scope for further extensions within the current contract. This would expose the Council to considerable risk of litigation. **Not recommended.**

Option 3 – In-house Recruitment Service. This would require setting up a team to deliver and manage the recruitment service within the Council. Robust knowledge, expertise and skills would be required and would take time to implement, and all accountability would lie with the organisation. Using this approach will be costly and the lead in time to create an effective function would be extensive.

In addition individual contractual arrangements would have to be negotiated with all potential suppliers and terms are not likely to be harmonised nor commercially advantageous. **Not recommended.**

Option 4 – Further Competition under a Framework. This option is resource intensive and rates may not be as favourable when compared across managed service providers procured under the framework. **Not recommended.**

Option 5 – Open Tender. This approach is the most resource intensive option, with no guarantees that the rates we currently have can be secured or reduced further. **Not recommended.**

Option 6 – Direct award of Contract from the London Collaboration Framework of the MSTAR 3 (Lot 1): The use of either a neutral vendor or master vendor model is available through the London Collaboration framework (Lots 1a/b). This is the best value for money option whilst also meeting the Council's priorities such as Social Value. The MSTAR Framework allows for a contracting authority to directly award a contract to a provider that meets its criteria and the criteria set out in the MSTAR Framework. This route has been successfully and widely used by over 15 London Local Authorities in the last 2 years and delivers efficient use of resource. Further details are provided in Part B. **Recommended Option.**

3. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 3.1 Of all the options considered, the recommended option delivers the greatest financial benefit to the Council. However, a further financial benefit will be achieved through demand management of the use of temporary workers.
- 3.2 Utilising a Managed Service Provider enables access to a significant agency supply chain and allows the Council oversight and control of expenditure whilst maintaining a compliant route to engaging temporary workers.

- 3.3 A Managed Service Provision also allows for generation of real time and reliable management information, which is crucial for the Council to control expenditure in this area.
- 3.4 Taking part in the London Collaboration provides access to benchmarking data and information sharing between other Councils within the Collaboration.
- 3.5 The relationship management function within a Managed Service Provider allows for issue escalation and resolution, either with agency workers or the agency supply chain, and exploring opportunities for savings within supply chains.

4. CONSULTATION

- 4.1 Views from colleagues across Council's directorates were sought to develop the requirements and determine the optimum model for the Council. This included Senior Managers/Heads of Service across Adults and Children's Social Care, Finance, Procurement, Recruitment and Digital & Resident Access.
- 4.2 There are no changes to the service delivery model that would require consultation with the wider public.

5. FINANCIAL CONSIDERATIONS

- 5.1 There is no separate budget for temporary workers, or the margin and management fee associated with their use. Directorates are expected to contain these costs within their agreed salary budgets. All costs are revenue expenditure. The on-costs of the contract are added to the invoice weekly as a cost against the agency worker, which directly apportioned to the service as a cost of the agency worker for that week.

Revenue and Capital Consequences of Report Recommendations

- 5.2 The Council modelled the annual cost of the contract using existing usage data, including the cost of supplier margins and any management fees (included in the Part B report). Actual costs will depend on the number and type of temporary workers engaged during the lifetime of the contract.
- 5.3 Agency spend has been significantly higher in previous years than it is currently, reaching a peak of £40.6m in 2019/20. Following a significant reduction in spend and new oversight through the Spend Control Panel, this has reduced to £16.3m last year, although this is expected to increase to approximately £21.9m this year. See part B for projected costs within the new contract.
- 5.4 It should be noted that it is the agency staff salaries that make up the majority of the annual spend figures listed above. The agency and management fees are included within the annual figures but are a small percentage of the overall cost.

Approved by Lesley Shields, Interim Head of Finance for Resources & ACE

6. LEGAL CONSIDERATIONS

- 6.1 The Head of Commercial and Property Law comments on behalf of the Director of Legal Services & Monitoring Officer that:
- 6.2 The Council may enter into contracts under the general power of competence (Localism Act 2011). The Council must comply with the Public Contracts Regulations 2015 and its own Tenders and Contracts Regulations when awarding contracts.
- 6.3 The Council can use the MSTAR3 Framework and follow the direct award process prescribed by that framework.
- 6.4 The Council is under a general Duty of Best Value to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness (Section 3 of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007). This report addresses Best Value considerations.

Approved by Kiri Bailey, Head of Commercial and Property Law on behalf of the Director of Legal Services & Monitoring Officer

7. HUMAN RESOURCES IMPACT

- 7.1 The HR impact is addressed within this report. If there are any other implications arising, these will be dealt with throughout the Council policies and process as standard.

Approved by: Gillian Bevan, Head of HR for Resources and Assistant Chief Executives on behalf of the Director of Human Resources

8. OTHER CORPORATE IMPACT

This contract will support the resourcing across all Directorates within the Council.

9. EQUALITIES IMPACT

- 9.1 The Council has a statutory duty, when exercising its functions, to comply with the provisions set out in the Sec 149 Equality Act 2010. The Council must, in the performance of its functions, therefore, have due regard to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Section 149 involves the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This requires organisations to undertake the following:

- Remove or minimise disadvantages suffered by people due to their protected characteristics.
- Take steps to meet the needs of people from protected groups where these are different from the needs of other people.

9.3 This may involve meeting the needs of disabled persons that are different from the needs of persons who are not disabled. This may involve treating people more favourably than others though this does not equate to conduct which is in breach of the Equality Act 2010.

9.4 The Act provides that fostering good relations between persons who share a relevant protected characteristic and persons who do not share it involves understanding between people from different groups.

9.5 The Equality Strategy has the following outcomes (i) Develop annual performance indicators to measure recruitment, learning and development, career progression and employee relations (ii) Develop annual performance indicators to measure recruitment, learning and development, career progression and employee relations. The recruitment of agency staff should also be monitored to this regard.

9.6 In discharging its duties the Council will ensure that the online application process is suitable for applicants with neurodiverse requirements such as dyslexia. The Council will ensure that it follows the guidelines from the British Dyslexia Association. It will also ensure that the application process is written in plain English to support business owners who do not have English as a first language. The Council will also ensure that reasonable adjustments are provided for disabled staff both in employment and at interview.

9.7 The provision to include mandatory local labour meets the Council's core priority of to tackle ingrained inequality and poverty in the borough, following the evidence to tackle the underlying causes

9.8 An initial equality analysis has been undertaken. There is no adverse impact on protected groups. The equality analysis will be reviewed and updated on a quarterly basis.

9.9 There are no other significant risks to consider.

Approved by Denise McCausland, Equalities Manager

[\(Denise.McCausland@croydon.gov.uk\)](mailto:Denise.McCausland@croydon.gov.uk)

10. ENVIRONMENTAL IMPACT

- 10.1 There are no significant implications or risks to consider. Council has taken significant consideration in encouraging work from home where possible reducing the need to travel and usage of cars, diesel or petrol and consequences of CO2 emissions.
- 10.2 Renewed energy promoted through electronic transfer of data and management Information. There will be an obligation to support the Council's commitment to make the borough more sustainable and Carbon neutral by 2030.

Approved by: Bob Fiddik on behalf of the Director of Commercial Investment

11. CRIME AND DISORDER REDUCTION IMPACT

- 11.1 There are no significant implications or risks to consider.

12 DATA PROTECTION IMPLICATIONS

WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF PERSONAL DATA?

YES

HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?

YES

- 12.1 The Contract will process personal data such as names, dates of birth, addresses. The Supplier and the Council will adhere to the Data Protection Act (DPA) 2018 and ensure that any individual, supplier or the supply chain commissioned to work with the Council are fully compliant with the policy and understand their GDPR responsibilities. The processes of data and data requirements will be confirmed with the new supplier as part of new contract process.
- 12.2 The Chief People Officer, Director of Human Resources comments that there are no additional data protection implications arising directly from the report.

Approved by: Dean Shoesmith; Chief People Officer.

CONTACT OFFICER: Dean Shoesmith; Chief People Officer.
(dean.shoesmith@croydon.gov.uk)

APPENDICES TO THIS REPORT: – DPIA attachment

BACKGROUND DOCUMENTS : None

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Public Document Pack

LONDON BOROUGH OF CROYDON

To: All Members of Council
Croydon Council website
Access Croydon & Town Hall Reception

PUBLIC NOTICE OF KEY DECISIONS MADE AT THE CABINET MEETING ON WEDNESDAY, 21 SEPTEMBER 2022

This statement is produced in accordance with Regulation 12 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

In accordance with the Scrutiny and Overview Procedure Rules the following decisions may be implemented from **1300 hours on 30 September 2022** unless referred to the Scrutiny and Overview Committee (ie after 13.00 hours on the 6th working day following the day on which the decision was taken). The call-in procedure is appended to this notice.

The following apply to each decision listed below

Reasons for these decisions:

Other options considered and rejected:

Details of any consultation and representations received not included in the published report:

Details of conflicts of Interest declared by any Cabinet Member:

The Executive Mayor has made the key decisions noted out below:

Agenda Item: 9 CROYDON PARTNERSHIP - EARLY YEARS' STRATEGY

Key Decision No: 5022EM

Details of decision:

Having carefully read and considered the Part A report, and the requirements of the Council's public sector duty in relation to the issues detailed in the body of the reports, the Executive Mayor

RESOLVED: To

1. Consider and approve the final draft of Croydon's Partnership Early Years Strategy 2022 – 2025;
2. Approve the publication of the Strategy and development of its Delivery Plan.

Agenda Item: 12 TEMPORARY WORKERS' STAFFING CONTRACT

Key Decision No: 2422EM

Details of decision:

Having carefully read and considered the Part A report, the associated confidential part B report, and the requirements of the Council's public sector duty in relation to the issues detailed in the body of the reports, the Executive Mayor

RESOLVED: To

Approve the award of a four-year contract called off from the ESPO Mstar3 Framework London Collaboration Lot1 Temporary Workers Staffing to the provider and for the maximum contract value stated in the part B report.

Signed: Monitoring Officer

Notice date: 22 September 2022

Contact Officers: Colin.Sweeney@croydon.gov.uk and
Michelle.Gerning@croydon.gov.uk

Scrutiny Referral/Call-in Procedure

1. The decisions may be implemented **1300 hours on 30 September 2022** (the 6th working day following the day on which the decision was taken) unless referred to the Scrutiny and Overview Committee.
2. The Council Solicitor shall refer the matter to the Scrutiny and Overview Committee if so requested by:-
 - i) the Chair and Vice Chair of the Scrutiny and Overview Committee and 1 member of that Committee; or for education matters the Chair, Vice Chair and 1 member of that Committee; or
 - ii) 20% of Council Members (14)
3. The referral shall be made on the approved pro-forma (*attached*) which should be submitted electronically or on paper to Democratic Services by the deadline stated in this notice. Verification of signatures may be by individual e-mail, fax or by post. A decision may only be subject to the referral process once.
4. The Call-In referral shall be completed giving:
 - i) The grounds for the referral
 - ii) The outcome desired
 - iii) Information required to assist the Scrutiny and Overview Committee to consider the referral
 - iv) The date and the signatures of the Councillors requesting the Call-In
5. The decision taker and the relevant Chief Officer(s) shall be notified of the referral who shall suspend implementation of the decision. The Chair of the Scrutiny & Overview Committee shall also be notified.
6. The referral shall be considered at the next scheduled meeting of the Scrutiny & Overview Committee unless, in view of the Council Solicitor, this would cause undue delay. In such cases the Council Solicitor will consult with the decision taker and the Chair of Scrutiny and Overview to agree a date for an additional meeting. The Scrutiny & Overview Committee may only decide to consider a maximum of 3 referrals at any one meeting.
7. At the Scrutiny & Overview Committee meeting the referral will be considered by the Committee which shall determine how much time the Committee will give to the call in and how the item will be dealt with including whether or not it wishes to review the decision. If having considered the decision there are still concerns about the decision then the Committee may refer it back to Cabinet for reconsideration, setting out in writing the nature of the concerns. The Cabinet shall then reconsider the decision, amending the decision or not, before making a final decision.
8. The Scrutiny and Overview Committee may refer the decision to the Council if it considers that the decision is outside of the budget and policy framework of the Council. In such circumstances, the provisions of Rule 7 of the Budget & Policy Framework Procedure Rules (Part 4C of the Constitution) apply. The Council

may decide to take no further action in which case the decision may be implemented. If the Council objects to Cabinet's decision it can nullify the decision if it is outside the Policy Framework and/or inconsistent with the Budget.

9. If the Scrutiny and Overview Committee decides that no further action is necessary then the decision may be implemented.
10. If the Council determines that the decision was within the policy framework and consistent with the budget, the Council will refer any decision to which it objects together with its views on the decision, to the Cabinet. The Cabinet shall choose whether to either amend, withdraw or implement the original decision within 10 working days or at the next meeting of the Cabinet of the referral from the Council.
11. The responses of the decision-taker and the Council shall be notified to all Members of the Scrutiny and Overview Committee once the Cabinet or Council has considered the matter and made a determination.
12. If either the Council or the Scrutiny and Overview Committee fails to meet in accordance with the Council calendar or in accordance with paragraph 6 above, then the decision may be implemented on the next working day after the meeting was scheduled or arranged to take place.
13. **URGENCY:** The referral procedure shall not apply in respect of urgent decisions. A decision will be urgent if any delay likely to be caused by the referral process would seriously prejudice the Council's or the public's interests. The record of the decision and the notice by which it is made public shall state if the decision is urgent and therefore not subject to the referral process. The Chair of the Scrutiny and Overview Committee must agree that the decision proposed cannot be reasonably deferred and that it is urgent. In the absence of the Chair, the Deputy Chair's consent shall be required. In the absence of both the Chair and Deputy Chair, the Mayor's consent shall be required. Any such urgent decisions must be reported at least annually in a report to Council from the Leader including the reasons for urgency.

Signed: Monitoring Officer

Notice Date: 22 September 2022

Contact Officers: colin.sweeney@croydon.gov.uk and michelle.gerning@croydon.gov.uk

LONDON BOROUGH OF CROYDON

PROFORMA

REFERRAL OF A KEY DECISION TO THE SCRUTINY AND OVERVIEW COMMITTEE

For the attention of: Colin Sweeney and Michelle Ossei-Gerning, Democratic Services
& Scrutiny
e-mail to

Colin.Sweeney@croydon.gov.uk and Michelle.Gerning@croydon.gov.uk

Meeting: Cabinet

Meeting Date: 21/9/22

Agenda Item No:12 (Part A) and 14 (Part B)

Reasons for referral:

- i) The decision is outside of the Policy Framework
- ii) The decision is inconsistent with the budget
- iii) The decision is inconsistent with another Council Policy
- iv) **Other: Please specify:**

- We need reassurance that this approach delivers value for money. We particularly want to make sure that this framework delivers the best outcome for the residents of Croydon as opposed to pursuing a more traditional competitive tendering process.
- We want reassurance that due process has been followed as there is a risk of legal challenge to the decision.
- We lack the information to judge whether this decision is consistent with budget framework.
- We want clearer explanation as to why the MStar3 Framework is the best option for the Council rather than the other options mentioned in the report.
- We want reassurance that that this decision will meet the Council's strategic needs, particularly regarding workforce and recruitment.

The outcome desired:

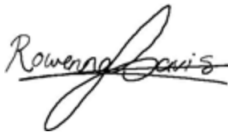
- Reassurance that due legal and financial process has been followed.
- Reassurance that the decision provides the best value for money for residents and meets the Council's long term strategic workforce needs.
- An efficient and helpful enquiry that also offers the Council guidance and reassurance without adding to the risk of delay.

Information required to assist the Scrutiny and Overview Committee to consider the referral:

- Further explanation on the legal advice provided.

- The report mentions benchmarking – can this information be provided along with any other work to compare our situation with other London boroughs.
- An evaluation of the previous contract in terms of quantitative and qualitative data – What does good look like? How has this informed the new process?
- MStar3 Framework –what version is proposed to be used and when does it expire?
- How much has the Council spent annually on the Adecco contract to date? What is the likelihood of reaching the £100m top figure? How much is budgeted for this contract in the current MTFS?
- How has the Council assessed its needs for temporary workers.
- What is the average length of time a temporary employee is in post and how many times are these contracts re-extended?

Signed:

A handwritten signature in black ink, appearing to read 'Rowena Lewis', written over a horizontal line.

Date: 29/9/22

Chair of Scrutiny & Overview Committee

Agenda Item 6

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

ORIGIN OF ITEM:	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.
BRIEF FOR THE COMMITTEE:	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.

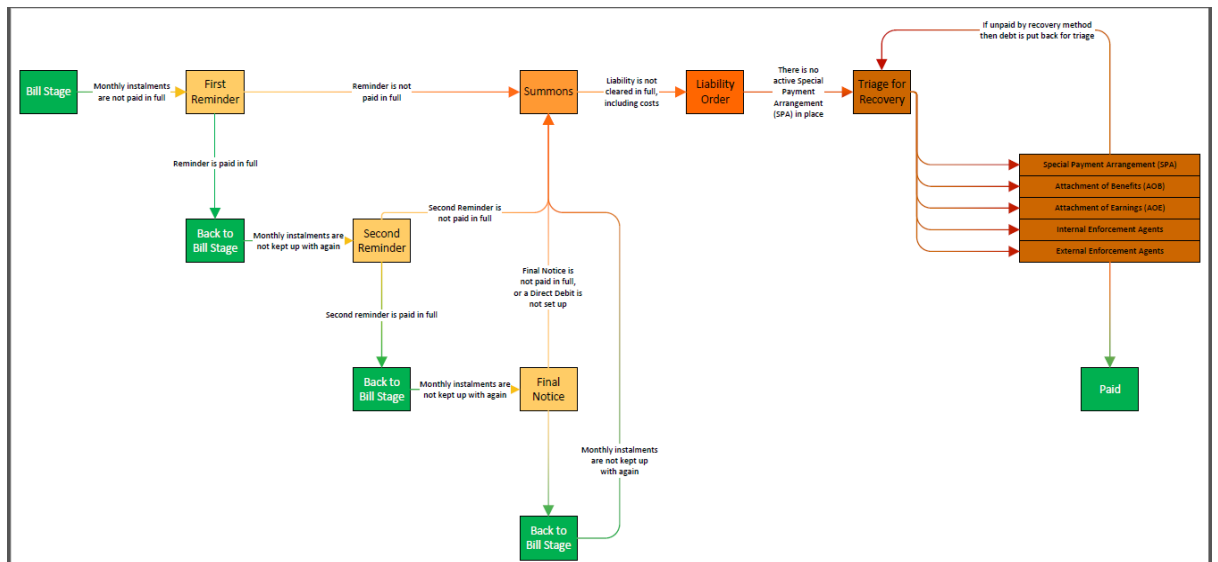
Property Band	Value as at 1 April 1991
A	up to £40,000
B	£40,001 to £52,000
C	£52,001 to £68,000
D	£68,001 to £88,000
E	£88,001 to £120,000
F	£120,001 to £160,000
G	£160,001 to £320,000
H	more than £320,000

- 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					Ninths
	LBC	ASC	Total Croydon	GLA	Total Council Tax	
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.

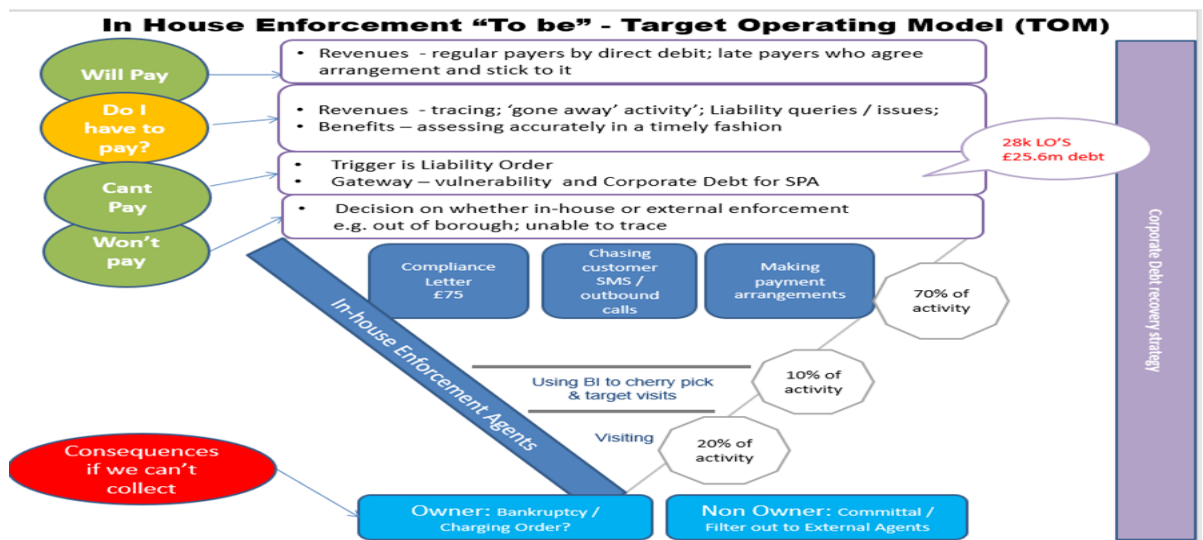
2.25. **Internal Enforcement Agents (EA) (formerly known as Bailiffs)**

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).

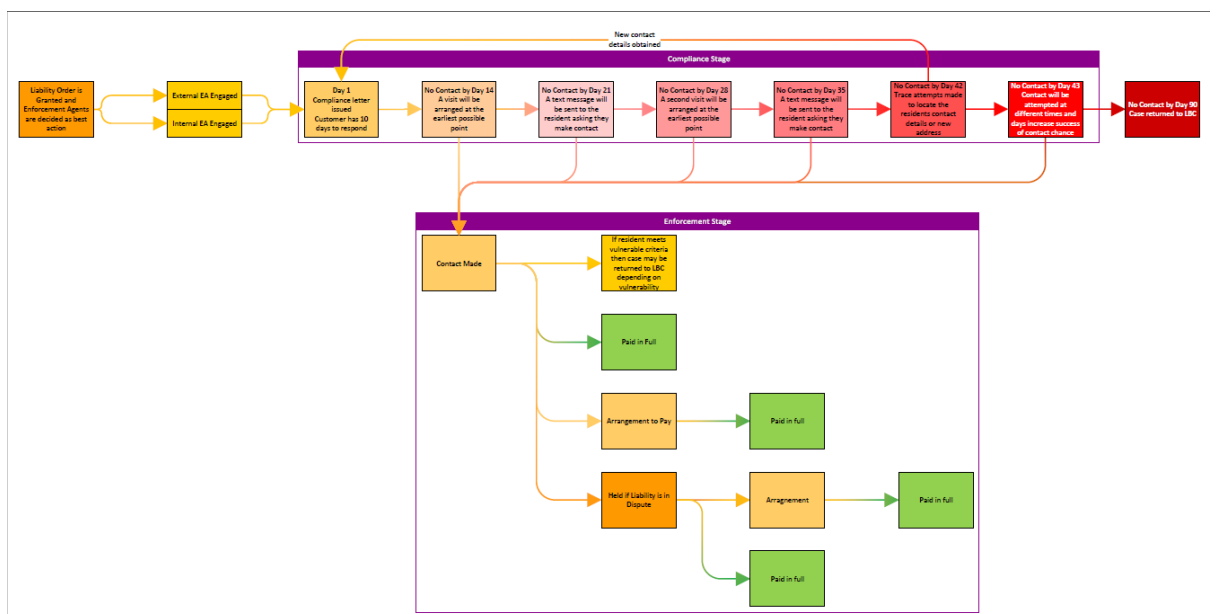
2.37. **Compliance Stage**

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	£46,865.05	£8,221.00	£122,951.67	£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	£2,528,997.88	£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.

CONTACT OFFICER: *Catherine Black Head of Payments Revenues Benefits and Debt 07715370951*

APPENDICES TO THIS REPORT
Appendix A,B and C below

Enforcement Agents Code of Conduct

*Local guidance for enforcement agents
and external enforcement agencies*

CROYDON
www.croydon.gov.uk

June 2019

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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

Creditor	The organisation the debt is recoverable for. This is the Croydon Council
Debtor	The person liable to pay the debt
Enforcement	The lawful process of warrant and taking control of goods (Enforcement powers referred to as 'Schedule 12 Procedure')
Enforcement Agency	The business that employs enforcement agents. This includes both Croydon's internal enforcement agency and external agencies acting on behalf of Croydon council
Enforcement Agent	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 power¹.

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.

¹ 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 ²

- 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)

² 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.³

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.

³ 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.

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
Compliance stage	£75.00	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>

<p>Enforcement stage</p>	<p>£235.00</p> <p>Plus 7.5%</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"> • after 14 clear days (not including Sundays and bank holidays) from the date that the compliance letter was sent and • Where an arrangement has not been set at compliance stage, or the arrangement set has been broken and • Where the EA has made a First Attendance with the intention of entering a signed controlled goods agreement and/or setting an arrangement. 	<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>Sale stage</p>	<p>£110.00</p> <p>Plus 7.5%</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

Disbursements	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>	
Auctioneer	<p>Costs not to exceed:</p> <ul style="list-style-type: none"> •15% of the sum realised, where sold at public auction •7.5% of the sum realised, where sold on site •7.5% of the sum realised, where sold via internet auction 		<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



CIVEA CODE OF PRACTICE FOR ENFORCEMENT

About CIVEA

CIVEA is the principal trade association representing civil enforcement agencies employing around 2000 certificated enforcement agents that operate in England and Wales.

CIVEA's members work to enforce civil debt on behalf of local authorities and Her Majesty's Courts and Tribunals Service (HMCTS) including council tax, business rates, parking fines, magistrates' court fines, employment tribunal awards, child support payments, B2B and commercial rent arrears.

This amounts to over £500 million (half a billion) of unpaid taxes and fines recovered each year at no cost to the public bodies themselves. Each year CIVEA members receive over 3.5 million warrants and court orders.

Our Code of Practice

All members of the Civil Enforcement Association (CIVEA), representing almost the entire market employing enforcement agents (formerly known as bailiffs), have signed up to our Code of Practice.

The CIVEA Code of Practice is a commitment by our members to continue driving up standards and setting a high bar for anyone who wants to join our profession. The code goes beyond the statutory regulations and complements the government's National Standards. This ensures that anyone working in our industry conducts themselves according to the regulations and within the spirit of CIVEA membership.

The Code of Practice does not explicitly cover the existing statutory regulations, but compliance with these is implicit in the conduct of enforcement agents and will be considered as part of the monitoring process.

Audit visits

To ensure compliance with the code of practice, CIVEA held a competitive tender for a code auditor. The successful bidder was HSEQ Smart Limited, a specialist management consultancy, which designed a comprehensive audit process. Every 12 months all CIVEA members will be receive an audit visit and a report will be reviewed by a newly-formed independent panel, the Compliance, Adjudication and Review in Enforcement (CARE) Panel.

Compliance, Adjudication and Review in Enforcement (CARE) Panel

The CARE Panel comprises of experts in compliance, complaints handling, regulation and consumer affairs. The panel receives reports from the Code auditor on CIVEA members conduct and compliance. It also reviews complaints submitted to CIVEA where a final decision has been made by a member (this only applies to HMCTS and transport-related complaints); and offers expert advice to the CIVEA Executive Council.

The CARE Panel has the power to sanction firms for non-compliance and all CIVEA members have agreed to adhere to the panel's decision. The ultimate sanction is expulsion from the association. As membership of CIVEA is condition of most local authority enforcement contracts, expulsion has the effective of withdrawing a license to operate.

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| 2. Quality control | 9. Payment plans |
| 3. Complaints handling | 10. Support for vulnerable people |
| 4. Training and development | 11. Data requests |
| 5. Policies and procedure | 12. Privacy and confidentiality |
| 6. Staff and sub-contractors | 13. Governance |

Clause	Recommended or Mandatory	Details / Explanation
1a. Taking Control of Goods This section is concerned with the compulsory use of body-worn video cameras.		
i) Use of Body Worn Video (BWV) Systems	Mandatory	BWV systems must be deployed by Members to provide supporting evidence in response to EA complaints and for compliance monitoring and training purposes. The use of such equipment needs to be monitored with appropriate policies, guidance and justification.
ii) BWV and audio recording retention	Mandatory	Members should retain audio recordings and Body-Worn Video footage for a minimum of 28 days
1b. Enforcement Agents This section combines existing regulations under Section 12 of the Tribunals, Courts and Enforcement Act 2007 with additional conduct requirements that ensure signatories are acting responsibly and fairly towards debtors.		
i) Provision of ID and disclosure of documents	Mandatory	All EAs employed or engaged by Members must comply with the regulations and law including requirement to provide identification on request, provision of authority and disclosure of information ensuring that such information is not divulged or shared with 3 rd parties without authority or legitimate purpose.
ii) Monitoring	Mandatory	Members should have adequate audit procedures in place to monitor EA compliance with company procedures. An audit of individual EAs must be conducted at least annually.
iii) Behaviour	Mandatory	This Code will be independently assessed, and members will be regularly audited to ensure compliance. Members must ensure that EAs must carry out their duties professionally and not misrepresent their powers, qualifications, capacities or do anything to prejudice the representation or integrity of their client, employer or the profession.

Clause	Recommended or Mandatory	Details / Explanation
		<p>Members must always take responsibility for EAs to be respectful of the religion and cultures of others. Members should be aware of and sensitive to the dates for religious festivals and carefully consider the appropriateness of undertaking enforcement on any day of religious or cultural observance or festival.</p>
iv) Compliance Stage	<p>Mandatory</p> <p>Recommended</p>	<p>Members will have adequate systems and processes in place to correctly “link” cases for the same debtor to ensure, where reasonably possible, only one Enforcement Fee is added to the total debt where cases for the same debtor can be enforced at the same time.</p> <p>Members will accept payment and consider payment arrangements from debtors up to the point of the subsequent visit, in accordance with paragraph 5 of the TCOG (fees) Regulations 2014 and the Taking Control of Goods National Standards.</p> <p>Members will adhere to revised standardisation of mandatory documents, which will ensure that information is available in a consistent form.</p>
v) Enforcement Stage	Mandatory	<p>Members will have adequate systems and processes in place to correctly “link” cases for the same debtor to ensure, where reasonably possible, only one Enforcement Fee is added to the total debt where cases for the same debtor can be enforced at the same time.</p> <p>Members will accept payment and consider payment arrangements from debtors without the Enforcement fee up to the point of the subsequent visit when the Enforcement fee will be applied, in accordance with paragraph 5 of the TCOG (fees) Regulations 2014.</p> <p>A family member or other third party should not be pressured into paying on behalf of a debtor, although a voluntary payment can be accepted where this avoids unwanted visits or goods being seized or removed.</p>

Clause	Recommended or Mandatory	Details / Explanation
		<p>The name of the EA attending the premises must be made clear on any documents left with the debtor or at the premises. All relevant contacts and telephone numbers should be displayed clearly as should the relevant reference number(s).</p> <p>Members will adhere to revised standardisation of mandatory documents, which will ensure that information is available in a consistent form.</p>
vi) Sale or Disposal Stage	Mandatory	<p>Members will only apply the Sale or Disposal fee where the visit is not a standard Enforcement Stage visit and only where there has been a clear step change (which can be proven), demonstrating the EA is attending to remove goods. This will be indicated by a Notice after entry and/or taking control of goods on a highway in accordance with paragraph 30 of the TCOG Regulations 2013.</p> <p>Members will accept payment and consider payment arrangements from debtors without the Sale / Removal fee up to the point of the subsequent visit when the Sale / Removal fee will be applied, in accordance with paragraph 5 of the TCOG (fees) Regulations 2014.</p> <p>Members will adhere to revised standardisation of mandatory documents, which will ensure that information is available in a consistent form.</p>
vii) Debt Advice Signposting	Mandatory	<p>In addition to existing mandatory requirements outlined in the Regulations all Members will signpost debtors to third party debt advice sector throughout the entire collection lifecycle.</p>
viii) Safeguarding	Mandatory	<p>Members will ensure that a safeguarding policy is in place and all staff meet specified safeguarding standards.</p>
<p>2. Quality Control This section ensures that quality assurances are in place and that enforcement agency back office staff are meeting high standards and that they, as well as debtors, are afforded adequate protection.</p>		

Clause	Recommended or Mandatory	Details / Explanation
i) Call Centre monitoring	Recommended Mandatory Mandatory	All Members should record incoming and outgoing telephone calls made to/from their Call Centre. All enforcement agencies must maintain enough telephone lines, with enough trained and competent staff available to answer debtor calls. Telephone calls must be answered within a reasonable time limit. Members will not charge a premium rate or other special rate telephone number which is higher than a standard geographic telephone number.
ii) Quality control	Recommended	Members should implement a proactive audit process that reviews the quality of visits and calls handled to ensure staff meet the requirements of the statutory regulations, National Standards and Codes of Practice and act (re-training, disciplinary action) where failures are identified.
iii) Whistleblowing	Mandatory	Members should refer any employee or contractor to the Courts and/or CIVEA where significant non-compliant behaviour is found as a result of the complaint
3. Complaints Handling This section is very important to ensure that all signatories have transparent and accessible complaint and redress processes, which can be monitored and assessed. Full details of the complaints adjudication process are available on the CIVEA website.		
i) Complaints policy	Mandatory Mandatory	All Members shall have an accessible and fully documented complaints process that should be available in print form and available via the Members website. All members shall allow complaints to be registered by letter, telephone, email and website contact.
ii) Complaints process	Mandatory	Members should have at least a two-stage process that enables complainants to have their complaint escalated and reviewed by someone more senior if they are unhappy with the initial response
iii) Complaints process	Mandatory	Members shall include reference to the Local Government and Social Care Ombudsman (or Public Service Ombudsman for Wales) complaint contact information - via their client - when the internal stages have

Clause	Recommended or Mandatory	Details / Explanation
		been exhausted, except in complaints relating to magistrates' and Highways England (which continue to be adjudicated by CIVEA)
iv) Complaints process	Mandatory	Members should acknowledge receipt of a complaint within 5 working days
v) Complaints process	Mandatory	Members should aim to respond fully to complaints within 10 working days and achieve this in 90% of cases. If the member is unable to do this, they must contact the debtor to explain why and let them know when they can reasonably expect to receive a full response.
vi) Complaints process	Mandatory	Members must respond to requests from the ombudsman in relation to complaints within 10 working days of receipt providing all the information requested
vii) Complaints process	Mandatory	Members must abide by the decision and the direction made by CIVEA or the Local Government and Social Care Ombudsman (or Public Service Ombudsman for Wales) in relation to complaints unless there is a compelling reason that they are unable to do so; for example, if they are contractually or operationally unable to implement the decision.
4. Training and Development This section ensures that all signatories provide high quality, specialist training for enforcement agents and support staff, especially where dealing with vulnerable people. Those signed up to the code can be monitored for consistency and to check that training programmes are regularly updated.		
i) Qualifications and Training	Mandatory Advisory Mandatory Recommended	<p>Members will ensure all EAs are qualified to at least a Level 2 Award on the Regulated Qualifications Framework (RQF) or equivalent as determined by a nationally accredited awarding body. The CIVEA IRRV Level 2 Award is recommended.</p> <p>It is recommended that EAs that have completed basic training are progressed to achieve a level 3 Award on the RQF or equivalent as determined by a nationally accredited awarding body.</p> <p>EAs should be trained to recognise and avoid potentially hazardous and aggressive situations and to withdraw when in doubt about their own or others' safety.</p> <p>It is recommended that CIVEA members' employees receive accredited training on vulnerability.</p>

Clause	Recommended or Mandatory	Details / Explanation
	Mandatory	EAs should be trained to identify and respond appropriately to cases of vulnerability, with referral to the client/creditor where required.
5. Policies and Procedures This section covers additional policies and procedures to improve the experience of the enforcement process and ensure consistent good practice by code signatories.		
i) Policies and Procedures	Mandatory	Members will put in place relevant policies and procedures and will ensure all staff responsible for the delivery of the services have a thorough understanding of them.
	Mandatory	A copy of the CIVEA Code of Practice and National Standards should be available on the member's website and be made available upon request.
	Mandatory	Members will advise CIVEA if a breach of the code is identified in a complaint decision by the Local Government and Social Care Ombudsman (or Public Service Ombudsman for Wales).
6. Staff and Subcontractors This section places the same standards of conduct and service on all those working on behalf of certificated enforcement agents. Code signatories must take responsibility for any firm that they contract to enforcement activity, ensuring they meet all the conditions of the statutory regulations and voluntary commitments, including the code.		
i) Responsibility	Mandatory	Members are responsible for the conduct of all staff, including enforcement agents and sub-contractors enforcing their instructions, whether those agents are employed staff or third-party contractors.
7. Financial Integrity This section offers reassurance that signatories to the code are robust, solvent and responsible businesses.		
i) Client Accounts	Mandatory	Members must submit annual auditor's declaration in respect of adequate funds
ii) PI Insurance	Mandatory	Members must provide CIVEA with proof of appropriate insurance policies

Clause	Recommended or Mandatory	Details / Explanation
iii) GDPR	Mandatory	Members must have in place relevant, documented GDPR policy and compliance strategies
8. Working with public bodies This section relates to the partnership that exists between public bodies (clients) and the enforcement agents that they instruct. It ensures transparency and openness where this is not a commercially confidential matter.		
i) Debtor details	Recommended	Members will work with clients to ensure EAs have appropriate detail about the debt they are recovering.
ii) Contact numbers	Recommended	Members will ensure EAs can provide debtors with contact numbers.
iii) Breathing space	Mandatory	Members will implement breathing space in line with client requirements.
iv) Debt recovery performance	Recommended	Members will work with CIVEA to publish collective information on debt recovery performance.
9. Payment Plans This section provides guidance on good practice that enforcement agents can follow to help debtors make instalment payments. Enforcement agents must also meet the requirements of clients (public bodies), which in some instances may differ from best practice.		
i) Income and expenditure assessment	Recommended	Members to work with clients to support use of income and expenditure assessment.
ii) Negotiating payment plans	Mandatory	Members to provide guidance to EAs and all staff on negotiating sustainable payment plans.
iii) Extended payment plans	Recommended	Member will agree to longer payment plans, following an affordability assessment and evidence of circumstances, where client policy allows.
10. Support for Vulnerable People This section covers support for vulnerable people. All signatories to the code recognise the responsibility they have to support vulnerable people in debt.		
i) Dealing with vulnerable people	Mandatory	Members must ensure all public facing staff working with/for the Member, who engage with debtors, will undertake mandatory training in identifying and dealing with vulnerable persons, customer care skills and techniques.
	Mandatory	Members will agree standard procedures with their clients for supporting vulnerable people.
11. Data requests This section relates to information collated and aggregated in support of government public policy.		

Clause	Recommended or Mandatory	Details / Explanation
i) Data requests	Mandatory	Members will provide a comprehensive response to data requests from the CIVEA executive
12. Privacy and confidentiality This section ensures that debtors' privacy is protected and that communication of personal information is properly controlled.		
i) Data protection	Mandatory	Enforcement agencies must comply with the relevant data protection regulations.
ii) Contact with debtors		Enforcement agents and enforcement staff must take reasonable steps to ensure they are speaking to the debtor either in person or on the telephone. If the person is not the debtor, every effort should be made not to discuss the nature of the account or, if applicable, the reason for an agent's visit without the debtor's consent.
13. Governance This section ensures that signatories give due regard to the importance of the code compliance and that a senior manager takes responsibility.		
Management accountability	Mandatory	Members will ensure that code compliance and the audit process is overseen by an accountable senior manager.

Code of Conduct

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Approved By	Terry Durant

Version History

Details description of changes listed within each version update.

Version Number	Description of changes	Changes made by	Date
0.1	Review of CIVEA Code of Conduct and development of the new policy	Adam Faiers	07/04/2022
1.0	Review of content and approval	Adam Faiers	12/04/2022
2.0	Edits for the purpose of clarity to sections 2.1, 2.4 and 2.7.	Adam Faiers	22/04/2022

1 Introduction

This Code of Conduct has been set for the scope of enforcement activities undertaken by Newlyn Plc.

The purpose of this Code of Conduct for Enforcement is to define the approach and policies set by the management team at Newlyn Plc which are underpinned by a commitment to operate in a lawful manner, and within the good-practice guidelines set by the Sector Industry Body.

1.1 CIVEA

Newlyn Plc is a proud member of the Civil Enforcement Association (CIVEA). CIVEA is the principal trade association representing civil enforcement agencies that in turn employ around 2000 certificated enforcement agents that operate in England and Wales.

CIVEA's members work to enforce civil debt on behalf of local authorities and Her Majesty's Courts and Tribunals Service (HMCTS) including council tax, business rates, parking fines, magistrates' court fines, employment tribunal awards, child support payments, B2B and commercial rent arrears.

This amounts to over £500 million (half a billion) of unpaid taxes and fines recovered each year at no cost to the public bodies themselves. Each year CIVEA members receive over 3.5 million warrants and court orders.

1.2 Code of Practice

Newlyn Plc has signed up to the Code of Practice set by CIVEA. This is in line with all members of the Civil Enforcement Association (CIVEA), who together, represent almost the entire market employing enforcement agents (formerly known as bailiffs).

By signing up to the CIVEA Code of Practice, Newlyn Plc is reinforcing its commitment to continue driving up standards and setting a high bar of behaviour and professional conduct. The code goes beyond statutory regulations and complements the government's National Standards for Enforcement.

Whilst Newlyn Plc recognise that the CIVEA Code of Practice does not explicitly cover statutory regulations, it is nonetheless committed to legal compliance in the conduct of enforcement agents and legal compliance will be considered as part of our overall monitoring, measurement and evaluation which is managed by our ISO 9001:2015 certified management processes.

1.3 External Audit and Reporting

Newlyn Plc is fully committed to meeting the highest international management standards as set by the International Standards Organisation (ISO). We will welcome external audits by UKAS accredited certification bodies and maintain certification to applicable ISO Standards, including Quality (ISO 9001:2015) and Information Security (ISO 27001:2018) as a minimum. Separate policies for each of the ISO Standards may be requested.

To ensure compliance with the code of practice, Newlyn Plc is open to external audit by any CIVEA-appointed audit body. As part of that process, we welcome an annual external audit and understand that the resulting audit reports will be reviewed by the independent Compliance, Adjudication and Review in Enforcement (CARE) Panel.

1.4 Compliance, Adjudication and Review in Enforcement (CARE) Panel

We welcome external review by the CIVEA-appointed 'CARE' Panel which comprises of experts in compliance, complaints handling, regulation and consumer affairs. The panel receives reports from the Code auditor on CIVEA members conduct and compliance.

We welcome the process that the CARE panel will review any complaints submitted to CIVEA where a final decision has been made by a member (this only applies to HMCTS and transport-related complaints). We understand that the CARE Panel has the power to sanction firms for non-compliance and we agree to adhere to the panel's decision.

We recognise and accept that the ultimate sanction that can be set by CIVEA is expulsion from the association. This would be an extremely serious decision for our business as membership of CIVEA is condition of most local authority enforcement contracts; expulsion from CIVEA would have the effect of withdrawing our license to operate.

2 Newlyn PLC Code of Conduct for Enforcement

Our Code of Conduct is set out against the following 13 elements.

1. Taking Control of Goods (BWV and Enforcement Agents)
2. Quality control
3. Complaints handling
4. Training and development
5. Policies and procedure
6. Staff and sub-contractors
7. Financial integrity
8. Working with public bodies
9. Payment plans
10. Support for vulnerable people
11. Data requests
12. Privacy and confidentiality
13. Governance

2.1 Section 1: Taking Control of Goods

2.1.1 Body Worn Video

This section is concerned with the compulsory use of body-worn video cameras.

Newlyn Plc sees the use of BWV as a technology that can significantly help improve the efficiency and effectiveness of our work. We use BWV to uphold the security of all persons and property involved in our work. We review collected data on a daily basis for quality assurance purposes and to continually improve our processes.

As a leading organisation in our field of work, we have seen the benefits of this technology, which include enhanced evidence capture and swifter resolution of issues that can arise. Newlyn Plc believes that the use of BWV supports transparency, trust and confidence in our processes.

Element	Our Policy
Use of Body Worn Video (BWV) Systems	Newlyn Plc will wear BWV overtly and manage all data and footage in line with legal requirements such as the Data Protection Act 2018. Newlyn Plc has deployed BWV systems to provide supporting evidence in response to EA complaints and for compliance monitoring and training purposes. Our use of BWV is managed and monitored with appropriate policies, guidance and justification.
BWV and audio recording retention	Newlyn Plc will retain audio recordings and Body-Worn Video footage for a minimum of 28 days

2.1.2 Enforcement Agents

This section combines existing regulations under Section 12 of the Tribunals, Courts and Enforcement Act 2007 with additional conduct requirements and ensures that Newlyn Plc are acting responsibly and fairly towards debtors.

Element	Our Policy
Provision of ID and disclosure of documents	All EAs employed or engaged by Newlyn Plc must comply with the regulations and law including requirement to provide identification on request, provision of authority and disclosure of information ensuring that such information is not divulged or shared with 3rd parties without authority or legitimate purpose.
Monitoring	<p>Newlyn Plc will have adequate audit procedures in place to monitor EA compliance with company procedures.</p> <p>Newlyn Plc will conduct audits* (BWV checks done daily) of individual EAs at least annually.</p> <p>This Code will be independently assessed and will be regularly audited, both as part of the CIVEA audit, and as part of our ISO management audits to ensure compliance.</p>
Behaviour	<p>Newlyn Plc will ensure that EAs carry out their duties professionally and do not misrepresent their powers, qualifications, capacities or do anything that could prejudice the representation or integrity of their client, employer or the profession.</p> <p>Newlyn Plc will take responsibility for EAs to be respectful of the religion and cultures of others.</p> <p>Newlyn Plc will provide training to ensure that all staff and those working on its behalf are aware of and sensitive to the dates for religious festivals and carefully consider the appropriateness of undertaking enforcement on any day of religious or cultural observance or festival.</p>
Compliance Stage	<p>Newlyn Plc will maintain adequate systems and processes in place to correctly “link” cases for the same debtor to ensure, where reasonably possible, only one Enforcement Fee is added to the total debt where cases for the same debtor can be enforced at the same time.</p> <p>Newlyn Plc will accept payment and consider payment arrangements from debtors up to the point of the subsequent visit, in accordance with paragraph 5 of the TCOG (fees) Regulations 2014 and the Taking Control of Goods National Standards.</p>

Element	Our Policy
	Newlyn Plc will adhere to any revisions of standardised or mandatory documents, which will ensure that information is available in a consistent form.
Enforcement Stage	<p>Newlyn Plc will ensure that family members or other third parties are not be pressured into paying on behalf of a debtor, although recognise that a voluntary payment can be accepted where this avoids unwanted visits or goods being seized or removed.</p> <p>Newlyn Plc will ensure that the name of the EA attending the premises will be made clear on any documents left with the debtor or at the premises. All relevant contacts and telephone numbers will be displayed clearly alongside the relevant reference/case number(s).</p>
Sale or Disposal Stage	<p>Newlyn Plc will only apply the Sale or Disposal fee where the visit is not a standard Enforcement Stage visit and only where there has been a clear step change (which can be proven), demonstrating the EA is attending to remove goods. This will be indicated by a Notice after entry and/or taking control of goods on a highway in accordance with paragraph 30 of the TCOG Regulations 2013.</p> <p>Newlyn Plc will accept payment and consider payment arrangements from debtors without the Sale / Removal fee up to the point of the subsequent visit when the Sale / Removal fee will be applied, in accordance with paragraph 5 of the TCOG (fees) Regulations 2014.</p>
Debt Advice Signposting	In addition to existing mandatory requirements outlined in the Regulations, Newlyn Plc will signpost debtors to third party debt advice sector throughout the entire collection lifecycle.
Safeguarding	Newlyn Plc will ensure that a safeguarding policy is in place and all staff meet specified safeguarding standards.

2.2 Section 2: Quality Control

This section ensures that quality assurances are in place and ensures that everyone working for, and on behalf of Newlyn Plc meet high standards and that they, as well as debtors, are afforded adequate protection.

Element	Our Policy
Call Centre monitoring	<p>Newlyn Plc will record incoming and outgoing telephone calls made to/from their Call Centre.</p> <p>Newlyn Plc will maintain enough telephone lines, with enough trained and competent staff available to answer debtor calls. Telephone calls must be answered within a reasonable time limit.</p>

	Newlyn Plc will not charge a premium rate or other special rate telephone number which is higher than a standard geographic telephone number.
Quality control	Newlyn Plc will implement a proactive audit process that reviews the quality of visits and calls handled to ensure staff meet the requirements of the statutory regulations, National Standards and Codes of Practice and act (re-training, disciplinary action) where failures are identified
Whistleblowing	Newlyn Plc will refer any employee or contractor to the Courts and/or CIVEA where significant noncompliant behaviour is found as a result of the complaint

2.3 Section 3: Complaints Handling

This section is very important to ensure Newlyn Plc has transparent and accessible complaint and redress processes, which can be monitored and assessed.

For further information, please review the full details of the complaints adjudication process are available on the CIVEA website.

Element	Our Policy
Complaints policy	<p>Newlyn Plc will maintain and display an accessible and fully documented complaints process that will be available in print form and available via our website.</p> <p>Newlyn Plc will allow complaints to be registered by letter, telephone, email and website contact.</p>
Complaints process	Newlyn Plc will maintain a two-stage process that enables complainants to have their complaint escalated and reviewed by someone more senior if they are unhappy with the initial response
	Newlyn Plc will include reference to the Local Government and Social Care Ombudsman (or Public Service Ombudsman for Wales) complaint contact information - via their client - when the internal stages have been exhausted, except in complaints relating to magistrates' and Highways England (which continue to be adjudicated by CIVEA)
	Newlyn Plc will acknowledge receipt of a complaint within 5 working days
	Newlyn Plc will aim to respond fully to complaints within 10 working days and achieve this in 90% of cases. If we are unable to do this, we will always contact the debtor to explain why and let them know when they can reasonably expect to receive a full response.

	<p>Newlyn Plc will respond to requests from the ombudsman in relation to complaints within 10 working days of receipt providing all the information requested</p>
	<p>Newlyn Plc will abide by the decision and the direction made by CIVEA or the Local Government and Social Care Ombudsman (or Public Service Ombudsman for Wales) in relation to complaints unless there is a compelling reason that they are unable to do so; for example, if they are contractually or operationally unable to implement the decision.</p>

2.4 Section 4: Training and Development

This section ensures that Newlyn Plc provides that everyone working for, and on behalf of the organisation is provided with high quality, specialist training for enforcement agents and support staff, especially where dealing with vulnerable people. Newlyn Plc will monitor the effectiveness of relevant training and update training programmes on a regular basis.

Element	Our Policy
Qualifications and Training	<p>Newlyn Plc will ensure all EAs are qualified to at least a Level 2 Award on the Regulated Qualifications Framework (RQF) or equivalent as determined by a nationally accredited awarding body. The CIVEA IRRV Level 2 Award is recommended.</p> <p>Newlyn Plc will ensure that EAs have completed basic training. Where appropriate, we will support Agents who want to progress to achieve a level 3 Award on the RQF or equivalent as determined by a nationally accredited awarding body.</p> <p>Newlyn Plc will ensure that EAs are trained to recognise and avoid potentially hazardous and aggressive situations and to withdraw when in doubt about their own or others' safety.</p> <p>Newlyn Plc will ensure that all relevant employees and others working on our behalf receive accredited training on vulnerability.</p> <p>Newlyn Plc will ensure that EAs are trained to identify and respond appropriately to cases of vulnerability, with referral to the client/creditor where required.</p>

2.5 Section 5: Policies and Procedures

This section covers additional policies and procedures that Newlyn Plc will implement to improve the experience of the enforcement process and ensure consistent good practice.

Element	Our Policy
Policies and Procedures	<p>Newlyn Plc will put in place relevant policies and procedures and will ensure all staff responsible for the delivery of the services have a thorough understanding of them.</p> <p>A copy of the CIVEA Code of Practice and National Standards will be made available on the Newlyn Plc website and be made available upon request.</p> <p>Newlyn Plc will advise CIVEA if a breach of the code is identified in a complaint decision by the Local Government and Social Care Ombudsman (or Public Service Ombudsman for Wales).</p>

2.6 Section 6. Staff and Subcontractors

This section ensures that Newlyn Plc applies places the same standards of conduct and service on all those working on its behalf.

Newlyn Plc must take responsibility for any firm that they contract to enforcement activity, ensuring they meet all the conditions of the statutory regulations and voluntary commitments, including the code

Element	Our Policy
Responsibility	Newlyn Plc will take full responsibility for the conduct of all staff, including enforcement agents and sub-contractors enforcing their instructions, whether those agents are employed staff or third-party contractors.

2.7 Section 7. Financial Integrity

This section offers reassurance that Newlyn Plc remains a robust, solvent and responsible business.

Element	Our Policy
Client Accounts	Newlyn Plc will submit annual declarations and financial audit results in respect of adequate funds. These reports are available through HMRC and Companies House.
PI Insurance	Newlyn Plc will provide CIVEA with proof of appropriate insurance policies
GDPR	Newlyn Plc will have in place relevant, documented GDPR policy and compliance strategies

2.8 Section 8. Working with public bodies

This section relates to the partnership that exists between Newlyn Plc and any public bodies (clients). It ensures transparency and openness where this is not a commercially confidential matter.

Element	Our Policy
Debtor details	Newlyn Plc will work with clients to ensure EAs have appropriate detail about the debt they are recovering
Contact numbers	Newlyn Plc will ensure EAs can provide debtors with contact numbers.
Breathing space	Newlyn Plc will implement breathing space in line with client requirements.
Debt recovery performance	Newlyn Plc will work with CIVEA to publish collective information on debt recovery performance.

2.9 Section 9. Payment Plans

This section provides guidance on good practice that Newlyn Plc will ensure that its Contact Centre and Enforcement Agents will follow to help debtors make instalment payments. As appropriate, Newlyn Plc will ensure that its processes meet the requirements of clients (public bodies), where they differ positively from best practice.

Element	Our Policy
Income and expenditure assessment	Newlyn Plc will work with clients to support use of income and expenditure assessment where appropriate.
Negotiating payment plans	Newlyn Plc will provide guidance to EAs and all staff on negotiating sustainable payment plans.
Extended payment plans	Newlyn Plc will agree to longer payment plans, following an affordability assessment and evidence of circumstances, where client policy allows.

2.10 Section 10. Support for Vulnerable People

This section covers support for vulnerable people. Newlyn Plc recognises the responsibility they have to support vulnerable people in debt.

Element	Our Policy
Dealing with vulnerable people	<p>Newlyn Plc will ensure all public facing staff who engage with debtors, will undertake mandatory training in identifying and dealing with vulnerable persons, customer care skills and techniques.</p> <p>Newlyn Plc will agree standard procedures with their clients for supporting vulnerable people.</p>

2.11 Section 11. Data requests

This section relates to information collated and aggregated in support of government public policy. Newlyn Plc will work in partnership as required with CIVEA in this regard.

Element	Our Policy
Data requests	Newlyn Plc will provide a comprehensive response to data requests from the CIVEA executive

2.12 Section 12: Privacy and confidentiality

This section ensures that Newlyn Plc protects debtors' privacy and that any communication of personal information is properly controlled.

Element	Our Policy
Data protection	Newlyn Plc will comply with the relevant data protection regulations.
Contact with debtors	Newlyn Plc will ensure that Enforcement agents and enforcement staff must take reasonable steps to ensure they are speaking to the debtor either in person or on the telephone. If the person is not the debtor, every effort should be made not to discuss the nature of the account or, if applicable, the reason for an agent's visit without the debtor's consent.

2.13 Section 13: Governance

This section ensures that Newlyn Plc will give due regard to the importance of the code compliance and that a specific senior manager takes responsibility alongside the general commitments that are made by the Management Board.

Element	Our Policy
Management accountability	Newlyn Plc will ensure that code compliance and the audit process is overseen by an accountable senior manager.

Scrutiny & Overview Committee

Community Meeting on Residents Experience of Council Tax Payment, Collection and Enforcement

Monday, 26 September 2022

Summary

As part of its focus on the Cost of Living Crisis, there was due to be a report on Council Tax Payment, Collection & Enforcement included on the agenda for 7 September meeting of the Scrutiny & Overview Committee. Following contact being made from several local community groups representing residents, highlighting negative experiences of the Council Tax enforcement process, the Committee agreed that consideration of this item would be deferred to their next meeting on 18 October 2022.

In deferring the item, it gave Members the opportunity to arrange a separate meeting to hear directly from residents and community groups about their experience with Council Tax collection and enforcement. This report provides a summary of the feedback received at that meeting, which was held online at 7.00pm on Monday, 26 September 2022.

The Committee would like to put on record its thanks to all the residents and community groups who attended the meeting. We particularly want to thank Rhiannon Hughes at the South West London Law Centre for helping to connect us with so many residents. Their frequently moving testimony provided at the meeting was incredibly powerful and will be used by Members to inform their questioning when the item is formally considered by the Committee at its meeting on 18 October.

The feedback provided at the meeting predominately related to individual cases and in line with what was agreed at the meeting, this summary will focus on the key themes highlighted during the meeting.

Communication and Advice

A reoccurring issue raised by residents was the challenge of understanding the process related to the collection of Council Tax arrears, which might often be a contributory factor leading to the escalation of the collection process. It was agreed that having a clear explanation of residents' rights, options, and available Council Tax Relief (e.g Single Person Discount, Student Exemption) available from an early stage in the process, might prevent cases escalating to the point of enforcement. It was the experience of some residents that communications before the escalation to enforcement action had been limited, and in some cases, residents believed that they had already agreed payment plans with the Council.

It was accepted that the Council may not have resources available to substantially increase the level of advice and support for residents with Council Tax arrears in-house. However, as an alternative it was suggested that there could be an improved level of partnership working with external organisations, such as the Citizen's Advice Bureau (CAB) and the South West London Law Centre, who would be able to

provide residents with informed advice. The concern about the adequacy and availability of advice was repeatedly stressed, particularly since the loss of the Council's Welfare Rights Service.

Residents reported that it could often be a challenge getting through to an officer at the Council to discuss their case, which delayed the process of finding a resolution. It was acknowledged that contacting the Council was an issue, although the recent upgrade to the telephony system had resulted in a higher number of calls, which hopefully indicated that the problems residents experienced in contacting the Council, were improving. It was highlighted that for residents with English as a second language, telephone conversations could be difficult to comprehend and that a face-to-face meeting could have led to better outcomes in some cases.

Enforcement

There were reports that the enforcement contractors used by the Council were perceived to be behaving in an intimidating manner and did not seem to be taking account of the vulnerabilities of residents. It was noted by attendees that this may result in discrimination against groups with particular needs. The meeting heard that each of the contractors used by the Council should have specialist personnel who were experienced in providing welfare support, but this may be an area for the Committee to seek further reassurance at its meeting in October.

One resident suggested that there did seem to be a 'pursue first and check later' approach used by the enforcement agencies that had real consequences for their mental health. Similarly, it was the experience of some residents with multiple debts to the Council, e.g., outstanding parking fines, that collection agents were sometimes unclear on which debt they were enforcing, and this led to additional frustration and an increased the opportunity for misunderstand for residents.

It was highlighted that there was a 'dead link' in one of the enforcement letters sent to residents by the Council. It was agreed that this would be investigated and corrected.

Culture

A significant number of residents in attendance reported concerns about the culture around communication and enforcement. This was often considered to be disrespectful and sometimes threatening. Examples given included: -

- a resident being told to "Shhhh" when on the phone explaining their case,
- another told of being publicly shamed by enforcement officers in front of their neighbours,
- another spoke about being told to find 'someone else' to help with filling in complex forms.

These reports seemed to give the sense that residents were treated as numbers to fit a box rather than as individual human beings with unique needs and circumstances. The Head of Service in attendance at the meeting suggested revisiting training in partnership with residents as one solution. Another proposed

suggestion was a 'mystery shopper' approach to council tax enforcement that would enable officers to do random checks on services to make sure they were operating efficiently and respectfully.

Other Issues Highlighted

There was a concern amongst all present that this crisis may grow as a result of the cost of living crisis. One leading advice service confirmed that council tax arrears were the biggest source of debt enquiries, above energy and rent concerns, and that they expected this to grow.

It was agreed that further clarity was needed on Houses of Multiple Occupation (HMO), as it should be a landlord paying the Council Tax for an HMO property. It was highlighted that there were cases where each individual in an HMO was receiving a Council Tax bill. It was agreed that further information would be provided so this could be verified.

One voluntary organisation leader reported that service charges from hostel accommodation charges were operating in a similarly poor manner, which was resulting in homelessness. This will be picked up for further investigation by the relevant sub-committee.

There was a suggestion that there could be better coordination between the Council Tax department other parts of the Council. If this was the case, then other issues such as residents being entitled to benefits or potential vulnerabilities could be picked up at an early stage and taken account of as part of the process.

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