
Report to:	Overview and Scrutiny Committee (Regulatory, Compliance and Corporate Services)	Date of Meeting:	13 September 2016
Subject:	Code of Practice for Enforcement Agent Services	Wards Affected:	All Wards
Report of:	Stephan Van Arendsen Head of Corporate Resources		
Is this a Key Decision?	No	Is it included in the Forward Plan?	No
Exempt/Confidential	No		

The following appendices are attached to this report:

Appendix A – Code of Practice for Enforcement Agent Services

Purpose/Summary

The Overview and Scrutiny Committee has requested this report to look at and review how well the Enforcement Agent’s Code of Practice is meeting its objectives particularly with regard to the requirements to deal with and assess vulnerability.

Recommendation(s)

1. Members are asked to note the report.
2. Members are asked to provide any comments about the Sefton Council Code of Practice for Enforcement Agent Services to the Cabinet Member for Regulatory, Compliance and Corporate Services.

How does the decision contribute to the Council’s Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	

6	Creating Safe Communities		√	
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

Reasons for the Recommendation:

Further to the Overview and Scrutiny meeting held on 8th September 2015 when Members were consulted on Sefton Council's Code of Practice for Enforcement Agent Services the Cabinet Member for Regulatory, Compliance and Corporate Services was requested to amend the Code of Practice by making changes to the vulnerability categories detailed in the Code. The Code of Practice was approved by the Cabinet Member on 11th September 2015.

Alternative Options Considered and Rejected:

Not to review, and update where necessary, the fairness and effectiveness of the Sefton Council Code of Practice for Enforcement Agent Services in line with any lessons learnt or feedback from our service users and guidance issued by government and advice agencies, would not adhere to the elements of good debt collection practice.

What will it cost and how will it be financed?

(A) Revenue Costs

None

(B) Capital Costs

None

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial None
Legal The enforcement process for Enforcement Agents is governed by the Taking Control of Good (Fees) Regulations 2014.
Human Resources None

Equality		
1.	No Equality Implication	<input type="checkbox"/>
2.	Equality Implications identified and mitigated	<input checked="" type="checkbox"/>
3.	Equality Implication identified and risk remains	<input type="checkbox"/>

Impact of the Proposals on Service Delivery:

The Code of Practice has been drawn up in an endeavour to achieve the very best practice in the conduct that is expected of our Enforcement Agents working in Sefton.

What consultations have taken place on the proposals and when?

The Head of Corporate Resources (FD.4286/16) has been consulted and notes the report indicates no direct financial implications for the Council.

The Head of Regulation and Compliance (LD3569/16.) have been consulted and has no comments on the report

Implementation Date for the Decision

N/a

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Background Papers:

There are no background papers available for inspection

1. Introduction/Background

- 1.1 The Overview and Scrutiny Committee has requested this report to look at and review how well the Enforcement Agent’s Code of Practice is meeting its objectives particularly with regard to the requirements to deal with and assess vulnerability.
- 1.2 At its meeting on 8th September 2015 the Overview and Scrutiny Committee was requested to provide any comments on the Code of Practice for Enforcement Agent Service to the Cabinet Member – Regulatory, Compliance and Corporate Services.

- 1.3 New legislation relating to the Tribunal Courts & Enforcement Act 2007 came into force from 6 April 2014 and the Code of Practice for Enforcement Agent Service had been revised to reflect these changes.
- 1.4 Overview and Scrutiny Committee reviewed the Code of Practice and questioned why the following categories had been removed from the updated version. To ensure all aspects of potential vulnerability were being considered it was resolved that the Cabinet Member – Regulatory, Compliance and Corporate Services be requested to amend the Code of Practice by making changes to the Enforcement Agency Procedures Compliance Stage (as detailed on page 8 of the Code), namely:-

To include the addition of the following categories:-

9) Appears to be over 70 years of age

10) Is consulting his or her Councillor or Member of Parliament; and

Also category 4 being amended to read:-

Is heavily pregnant, or the spouse of the debtor is heavily pregnant.

- 1.5 On 11th September 2015 the Cabinet Member - Regulatory, Compliance and Corporate Services approved the revised Code of Practice for Enforcement Agent Services.
- 1.6 The Code of Practice (Appendix A) outlines the way that enforcement agent's debts on behalf of Sefton Council should conduct themselves.
- 1.7 The following table shows the enforcement agents for the various debt collection services:

Business Rates 1st phase Prime contractor award	Council Tax 1st phase Prime contractor award	Business Rates & Council Tax 2nd phase	Debt collection	Parking Services	Warrant of Arrest
Jacobs Bristow & Sutor	Jacobs Bristow & Sutor Rossendales	Newlyn Equita	Jacobs Newlyn	Bristow & Sutor Rossendales	Jacobs

2. Identifying mental health issues and vulnerability.

- 2.1 Enforcement agent staff, both office based and field agents, undergo extensive training on vulnerability. All receive welfare training and are issued guidelines from organisations such as MIND and the Royal College of Psychiatrists on how to identify potential mental health issues. Staff are taught questions & techniques with trigger words that may identify a person with mental health issues. Cases are referred to in-house specialist welfare advisors who will undertake further sensitive

enquiries, liaise with the Council and where appropriate will signpost to specialist advice agencies.

- 2.2 In addition, specialist Welfare Team advisors in the Enforcement Agent companies receive further specialised training in benefits, welfare, vulnerability, behavioural messages, customer care, diversity, equality and cultural awareness. This is in addition to the requirements of the Council's own Code of Practice. The Enforcement Agent companies require that, where potential vulnerability is identified, staff refer such cases to the Welfare Team, Manager or Client where there is potential cause for concern.
- 2.3 In September 2015, a significant number of staff in Sefton Council's Revenues and Customer Services teams, both back office and front line, received specific training from an external training organisation, Rossendale's Ltd. in identifying vulnerability and its impact on revenue collection. This included the classification of a vulnerable person, the circumstances where people may be classed as vulnerable and why it is important to identify them, areas of vulnerability, assessing vulnerability, vulnerable conditions and vulnerable people and debt.
- 2.4 arvato in conjunction with the Council reviewed processes focussing on vulnerability issues and debt collection. Correspondence has also been reviewed with the enforcement companies to improve style, tone and more on signposting for debt advice.
- 2.5 It should also be noted that the importance of checking for mental health issues in the collection of debt has been identified in a number of high profile cases that have arisen in other local authorities which have been investigated by the Local Government Ombudsman.

3 Vulnerability cases identified by the Enforcement Agents

- 3.1 During the period 1 August 2015 and 31 July 2016 Sefton Council sent 8,633 cases to the Enforcement Agent companies (see table section 3.6 below).
- 3.2 There were 5 complaints against enforcement agent action that were received and investigated by the companies themselves, representing 0.06% of their caseload. None of the complaints was upheld. The complaints were in respect of charges and fees associated with enforcement action. In each case the enforcement agent had only charged fees and costs as detailed within legislation.
- 3.3 The Enforcement Agent companies identified a potential vulnerability as defined in the Sefton Council Enforcement Agent Code of Practice. In 6% of the caseload they received (493 cases). The companies contacted the council and discussed individual cases to establish if they should be returned.

3.4 Each case is considered on its own merits as to whether enforcement action should be ceased or an alternative method of recovery commenced.

3.5 The table below shows the outcome of cases referred to the Enforcement Agents for a 12 month period. The Revenue Service will put a marker on those cases which have been returned to the Council relating to vulnerability issues, and will review the vulnerability status on a regular basis and check if status has changed.

3.6 Period 01/08/15 to 31/07/16 – cases referred to Enforcement Agents

Enforcement Agent	Caseload received	Number of complaints	Number of potentially vulnerable cases identified	Outcome of potentially vulnerable cases
Bristow and Sutor	2411	1	114	90 ongoing and 24 returned to Council,
Equita	266	None	8	1 Paid in full, 4 made arrangement and 3 returned to the Council
Jacobs	2389	None	218	27 Paid in full, 68 Made payment arrangement, 34 returned to Council and 89 ongoing
Newlyn	1675	1	89	15 Paid in full, 18 made payment arrangement, 41 returned to Council and 15 ongoing
Rossendales	1892	3	64	8 paid in full, 39 made arrangement, 17 returned to Council
Total	8633	5	493	

4. Initiatives by Revenue Service and Enforcement Agents

4.1 Sefton Council's Revenues service has recently introduced a new process whereby a customer identified as having a vulnerability that merits prevention or cessation of enforcement has an indicator placed against the account. These cases are individually monitored where there are arrears and a collection strategy commenced appropriate to the type of vulnerability and the information available. For example, markers are placed on Care Leavers accounts to ensure that intervention takes place by the Council before cases are referred for enforcement action.

- 4.2 Residents in receipt of council tax support are first referred for debt collection activity rather than enforcement action to avoid statutory charges being added to the account.
- 4.3 Bristow and Sutor who are the primary contractor for 1st phase council tax, business rates and parking services have a number of processes in place to assess vulnerability. Staff undergo, and continue to receive, intensive vulnerability training. They also have their own Vulnerability Policy which senior managers monitor on a regular basis to ensure their staff adhere to and execute on a day to day basis in their contact and conduct with customers. They have a specialist Welfare Team to whom vulnerable cases may be referred. This team has more detailed knowledge and expertise in dealing with vulnerability and benefits advice. If they believe a customer may be vulnerable, they issue a letter informing the customer of the situation in plain English and signposting them to free debt advice agencies, with contact details. They also advise customers not to contact any organisation that does not offer free assistance.
- 4.3.1 As a working example of this, during a visit by one of Bristow and Sutor's enforcement agents for another council, it was established that the property was occupied only by 2 very young children. It was established that their parents were out shopping (possibly working - it was difficult to be certain) and, as a result, the officer notified the police and also informed the Council. The case was subsequently suspended. The officer waited onsite until the police arrived and then withdrew.
- 4.3.2 In another instance, a member of Bristow and Sutor's back office team referred a case to their welfare team concerning a lady on very low income. It was quickly established that this lady should have been entitled to a Council Tax sole occupier discount for a number of years. She had not notified the Council so they were unaware. As a result of this intervention the discount was awarded and her bill significantly reduced.
- 4.4 JACOBS Enforcement Agent's also the primary contractor for 1st phase council tax and business rates assess vulnerability by staff managing cases via their Welfare Team using a wide range of initiatives. These include interventions and signposting to approved third sector partners for free advice including Citizens Advice Bureau (CAB); Step Change etc. Over the past 12 months, Jacobs has introduced many initiatives and they have plans for many more. They have an excellent partnership with Step Change and have undertaken a number of site visits to their Leeds Office which has been extremely beneficial. They are also arranging a visit to the offices of Christians Against Poverty (CAP) at their Bradford Office.
- 4.5 Newlyn Enforcement Agents who provide service for 2nd phase collection of council tax, business rates and debt collection have undertaken a review of their

procedures and policies towards customers that have been identified as being potentially vulnerable. This involved reviewing the processes followed by the Contact Centre, Enforcement Agent and their internal Vulnerability Team. As it is difficult to truly quantify vulnerability Newlyn have designed a “Traffic Light” system whereby as soon as vulnerability is identified they put a case into one of the three statuses which are set out below:

Green – They monitor customers who are at the moment deemed as vulnerable but will not be vulnerable for the foreseeable future; this is to include the following: Single Parent Families, the unemployed/Benefits – ESA, JSA, DLA, PIP, Pregnant Women, and Recently Bereaved.

Amber – They monitor customers who are deemed as vulnerable, however, they are in a position to understand and seek assistance if and when needs be, and will need more guidance and help with the repayment of their debt, this is to include: the elderly and infirm, a disabled person, anyone who has difficulty understanding or speaking English, Domestic violence/homelessness.

Red – They monitor customers who are not able to make payment and they believe they should stop enforcing the debt – the files in this status are referred back to the Council on a weekly basis and ideally returned or solid notes as to who at the local authority requires action to continue and why, this includes: Serious illness, Serious mental health issues and threats of suicide by the customer.

4.6 Rosendale’s are the primary contractor for 1st phase council tax collection and parking services. They have recently reviewed all of their welfare and vulnerability policies and moving forward the Welfare Team will be able to provide more robust management information on welfare cases, if required. In addition currently their Client Liaison Team provide officers with a weekly report showing cases flagged as vulnerable that week, the stage of the case and also the information which has been provided about the customer’s circumstances. The current review has resulted in a change in process providing more case management on a 1-1 basis where customers have been identified as vulnerable.

4.6.1 The company have a dedicated resource within their welfare unit – these staff have had vulnerability training which was designed with input from the Royal College of Psychiatrists. Staff within their Customer Contact Teams have also all undergone vulnerability training and specifically the use of TEXAS.

4.6.2 **TEXAS** is an acronym used by call centre or enforcement agents when a customer appears to be vulnerable in some capacity:

T – Thank the customer for the call or communication

E – Explain how the information the customer provides about their potential vulnerability will be used.

X- Explicit consent from the customer needs to be obtained that the information received about vulnerability can be recorded on Rosendale’s system.

A - Ask questions to determine the level of vulnerability and the impact the vulnerability may have on ability to pay.

S – Signposting the customer on the next stages – e.g. will the case be passed to the welfare team or referred back to the client or will the level of potential vulnerability be so slight that it would be appropriate for recovery action to continue?

- 4.6.3 If a customer calls into the Contact Centre and during the conversation some reference is made to health issues their agents will use TEXAS to gain an understanding of how their situation is impacting on their ability to pay. In some instances the customer is simply sharing this information with them but wants to deal with the debt. In these situations the agent will negotiate a payment plan. To ensure the appropriate action for a customer in the event that a payment arrangement breaks, the case is allocated to the welfare team and they will monitor for broken arrangements and make contact with the customer.
- 4.6.4 Where a caller is distressed the call would be immediately transferred to the Welfare Team to agree the best course of action – if the case is allocated to an Enforcement Agent, the Welfare Team will liaise with the Enforcement Agent to agree the best course of action. Their Enforcement Agents are all trained in vulnerability and there may be occasions where we would ask their Enforcement Agent to visit the customer to discuss their situation. If enforcement is not an appropriate course of action, the enforcement fee would not be applied.
- 4.6.5 As part of the TEXAS process, customers are signposted to Stepchange and/or the Citizens Advice Bureau and where they believe they have exhausted all avenues and have still not agreed payment the welfare team will liaise with the Council before returning the case.
- 4.7 Equita undertake 2nd phase collection of council tax and business rates. They have a dedicated welfare team in Northampton and all staff have undertaken vulnerability training from the Money Advice Trust. They supply a list each month of the cases they have flagged as potentially vulnerable for our information and review.