

Report to:	Overview and Scrutiny Committee (Regulatory, Compliance and Corporate Services)	Date of Meeting:	Tuesday 12 September 2017
Subject:	Code of Practice for Enforcement Agent Services		
Report of:	Head of Corporate Resources	Wards Affected:	(All Wards);
Portfolio:	Cabinet Member for Regulatory, Compliance and Corporate Services		
Is this a Key Decision:	No	Included in Forward Plan:	No
Exempt / Confidential Report:	No		

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 in terms of fairness and effectiveness.

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.

Reasons for the Recommendation(s):

The last review of the Code of Practice for Enforcement Agent Services took place at a meeting of the Overview and Scrutiny Committee on 13th September 2016 when its Members were consulted and the vulnerability categories detailed in the Code were updated. The recommendations in this report are designed to ensure that the Code of Practice continues to remain relevant, fair and effective for Sefton's residents over the next 24 months.

Alternative Options Considered and Rejected: (including any Risk Implications)

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 of the Proposals:

Resource Implications (Financial, IT, Staffing and Assets): None
Legal Implications: The enforcement process for Enforcement Agents is governed by the Taking Control of Goods (Fees) Regulations 2014.
Equality Implications: These have been identified and mitigated.

Contribution to the Council's Core Purpose:

Protect the most vulnerable: Where a debtor falls into one of the vulnerability categories detailed in the Code of Practice the Enforcement Agent must report this back to the Council.
Facilitate confident and resilient communities: Not applicable
Commission, broker and provide core services: Not applicable
Place – leadership and influencer: Not applicable
Drivers of change and reform: Not applicable
Facilitate sustainable economic prosperity: Not applicable
Greater income for social investment: Not applicable
Cleaner Greener Not applicable

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Head of Corporate Resources (FD 4815/17) has been consulted and notes the report indicates no direct financial implications for the Council.

The Head of Regulation and Compliance (LD 4099/17 have been consulted and has no comments on the report.

(B) External Consultations

Citizen's Advice Sefton has been consulted and has recommended that the Code of Practice be updated to include the following statement:-

“In all cases where exceptional financial difficulty is identified the Enforcement Agent or Sefton Council will offer a 28 days hold or “breathing space” on enforcement action if debtors can demonstrate that they are currently seeking debt advice from an accredited advice provider”.

This recommendation will be submitted for consideration in a report to the Cabinet Member for Regulatory, Compliance and Corporate Services

Implementation Date for the Decision

Not applicable.

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Appendices:

Appendix A – Code of Practice for Enforcement Agent Services

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

- 1.1 The Code of Practice (Appendix A) outlines the way that Enforcement Agents working on behalf of Sefton Council should conduct themselves.
- 1.2 The Overview and Scrutiny Committee has requested this report to look at and review how well the current Enforcement Agent's Code of Practice is meeting its objectives.
- 1.3 The Code of Practice (Appendix A) was last reviewed by the Overview and Scrutiny Committee in September 2016.

- 1.4 New legislation relating to the Tribunal Courts & Enforcement Act 2007 came into force from 6 April 2014 and Sefton Council's Code of Practice for Enforcement Agent Services was revised to reflect those changes.
- 1.5 The Ministry of Justice promised a staged process review of the bailiff reforms one year, three years and, if necessary, five years after they came into force. However, the outcome of the one year review has not been published and it is unclear if further reviews will take place.
- 1.6 The following table shows the Enforcement Agents for the various debt collection services:

Business Rates 1 st phase Prime contractor award	Council Tax 1 st phase Prime contractor award	Business Rates & Council Tax 2 nd phase	Debt collection services	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 was also reviewed with the Enforcement Agent 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.
- 2.6 For the Revenues Service (Council Tax , Business Rates, Housing Benefit Overpayments and Sundry Income), a total of 10,446 cases were referred to Enforcement Agents during the period 1 August 2016 to 31 July 2017, of those 646 were identified as potentially vulnerable. Following further investigation 121 were returned immediately to the Council and placed into the process to monitor vulnerable cases.
- 2.7 For Parking Services, a total of 5,098 cases were referred to Enforcement Agents during the period 1 August 2016 to 31 July 2017, of those 155 were identified as potentially vulnerable.
- 2.8 The tables below shows the outcome of cases referred to the Enforcement Agents. The Council's Revenues Service puts 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. Each case is considered on its own merits as to whether enforcement action should be ceased or an alternative method of recovery commenced.
- 2.9 The following tables shows the number of cases during the period 1st August 2016 to 31st July 2017 identified by each firm of Enforcement Agents as potentially vulnerable and the outcomes of those cases.

2.9.1 Revenues Service

Enforcement Agent	No. of Cases Issued	No. Identified as Vulnerable	Outcome
Bristow & Sutor	2101	106	34 Paid in Full 5 Entered Payment Arrangement 26 Returned to the Council 41 Ongoing*

Jacobs	3389	253	44 Paid in Full 96 Entered Payment Arrangement 50 Returned to the Council 63 Ongoing*
Rossendales	2622	221	29 Paid in Full 102 Entered Payment Arrangement 21 Returned to the Council 20 Ongoing*
Newlyns	1741	63	8 Paid in Full 14 Entered Payment Arrangement 21 Returned to the Council 20 Ongoing*
Equita	593	3	3 Returned to the Council
TOTAL	10446	646	

* Ongoing - cases are still with the Enforcement Agents and not yet on payment arrangement or decision yet to be agreed with Council whether to return or not.

2.9.2 Parking Services

Enforcement Agent	No. of Cases Issued	No. Identified as Vulnerable	Outcome
Bristow & Sutor	2341	35	15 Returned part paid 9 paid in full 11 ongoing*
Rossendales	2757	120	24 Entered Payment Arrangement 33 Closed 16 Paid in Full 3 Trace 44 Live (including 14 on hold)
TOTAL	5098	155	

* Ongoing - cases are still with the Enforcement Agents and not yet on payment arrangement or decision yet to be agreed with Council whether to return or not.

3.0 Complaint handling & analysis

3.1 As part of its performance monitoring activity the Council requires regular reports (each quarter) from the Enforcement Agent companies detailing the nature of

feedback from their customers, whether it is a complaint, comment or compliment together with outcomes.

- 3.2 During the period 1 August 2016 and 31 July 2017 Sefton Council sent 10,446 Revenues cases and 5,098 Parking Services cases to the Enforcement Agent companies.
- 3.3 There were 30 Revenues Service and 13 Parking Services complaints against Enforcement Agent action that were received and investigated by the companies themselves.
- 3.4 The following table shows the number of complaints received by the Enforcement Agent companies in the same period and the outcome of those complaints.

3.4.1 Revenues Services

Enforcement Agent	No. of Cases Issued	No. Of Complaints Received	Outcome
Bristow & Sutor	2101	5	2 Partially Upheld 3 Not Upheld
Jacobs	3389	6	1 Upheld 1 Partially Upheld 4 Not Upheld
Rossendales	2622	8	0 Upheld 8 Not Upheld
Newlyns	1741	11	0 Upheld 11 Not Upheld
Equita	593	0	Not Applicable
TOTAL	10446	30	1 Upheld 2 Partially Upheld 27 Not Upheld

3.4.2 Complaints analysis – Revenues Service

Bristow & Sutor

5 complaints, 2 partially upheld and 3 not upheld.

3 Enforcement Agent complaints.

1 regarding potential vulnerability

1 regarding costs.

There were no changes to procedures as a result of the complaint investigations.

Rossendale's

8 complaints, 0 upheld.

All in respect of conduct of the enforcement agent.

All complaints are taken very seriously, trends are measured and where a complaint is founded / part founded the details of the issue and any recommendations for further training etc. would be escalated to the relevant manager(s) and director(s) to action as appropriate.

Jacobs

6 Complaints, 1 upheld, 1 partially upheld and 4 not upheld.

3 Enforcement Agent complaints, 1 of which was about customer service, the other 2 were about attitude

2 Office Process – fees

1 Contact Centre – attitude

Of the justified complaints no changes in procedures were brought about.

Newlyn

11 complaints. None upheld.

3 Enforcement Agent complaints

3 Contact Centre staff

1 regarding costs.

4 General complaints

As no complaints were upheld there has been no change in procedures as a result of the issues raised.

Equita

No complaints received

3.4.3 Parking Services

Enforcement Agent	No. of Cases Issued	No. Of Complaints Received	Outcome
Bristow & Sutor	2341	2	2 Not Upheld
Rossendales	2747	11	9 Not Upheld 2 Partially Upheld
TOTAL	5098	13	2 Partially Upheld 11 Not Upheld

3.4.4 Complaints analysis – Parking services

Bristow & Sutor

Of the 2 cases not found:

The first customer feedback was requesting refund as stated after immobilisation no paperwork left and claimed vulnerability. The outcome was the EA reported he did not immobilise the vehicle and was not told anything or see anything to suggest vulnerability. No refund made case remained paid in full.

The second feedback, customer claimed EA paperwork left attached to door, and threats made to take vehicle which was on finance. Outcome was EA denied leaving paperwork on door, and only advised debtor enquiries would be made to validate the claim of vehicle being on finance. Customer has arrangement in place.

Rosendale's

Seven of the customer feedback relate to alleged behaviour/attitude of the EA when making a visit, the outcome of which investigations made and unfounded. Debtors were advised the reasons for the visit and provided with relevant information.

One feedback state debtor unaware of EA visit when payment was made and that EA attended prior to opening business hours. Outcome confirmed EA attended outside of business hours and left paperwork.

One feedback from CAB advising of debtor's vulnerability and to consider this on reinstating arrangement plan, outcome of this was to agree reinstatement of plan and welfare to monitor.

One claimed EA clamped vehicle and unlawfully entered property and ignored vulnerability. Outcome on this was that on viewing footage debtor very challenging to EA and Police, overall EA acted appropriately although some improvements could be made.

Final feedback customer unhappy, outcome was that an apology made for upset however had no authority to deal with a 3rd party case now closed.

4. Initiatives by Revenue Service and Enforcement Agents

4.1 **Sefton Council's Revenues service** has a 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 Leaver's accounts to ensure that intervention takes place by the Council before cases are referred for enforcement action.

4.1.2 Residents on low incomes and in receipt of support under the Local Council Tax Reduction Scheme are first referred for debt collection activity rather than enforcement action to avoid statutory charges being added to the account.

4.2 **Bristow and Sutor Enforcement Agents** 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 **Jacobs Enforcement Agents** 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.

4.3.1 They have an excellent partnership with Step Change and have undertaken a number of site visits to their Leeds Office and undertaken joint training on arrangement setting and conducting means enquiry, which has been extremely beneficial. They have recently visited the offices of Christians Against Poverty (CAP) at their Bradford Office to discuss their free welfare services for customers.

4.3.2 Jacobs are also a member of the Money Advice Liaison Group (MALG) and attend the meetings of the North West Discussion Forum attended by Merseyside and North West welfare advisors to share best practice and have built excellent working relationships with the third sector providing advice and support to customers within Sefton.

4.4 **Newlyn Enforcement Agents** who provide service for 2nd phase collection of Council Tax, business rates and debt collection.

4.4.1 They continue to utilise the "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.

Newlyn have reported that since using this system they have found that cases are being identified early on by the Contact Centre or Enforcement Agents and they are unaware of any cases where this system has failed to the point of a complaint or query being raised as to the practice they are following.

4.5 **Rossendale's Enforcement Agents** are the primary contractor for 1st phase Council Tax collection and parking services. You will note from the figures that there has been an increase in the number of cases identified as potentially vulnerable from the previous years. This is a direct result of the training which has been given to staff to ensure that where a customer intimates that there are health concerns that the case is flagged so that they can ensure that it is managed correctly.

4.5.1 They have also seen an increase in customer claiming 'vulnerability' as a reason to have their case returned to the client This comes from a standard template letter which can be found on the intranet and purports to reflect the National Standards, which to an extent it does albeit the interpretation is not entirely correct.

4.5.2 Their staff receive regular training and refreshers on the use of TEXAS to understand how a customer's situation is impacting on their ability to deal with the debt. Given the rise in claims of vulnerability they are continually reviewing their welfare processes and in the latest review they have taken into consideration some of the recent LGO decisions. It is their aim always to ensure that a customer who is vulnerable is treated fairly. However, in some instances where they are unable to get a full understanding of the customer's situation, they will arrange for an enforcement agent to visit the customer to make a full assessment.

4.5.3 They have invested considerably in upskilling their enforcement agents in identifying vulnerability and how to deal with a case where a customer is found to be vulnerable. The enforcement agent will liaise with the Welfare Team to ensure that the case is managed appropriately. Each case is dealt with individually and where appropriate, the case would be 'wound' back to the Compliance stage and the enforcement fee removed.

4.5.4 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.

4.5.5 **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 Rossendale'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?

4.5.6 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.

4.5.7 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.

- 4.5.8 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.
- 4.6 **Equita Enforcement Agents** -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.