



BEDFORD
BOROUGH COUNCIL

APPENDIX 7

Bailiff Code of Practice

May 2012

BAILIFF CODE OF PRACTICE

This document is the code of conduct for external bailiffs acting on behalf of Bedford Borough Council in the collection of;

- Council Tax
- Non-Domestic Rates (Business Rates)
- Business Improvement District Levy (BID Levies)
- Housing Benefit Overpayments
- Sundry Debts administered by the Council's Finance and Corporate Service Directorate

It is intended to assist them in dealing with the enforcement of all such debts in a manner consistent with legislation, efficiency and effectiveness but also consistent with the Council's approved Fair Debt Collection Policy.

The code of practice shall also be followed by debt collection agencies appointed by the Council to the extent that it is applicable to the service provided.

Where a reference is made to consulting the Council in this document, the bailiff should speak to the Council's Supervising Officer (that is the Court Officer, the Senior Recovery Officer or a more senior officer).

Code of Practice for the Management of Bailiffs employed by Bedford Borough Council for the Enforcement of debts in England & Wales.

1. Bailiff companies and bailiffs contracted by the Council to undertake specified tasks will be required to ensure that they, their employees, contractors, and agents comply with the following code of practice at all times.
2. The bailiff company will ensure that all employees, contractors, and agents will act strictly within the scope of current legislation at all times, and will not commit any illegal act whilst working on behalf of the Council.
3. The bailiff company will ensure that all notices and other documentation left with or sent to the debtor are unambiguous and not misleading. Except where a notice or other documentation is handed to the debtor, it must be enclosed in a sealed envelope addressed to the debtor by name.
4. The bailiff company will ensure that all bailiffs, employees, contractors, and agents have appropriate knowledge and understanding of the relevant legislation, case law, and powers. Where necessary, the bailiff company will ensure that adequate training is undertaken.

5. Bailiffs and employees, contractors, and the agents of the bailiff company will act in a reasonable and courteous manner, and will act in the interests of the Council at all times.
6. The bailiffs and all employees, contractors, and agents must be aware that they represent the Council in their dealings and should act accordingly at all times.
7. The bailiff company will ensure all employees, contractors, and agents maintain an acceptable standard of dress when meeting the public consistent with the provision of a professional service.
8. All bailiffs carrying out the lawful act of distress on goods shall hold a current bailiff's certificate issued by the county court. The bailiff company will ensure that the removal of goods is always directly supervised by a certificated bailiff.
9. The Council will appoint a supervising officer, who shall be a senior member of staff, to liaise with bailiffs and the bailiff company on all matters. The supervising officer and the principal of the bailiff company shall be responsible for the operation of this code of practice and for resolving any complaints from debtors.
10. The bailiff company must establish and maintain an internal complaints procedure overseen by a senior member of staff. The Council's supervising officer shall be responsible for ensuring that any complaints received by the Council from debtors or their authorised representatives are handled efficiently and promptly and in accordance with the Council's complaints procedure.
11. The bailiff company will bring to the attention of the supervising officer cases where it is considered to be inappropriate to distraint upon goods in accordance with the attached "bailiff guidelines", and will seek further instructions before proceeding.
12. The bailiff and the bailiff company will, on returning any unpaid liability orders, report any reason(s) why distraint has not taken place, together with a full history of activity undertaken in respect of the liability order and any information obtained during those activities. The bailiff may only return liability orders to the Council on the basis of 'nulla bona' after diligently attempting to locate and distraint upon goods belonging for to the debtor.
13. The bailiff and the bailiff company shall ensure that all information coming into their possession during the performance of the contract is treated with strict confidence and is not to be used for any purpose other than performance of the contract. All data must be processed in accordance with data protection legislation, and with any guidance issued by the information commissioner. The bailiff company is responsible for putting in place suitable arrangements to ensure the

security of data in its possession at all times and shall only exchange data with the council in a secure manner agreed by the Council.

14. The bailiff company must ensure that its employees use the title "bailiff" only in appropriate work (for instance, not when acting as debt collectors or tracing agents). Bailiffs must not misrepresent their powers, qualifications, capacities, experience, or abilities.
15. The bailiff company must declare all associated interests of companies, associations, and groups to the Council.
16. The bailiff company will undertake to process all instructions received within the time-scale laid down by the Council.
17. The bailiff company will report to the Council progress in respect of any cases which remain outstanding within the timescale laid down by the Council, supplying such information as is required by the Council.
18. The bailiff company will answer all correspondence from debtors within five working days of such being received, wherever possible.
19. The bailiff company will account for monies and return all cases where it is unsuccessful in securing payment to the Council promptly and in accordance with the terms of the contract.
20. The bailiff company must keep and properly maintain a separate client bank account for "Bedford Borough Council local taxation monies" and also a suspense account that records all unidentified payments. The bailiff company must allow reasonable access for the Council's auditors and supervising officer to the records of these accounts.
21. The bailiff company must make available to the council, on request, all correspondence relating to debtors, and any supporting documents and working papers.
22. The bailiff company must hold an agreed amount of professional indemnity insurance to cover the acts and omissions of its employees, contractors, and agents. The bailiff company will satisfy the Council that such insurance is up to date at all times.
23. Copies of the Bedford Borough Council's Bailiff Code of Practice (including bailiff guidelines) must be made available on the Council's website (www.bedford.gov.uk). A copy of the code must be given to each person who requests a copy, upon payment of the cost of printing the document. Bedford Borough Council must also send a copy to the local office of the Citizens Advice Bureau and other local advice agencies.
24. The bailiff company shall ensure that goods in its possession (or in the possession of its employees, contractors, and agents) are covered by

adequate insurance, are held securely and shall ensure that goods are handled in such a way that they do not suffer any damage.

25. Bedford Borough Council reserves the right to direct, instruct, take action or make arrangements in any case whether or not the liability order has been referred to the bailiff.
26. The bailiff company shall ensure that debtors are able to contact the company during reasonable office hours by telephone and should publicise the appropriate telephone number on all documentation. Additional facilities, by which the company may be contacted, such as e-mail or text, may be offered but should not replace a telephone service. The telephone service offered must be one that can be dialed on an ordinary telephone tariff (i.e. it must **not** be a premium rate number).
27. The bailiff and employees of the bailiff company shall liaise directly with advice agencies where the agency is representing a debtor.
28. If the Council or the bailiff company has cause to be concerned that a debtor, or their associates, in respect of whom a liability order has been referred to the company, may pose a risk to the health and safety of an employee of the Council or the bailiff company they shall ensure that the other party is informed promptly of the risk.

BAILIFF GUIDELINES

1. The following guidelines must be adhered to when enforcing the payment of debts.
2. Advance notice may be given to the debtor of the bailiff's intention to make an initial call, unless efficient use of the bailiff's time or other circumstances warrant a call without notice. Follow-up calls may be made with or without notice.
3. The bailiff will try to contact the debtor personally. If this is not possible, the bailiff will speak to the debtor's partner or other responsible adult to establish when the debtor is likely to be at home. The bailiff will not enter the debtor's premises if it appears that the only people present are young people under the age of 18, but in such circumstances the bailiff may enquire as to when the debtor is likely to be at home. The bailiff should take reasonable steps to ensure that he/she is speaking directly with the debtor, before identifying himself or herself as a bailiff. The bailiff should seek to establish the identity of all persons present, and inform the debtor (when present) of the purpose of the visit, and explain the powers of the bailiff. The absence of the debtor should not automatically prevent the bailiff from levying distress (particularly where the debtor is a business), but the bailiff will be expected to take all relevant circumstances into account before deciding whether to levy

distress. The bailiff must not reveal the purpose of his or her visit to third parties. Confidentiality must be maintained at all times and particular care should be taken on business premises to avoid, as far as possible, customers and clients of the debtor from discovering the purpose of the visit. Where enquiries are necessary to establish the debtor's current address, the bailiff shall make enquiries discreetly and without disclosing the reason for the visit or enquiry.

4. The bailiff will at all times carry full and proper photographic identification and produce such without being asked whenever attending the debtor's property, and will also show such identification to any person who has reason to require it. On no account should the bailiff represent himself or herself as being an officer of Bedford Borough Council or the court. The bailiff should identify himself or herself as an employee of the bailiff company and state that he or she is working on behalf of Bedford Borough Council. It is a legal requirement that bailiffs acting on behalf of a local authority are authorised to so act. The bailiff must carry the appropriate authorisation at all times and produce it on request.
5. The nature of the work demands that the bailiff should adopt a firm but correct attitude with debtors and other people they contact in the course of their duties. The bailiff is to be polite in his or her dealings with the public and must at all times act in a dignified and correct manner. The bailiff's approach to debtors should be firm and confident but never arrogant. The bailiff must never be rude, discourteous, or patronising. Should the debtor dispute the liability, the bailiff will contact the Council before proceeding further. Where required, the bailiff will provide the debtor with a telephone number that can be used to contact the Council during normal office hours.
6. The bailiff should promptly report any threats or other matters of concern to the police, to the bailiff company and to the Council's supervising officer.
8. The bailiff's initial visit will be with the intention of levying distress. If the debtor tenders payment in full including all costs incurred, the bailiff must not distrain but may still charge the debtor the relevant fee. When the bailiff has distrained, the debtor should normally be invited to sign a walking possession agreement. If the debtor refuses to sign, or refuses to make payment, or defaults on payment, the goods should (subject to contrary instructions from the Council) be removed at the earliest opportunity. The bailiff must not remove goods without first consulting the Council's supervising officer.
9. The debtor must immediately be given an acknowledgement of payment or an official receipt for all payments made in person. All payments must be handed in for banking no later than the following working day. Where payment is made by post or left at an office which is closed, an official receipt must be sent within 3 working days where a

prepaid self addressed envelope accompanies the payment. The bailiff company shall offer a convenient method of payment for example, via the Post Office, or other payment network, by telephone or by Internet.

10. The bailiff will be cautious in all cases and have regard to the circumstances of the case. The bailiff will take no further action and will refer back to the supervising officer any cases where it appears the debtor may be vulnerable. The Council shall inform the bailiff company of circumstances where the debtor may be considered to be vulnerable; these are listed below. Any other cases considered suitable by the bailiff for special consideration should be referred back to the Council's supervising officer. Where there is any doubt about whether this clause applies, the supervising officer should be consulted before any enforcement action is taken.

Guidance on Vulnerable Cases

Extreme care and discretion should be taken when dealing with persons falling into the following groups which may be considered to be vulnerable for the purposes of this code of practice. Where the following circumstances are encountered, the approach expected by Bedford Borough Council is outlined below:-

- **Elderly Persons**

An elderly person is not necessarily vulnerable and great 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 levy or remove goods should be made without first consulting the Council.

- **Disabled Persons**

A person with a disability is not necessarily vulnerable for the purposes of this Code of Practice. However, where the disability affects the persons ability to deal with their financial affairs they should be considered to be vulnerable.

Regardless of the severity of the disability, the bailiff should never remove or levy distress on 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 Council.

- **Persons with Mental Impairment or Learning Difficulties**

If it is evident that the debtor has mental impairment or learning difficulties they should be considered to be vulnerable and no action should be taken without consulting the Council.

- **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 bailiff has concern that further action may be seriously detrimental to the person's welfare.

- **A Person 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 bailiff 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 bailiff should seek guidance from the Council before proceeding even though some time may have passed.

- **Lone Parents**

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 bailiff should exercise discretion and consult the Council before taking action where there is reason to believe that a lone parent may be vulnerable.

- **Pregnancy**

A person 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 bailiff should take care to avoid causing stress as this could be detrimental to the person's wellbeing. Where the bailiff has concerns that further

action may be detrimental to the persons welfare they should seek further advice from the Council.

- **Persons receiving Income Support, Job Seeker's Allowance, Employment and Support Allowance or Pension Credit (or where a benefit application has been made but not yet determined)**

Those on Income Support, Job Seeker's Allowance, Employment and Support Allowance or Pension Credit are, by definition, vulnerable as they are living on a subsistence level benefit.

Generally the bailiff should withdraw automatically where the debtor provides evidence they are in receipt of Income Support or Job Seekers Allowance and advise the Council immediately, as alternative recovery remedies are available to the Council (e.g. attachment of benefits). In this event, the liability order should be returned to the Council. If it appears to the bailiff that the debtor may be claiming benefit fraudulently the bailiff should contact the Council to report their concerns before taking any action. If the debtor is awaiting the result of a benefit application, the bailiff should contact the Council before taking any action.

In some circumstances the Council may request the bailiff company to take enforcement action, for example where the amount that may be deducted from benefits is less than the accruing liability. In such cases the Council will provide explicit instructions to the bailiff company.

- **Unemployed Persons**

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 claim benefits and may need additional assistance to understand their entitlements.

If it is evident from the bailiff's observation of the debtor's circumstances that the debtor may be vulnerable, no action should be taken without consulting the Council.

- **A Person who has Difficulty 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 bailiff has reason to believe a person may have difficulty understanding English this should be reported to the Council who will provide advice on how to proceed.

- **Persons Aged Under 18**

It is unlikely that a person aged under 18 years will owe any sums to the Council, however, it is possible that a person may assist or care for a parent or other older person and could contact the Council on their behalf. A person aged under 18 years may be the only person at home when an enforcement visit is made. Anyone aged under 18 years should automatically be considered to be vulnerable.

- **A person that has difficulty reading or writing**

A person who has difficulty reading or writing should usually be regarded as vulnerable because they will have difficulty in understanding written notices. People who have difficulty reading or writing are often reluctant to reveal their difficulties and where there is concern that a person has such difficulties the issue should be addressed in a sensitive manner.

Where the bailiff has reason to believe a person may have difficulty reading or writing this should be reported to the Council who will provide advice on how to proceed.

- **Cases where the welfare of children would be put at risk**

If it appears to the bailiff that the welfare of young children may be put at risk by the bailiff's actions, or where the bailiff has reason to be concerned about the welfare or safety of a child, the concerns should be reported to the Council immediately who will provide advice on how to proceed.

- **People who have experienced recent marital break-up**

If it is evident to the bailiff that non-payment may be due to a recent marital break-up, the bailiff should consult with the Council.

- **Possible Job Losses**

In any case where there is evidence that job losses may result through the removal of goods, the bailiff must consult the Council before removing goods.

- **Other Unusual Circumstances**

If the bailiff finds unusual circumstances that are not covered by any of the above categories, the bailiff should take no action without consulting the Council.

11. Where the bailiff levies distress with a view to securing payment in the future or over an agreed period of time, the debtor should be invited to sign a walking possession agreement which details the arrangement made regarding payment. The bailiff may 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 Council's supervising officer, should an arrangement to pay be accepted which exceeds a period of twelve months.
12. The purpose of the bailiff's visit is to distrain. Where distress is not levied, and no immediate payment is obtained, the bailiff should try to establish whether the debtor is in employment, and if so, the name and address of the employer; and if unemployed, whether claims have been made for state benefits, Council Tax Benefit or Housing Benefit.
13. All documents proposed to be left with or posted to debtors must be agreed by the Council before use. All documents must be correctly completed in a legible manner. All documents must be signed and carry the appropriate reference numbers (including the Council's Account Number). Pre-printed stationery must not be altered or added to in any way except to advise of proposed subsequent visits, balances outstanding, etc. Any documentation that the bailiff leaves at the premises, and which has not been handed to the debtor, must be in a sealed envelope addressed to the debtor.
14. The bailiff may distrain on the debtor's goods wherever they are found in England and Wales, subject to the Council's instructions. The bailiff must not remove goods without first consulting the council.
15. The bailiff company should seek to avoid the necessity for forced entry to premises. In the event that such action is considered unavoidable the bailiff company shall ensure, it is conducted lawfully, any damage is kept to a minimum and that the premises are secured before departure. Forced entry must not take place without prior agreement by the Council. It is the bailiff's responsibility to establish who owns goods on which it is proposed to levy distress. The bailiff must not remove goods that do not belong to the debtor. Where ownership of goods cannot be conclusively established the bailiff should not remove goods where there is good cause to believe they do not belong to the debtor. In the event goods are removed that are subsequently proved to not belong to the debtor the bailiff company shall make arrangements to return the goods to the rightful owner at the company's expense. In the event such goods have been sold then the bailiff company should fully compensate the rightful owner for the loss of the goods. The bailiff must not remove goods that are specified in the relevant legislation. Furthermore, the following items must not be removed from domestic premises:

In the case of Council Tax debts only:

- Tools, books, vehicles, and other items of equipment that are necessary to the debtor for personal use in the course of trade, employment, profession, or vocation. (A tool of trade is anything essential to the defaulter to carry out his trade, employment, profession, vocation, etc.)

For all debts:

- Cooking appliances, where this would leave the debtor and his/her family with no means of preparing a hot meal.
- Heating appliances, where this would leave the premises without adequate heating.
- Refrigerators, where this would leave the debtor and his/her family with no means of keeping food cold.
- Food necessary to meet the basic needs of the debtor and his/her family.
- Bedding or household linen necessary for satisfying the basic domestic needs of the debtor and his/her family.
- Beds and chairs, where this would leave the premises without one bed and one chair for each occupant.
- Any other goods necessary for satisfying the basic domestic needs of the debtor and his family.
- Children's toys and other children's items, primarily for the use of any child who is a member of the debtor's household.
- Articles required for the care or upbringing of a child who is a member of the debtor's household.
- Medical aids or medical equipment reasonably required for use of the debtor or any member of the debtor's household.
- Goods the removal of which will have a serious detrimental effect on the health of the debtor or a member of the debtor's household.
- Books or any other articles reasonably required for the education or training of the debtor or any member of the debtor's household not exceeding in aggregate value £500.
- Articles required for safety reasons in the home.
- Items purchased through loans or grants advanced from the Social Fund.
- Vehicles or other means of transport where this would genuinely jeopardise the debtor's employment, but taking into account the availability of public transport.

Where there is any doubt regarding the removal of any of the above goods, the bailiff should contact the Council before any further enforcement action is taken.

16. The Council will provide the bailiff company with a schedule of cases where liability orders have been obtained and a letter of authority to act on the Council's behalf. In all cases where distraint takes place,

whether or not walking possession is obtained, the bailiff shall produce this authority to any person having good reason to require sight of it. In all cases, the appropriate documentation required by regulations is to be left at the premises or given to the debtor.

17. Goods may be removed by the bailiff in person or by contractors acting under the bailiff's direct supervision. All goods must be clearly labeled so they can be traced to the debtor. Due care must be exercised to avoid unnecessary damage and goods are to be stored safely pending either their collection by the debtor on payment, or sale. The bailiff company is responsible for ensuring that the debtor's goods are adequately insured whilst in possession of the bailiff or any agent or contractor engaged by the bailiff.
18. The bailiff or the person personally supervising the removal of goods must give the debtor where personally present, or leave in a prominent place at the premises an inventory listing each of the goods removed. In the event of goods being removed for auction, the bailiff company must advise the debtor in writing of the date, time, and place of the auction sale at least 48 hours prior to the auction sale. The bailiff should place a realistic reserve on high value goods before putting them into auction. High value goods means any single item with an estimated value of £500 or more (for Council Tax purposes) or £1,000 or more (for Non-Domestic Rates or BID Levy purposes).
19. Unless otherwise specified, a minimum of three unsuccessful visits to the debtor's address is required before the case is referred back to the Council. Two visits may only take place on the same day where the bailiff has reason to believe after the first visit that the debtor will be present at a later time. Otherwise, the subsequent visit must take place on a different date.
20. Where no contact has been made following a visit(s), at least one visit should be made to the debtor's address outside normal office hours (i.e. Monday to Friday 9am-5pm) before referring the debt back to the Council.
21. The bailiff must not respond to verbal abuse under any circumstances. The bailiff is expected to maintain a calm and professional manner at all times and not allow any personal feelings to interfere with his or her conduct or judgement.
22. Physical confrontation should be avoided. If the bailiff suspects that a breach of the peace is likely, he or she should always contact the police.
23. The bailiff must never consume alcohol or drugs (other than prescription or routine medication) whilst working and must never be under the influence of alcohol or drugs whilst working.

24. In appropriate circumstances, the bailiff should issue 'nulla bona' certificates to the Council within 12 weeks of commencing action.
25. Unless circumstances are exceptional, the bailiff must not visit to enforce a liability order (i) outside the hours between 8.00am and 8.00pm or (ii) on Sundays or on bank holidays. Approval should be sought from the Council's supervising officer to make visits outside these times.
26. Unless circumstances are exceptional, the bailiff must not remove goods from domestic premises during the period from 18th December to 1st January inclusive. The bailiff should also be sensitive to other circumstances where there is information that indicates that the debtor is observing a religious holiday.

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