

ENVIRONMENT AND HIGHWAYS CABINET BOARD

REPORT OF THE HEAD OF ENGINEERING AND TRANSPORT – D.W. GRIFFITHS

18TH DECEMBER 2014

SECTION B– MATTER FOR INFORMATION

WARD(S) AFFECTED: ALL

TRANSFORMING BAILIFF SERVICES

Purpose of Report

To inform Members of the recent changes in legislation for the collection of unpaid debts by enforcement agencies.

Background

At present, the law and cost structure relating to enforcement by the seizure and sale of goods is complex, unclear and confusing. It is contained in a mixture of numerous statutes, secondary legislation and common law. This can, in some instances, result in enforcement agents misrepresenting their legal authority to the detriment of debtors. The current costs structures lack clarity, some aspects are difficult to interpret and do not provide adequate remuneration for all aspects of enforcement work. These factors combine to make the current charging process open to abuse and as a result there have long been calls to clarify the law, to introduce a transparent fee structure and to regulate the industry.

Taking Control of Goods Regulations 2013 – Came into effect 6th April 2014

This is a single piece of legislation introducing a comprehensive code which will apply to all debt streams and clearly sets out rights and responsibilities of interested parties and what would constitute a breach of these rules. The scheme includes protections for vulnerable debtors, by introducing provisions which will allow them time to seek further advice, and protections for creditors by ensuring that they are still able to enforce the collection of debt effectively.

The new measures will:-

Stop bailiffs entering homes when only children are present.

Restrict the hours that bailiffs are allowed to visit debtors - they will only be allowed to enter between 6am and 9pm.

Ban landlords from using bailiffs to seize property for residential rent arrears without going to court.

Prevent bailiffs from taking household items, such as a cooker, microwave, refrigerator or washing machine, because they are deemed to be reasonably required to satisfy the basic domestic needs of the debtor.

Ensure a notice period of seven days is given to the debtor before bailiffs take control of the debtor's goods.

Ban bailiffs from selling goods removed from a debtor, unless seven days have passed from the date the goods were removed.

Only enable bailiffs to use reasonable force to gain entry to a building where they prove to the court that there are, or likely to be goods of the debtor on the premises. Before a warrant is granted, bailiffs must give the court information on the likely means of entry, the amount of force required and how the premises will be left in a secure state afterwards. Please note, bailiffs can enter a property without a warrant when peaceful entry can be gained.

These changes aim to protect people in debt from rogue bailiffs and ensure creditors have a better understanding and more confidence in the process being carried out on their behalf.

Financial Implications

The new fee structure will be in 3 stages –

- Stage 1 – Administration Stage
- Stage 2 – Enforcement Stage
- Stage 3 – Sale stage

Each stage has a Fixed Fee:-

Fee Stage	Fee Feature	Fixed Fee	Percentage Fees	
			£0 - £1,500	> £1,500
Administration/Compliance	Writ received by Enforcement Agency	£75.00	0%	0%
Enforcement	First attendance by High Court Enforcement Officer/Agent to debtors premises.	£235.00	0%	7.5%
Sale	Goods taken to place of sale	£110.00	0%	7.5%

It should be noted:-

The new and amended legislation aims to provide a clear and transparent process for debt collection via the bailiffs. Customers will be able to understand the fee structure and will be aware of the financial implications should their debt be collected by the Bailiffs.

Once further information is received in relation to the practical and operational ways Bailiffs will enforce recovery this will be used to update the Council's Contract and Code of Practice with Bailiffs for the recovery of parking debts.

List of Background Papers

The Taking Control of Goods Regulations 2013 SI 1894
The Taking Control of Goods (Fees) Regulations 2014 SI 1

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