

Handy Guide to Taking Control of Goods: National Standards

Creditors Responsibilities

Creditors:

- must notify the enforcement agency of all payments received and other contacts with the debtor
- must consider the appropriateness of referring debtors in potentially vulnerable situations to enforcement agents and must alert the agents to this situation, with clear protocols governing the approach that should be taken
- should be prepared to take control of the case should a debtor be identified as vulnerable
- must not issue a warrant knowing the debtor is not at the address as a means of tracing the debtor at no cost

Professionalism and conduct of the enforcement agent

Enforcement agents:

- must act within the law at all times
- must not misrepresent their powers, qualifications, capacities, experience or abilities
- must not falsely imply or state that action can or will be taken when legally it cannot or that action has been taken when it has not
- must not act in a threatening manner when visiting the debtor
- should always produce relevant identification
- can only gain access to the goods without the use of unlawful force
- must produce all relevant notices and documents such as Controlled Goods Agreements along with any other documents that are required by regulations or statute
- must carry out their duties in a professional, calm and dignified manner and act with discretion and fairness
- must not act in a way likely to be publicly embarrassing to the debtor
- must not discriminate unfairly on any grounds
- must not press debtors to make unrealistic offers and where possible refer to free debt advice
- should alert the creditor if they identify vulnerable debtors

- must not seek to enforce the recovery of fees where an enforcement power has ceased to be exercisable

Complaints/Discipline

- The complaints procedure should be set out in plain English, have a main point of contact, set time limits for dealing with complaints and an independent appeal process where appropriate. A register should be maintained to record all complaints
- They must make available details of the comments and complaints procedure on request or when circumstances indicate it would be appropriate to do so

Information and Confidentiality

Enforcement agents:

- should ensure all notices and correspondence are clear, unambiguous and to the satisfaction of the creditor avoiding unnecessary and unhelpful use of legal language
- must treat all information obtained during enforcement of the warrant as confidential
- must produce clear and prompt information to debtors
- should so far as is practical avoid disclosing the purpose of their visit to anyone other than the debtor
- should make debtors aware of the possible additional costs of enforcement. If a written request is made, an itemized account should be provided
- should clearly explain and give in writing the consequences of taking control of a debtors goods

Times and hours

Enforcement:

- is recommended to only be carried out between the hours of 6am and 9pm or at any time during trading hours
- should be respectful of the religion and culture of others at all times and carefully consider the appropriateness of undertaking enforcement on any day of religious or cultural observance

Mode of entry

Enforcement agents:

should not seek to gain peaceable entry to premises under false pretences

must only use a door or usual means of entry to enter premises

the power to enter premises by force (for the relevant debts) should only be used to the extent that it is reasonably required and only after the debtor has been warned that the power exists and the consequences of a willful refusal to co-operate. This also applies to the power to re-enter by force when a controlled goods agreement is in place but the debtor has failed to comply with the repayment terms

Goods

Enforcement agents:

- must only take goods in accordance with the appropriate regulations or statute
- must ensure goods are handled with reasonable care and should have insurance in place for goods in transit
- should not remove anything clearly identifiable as an item belonging to or for the exclusive use of a child or that is clearly belonging to a third party
- a detailed and complete receipt for the goods removed should be given to the debtor or left at the premises
- should take reasonable steps to satisfy themselves that the value of the goods is proportional to the value of the debt and charges owed
- should be aware of circumstances where a “no goods” valuation may be appropriate – either no goods of sufficient value, or removal would lead to severe hardship for the debtor. They should make the creditor aware of this situation

Vulnerable situations (P9)

Enforcement agents:

- must recognise that they have a role in protecting the vulnerable and that the recovery procedure includes procedures agreed with the creditor about how such situations should be dealt with
- have a duty to contact the creditor and report the circumstances in situations where there is evidence of a potential cause for concern
- must withdraw from the premises if the only person present appears to be under 16. If they are under 12 then no enquiries should be made. Above that age they can ask when the debtor will be home, if appropriate

- should have, where possible, arrangements in place for rapidly accessing translation services and provide on request information in large print or Braille
- a debtor may be considered vulnerable if, for reasons of age, health or disability they are unable to safeguard their personal welfare or that of other members of the household. Those who might be potentially vulnerable include:
 - o The elderly
 - o People with a disability
 - o The seriously ill
 - o The recently bereaved
 - o Single parent families
 - o Pregnant women
 - o Unemployed people
 - o Those who have obvious difficulty understanding, speaking or reading English