

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
London Borough of Merton
(reference number: 18 010 732)**

2 July 2020

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Ms J The complainant

Report summary

Enforcement Agents

Ms J complains about the actions of 'Merton Enforcement Agents', an enforcement service operated by the Council that acts for it and the London Borough of Sutton Council. The agents collected three debts from Ms J on behalf of the two Boroughs. Ms J complains:

- she could not contact an enforcement agent employed by the Council;
- the Council did not help when she asked for time to pay her debts;
- the agent discussed her debt improperly with her brother and unreasonably put pressure on him to pay her debt;
- the agent twice wrongly seized Ms J's car which she says was essential to her employment as a 'tool of the trade'; and
- failed to issue her the correct notices when it seized her car.

Finding

Fault found causing injustice.

Recommendations

To remedy the injustice caused, the Council has agreed to:

- apologise to Ms J accepting the findings of this investigation;
- provide a financial remedy to Ms J worth £1,050 to reflect her distress, time and trouble; this includes £550 to reflect the value of her car when sold at auction;
- provide a clear breakdown of a sum still owing for one of her debts and allow Ms J to put forward a payment plan to clear the debt;
- provide updates on the implementation of a service improvement plan; this will include details of its policy explaining how it will treat requests to its enforcement service from debtors requesting 'time to pay' at whatever stage they are made; also, its process and new policy for the use of body worn cameras; and
- provide an update on proposals to introduce a new policy for collection of multiple debts.

The complaint

1. We have called the complainant 'Ms J'. She complains about the actions of 'Merton Enforcement Agents', an enforcement service operated by the Council that acts for it and the London Borough of Sutton Council. The agents collected three debts from Ms J on behalf of the two Boroughs. Ms J complains:
 - she could not contact an enforcement agent employed by the Council;
 - the Council did not help when she asked for time to pay her debts;
 - the agent discussed her debt improperly with her brother and unreasonably put pressure on him to pay her debt; she understands the agent also blocked in her car on the driveway of her home, which drew attention to their actions;
 - the agent twice wrongly seized Ms J's car which she says was essential to her employment; the agent should not have seized it as it was a 'tool of the trade'; and
 - failed to issue her the correct notices when it seized her car a second time; it did not tell her its estimated value of her car or the date, time and place of the proposed sale.
2. Ms J says because of the Council's actions she suffered avoidable distress, including the loss of her car. Ms J was self-employed and relied on her car to visit clients. Following its seizure, she could not work for four months. Ms J says the resultant loss of income caused hardship to her and her dependent son as they incurred other debts and she struggled to meet costs such as school meals. Ms J says these circumstances caused her to feel suicidal at times.

The Ombudsman's role and powers

3. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
4. The law says we cannot normally investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be unreasonable to expect the person to go to court. (*Local Government Act 1974, section 26(6)(c), as amended*)

How we considered this complaint

5. Before issuing this report we considered:
 - Ms J's written complaint to us and further information she provided with later emails;
 - information provided by the Council in reply to written enquiries; and
 - relevant law and guidance as referred to in the text below.
6. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

Relevant legal and policy considerations

7. Certified enforcement agents (or bailiffs) are appointed under Part 3 of the Tribunal, Courts and Enforcement Act 2007. In certain circumstances they can take control of goods and sell them to settle a debt. Local authorities can employ their own enforcement agents, as in this case, or contract with outside companies. The powers used by enforcement agents are common to both and subject to regulation.

The Taking Control of Goods Regulations 2013

8. The Taking Control of Goods Regulation 4 places some limits on what goods an agent can potentially seize. It says: *“the following goods of the debtor are exempt goods— (a) Items or equipment (for example, tools, books, telephones, computer equipment and vehicles) which are necessary for use personally by the debtor in the debtor’s employment, business, trade, profession, study or education, except that in any case the aggregate value of the items or equipment to which this exemption is applied shall not exceed £1,350”*.
9. Regulation 7 requires the Council to send the debtor notice in writing when it begins enforcement. The notice requires the Council to include details of the debt and contact arrangements for both the agent and their office. It also requires the agent give notice of any costs added to the debt.
10. Regulation 16 sets out ways in which an agent can secure goods they have taken control of. Regulation 18 provides additional information on actions an agent must take when seizing a vehicle by clamping it. When doing so, the agent must allow at least two hours before removing the vehicle for storage.
11. Regulation 30 requires an agent to provide a notice when they have taken control of goods. The notice must give details including of the debt owed and describing what goods are in the agent’s control. It should also include details of *“the date and time by which any sum outstanding must be paid to prevent controlled goods being sold”*.
12. Regulation 32 requires an additional notice where goods are removed for sale. The Regulation says the notice must include the daily or weekly storage charge payable.
13. Regulation 35 requires an agent to make a written valuation of controlled goods. They must provide that to the debtor.
14. Regulation 38 requires the agent to give the debtor seven days’ notice of the time and place where goods will be sold.

The Taking Control of Goods (Fees) Regulations 2014

15. Enforcement agents can charge fees for taking recovery action. There are up to three stages involved in enforcement. First there is the compliance stage. This covers all activities up to the point an agent makes a first visit to the debtor’s home or premises. Second, there is the enforcement stage. This covers all activity undertaken by an agent between visiting the debtor’s home or premises up to, but not including, attending to remove goods or selling them on the premises. The third and final stage is the sale or disposal stage. This covers all activities from the first visit for the purpose of transporting goods for sale onwards. Costs for each of the three enforcement stages are £75, £235 and £110 respectively. Agents can also add charges for storage and for costs associated with the sale of goods.

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16. Regulation 11 refers to circumstances where a debtor has multiple debts being collected by the same agent. It says the agent can exercise enforcement powers on more than one debt at the same time. This means an agent can take control of goods in relation to all such enforcement powers on the same occasion and sell or dispose of goods taken on the same occasion. The agent may charge a compliance fee on each debt. But the enforcement fee *“may be recovered only once”*. The Regulation also says the agent *“must, as far as practicable minimise the disbursements recoverable from the debtor [...] by dealing with the goods taken into control pursuant to the instructions together and on as few occasions as possible”*.
 17. Regulation 14 of the Fees Regulations also requires an enforcement agent to provide the debtor with a statement following sale of goods. This should explain how they have distributed proceeds of sale against the debt. It should include details of the application of funds and any disbursements.

National Standards for Enforcement Agents

18. Enforcement Agents must also follow national standards set out in the Taking Control of Goods National Standards. These say that where agents have multiple warrants for a single debtor they *“must take control of goods and sell or dispose of these goods on the same occasion except where not practical to do so”*.
19. The national standards also say that enforcement agents should *“so far as it is practical”* avoid disclosing the purpose of their visit to anyone but the debtor or their appointed representative. Also, they *“must not act in a way likely to be publicly embarrassing to the debtor, either deliberately or negligently”*.
20. National standards also say that agents should provide *“clear and prompt information to debtors”* when asked to.

Other considerations

21. The County Court can resolve certain disputes about an enforcement agent’s actions. This includes circumstances where an agent removes goods the debtor considers exempt (for example ‘tools of the trade’). The Civil Procedure Rules set out a procedure a debtor can follow. It requires them to put their case to the agent, which can then either accept or reject the debtor’s argument. If the agent rejects the debtor’s argument then the debtor can ask the Court to rule on the matter.
22. The Government publishes guidance on ‘Good practice in the collection of council tax arrears’ (DCLG publication 2013). This says that *“it is important councils are sympathetic to those in genuine hardship”*. It says they *“should be willing at any point in the process [to] work with bill payers to agree affordable and sustainable payment plans”*.
23. Enforcement agents are not required to wear body cameras. But the Council’s website says its agents *“wear uniform which has a Merton Logo, carry their council ID, certificate, and letter of authority to act, and use a body worn camera”*. It says, *“video footage is stored for 14 days prior to deletion, however in some instances where the information is required for evidential purposes it may be stored beyond this time”*.
24. The Protection of Freedoms Act 2012 makes it an offence to immobilise (wheel clamp) a vehicle without lawful authority or *“restrict the movement of a vehicle by any means”*. Where an enforcement agent immobilises a vehicle, their lawful

authority comes from the Tribunal, Courts and Enforcement Act 2007 and associated Regulations referred to above.

Key facts

25. In January 2018 the Council asked its enforcement service to collect a debt owed by Ms J for an unpaid penalty charge notice for a road traffic offence. We will call this debt number 1. The service wrote to Ms J and applied a compliance fee of £75.
26. The Council did not receive a response. So, an enforcement agent visited Ms J's house on 23 February 2018. She was not at home. He left a document headed "*important notice*". This set out the details of Ms J's debt and added the enforcement fee of £235. The notice left a space for the agent to complete details of their name and contact number but these were left blank. The reverse of the notice contained two telephone numbers for making payment of the debt as well as details of how to pay online.
27. On 12 March 2018 the Council received an instruction to collect a council tax debt of £927 Ms J owed to the London Borough of Sutton. We will call this debt number 2. It says it wrote to Ms J and added £75 compliance fee to the debt. It has not provided us with a copy of that letter.
28. The Council's notes say the agent visited Ms J's home again on 22 March, 20 April and 13 June 2018. The Council says Ms J was not at home on any of these occasions but that its agent left notices or letters at her home on each visit. Ms J has no record of these. The Council cannot provide copies. It says the notices or letters are hand-written at the time of visit.
29. On 20 April 2018, following one of the visits to Ms J's home referenced above the Council added the £235 enforcement fee to debt number 2. It has not provided us with a copy of any notice given to Ms J explaining it had added this fee to her debt.
30. On 29 June 2018, the enforcement agent went to Ms J's home. She was not at home but her car was on the driveway. The agent clamped the car.
31. Ms J's brother was at home. Ms J reports him saying the agent first parked across the driveway of the property, effectively 'blocking in' Ms J's car. The agent says they cannot recall where they parked. The agent spoke to Ms J's brother telling him the purpose of his visit. Ms J says the agent put pressure on her brother to pay her debt. The Council says this was not the case and Ms J's brother offered to pay the debt. The agent's notes say he told Ms J's brother "*£513 needs to be paid*". However, Ms J's brother could not find the money. So, after waiting three hours, the agent removed Ms J's car. He took the car to an auctioneer.
32. The Council says its agent had a body worn camera. But he did not have his camera with him on 29 June 2018. The Council says at the time its procedural advice to agents was only to switch on their cameras if they were in a "*confrontational situation*".
33. After seizing Ms J's car the agent left a notice headed "*notice after entry or taking control of goods*". This said Ms J owed £1,750. This figure combined the amounts owed (including fees) for debts number 1 and 2. It included a £110 sale fee. The notice left with Ms J did not contain details of any storage charges for the car.
34. This notice included the agent's contact details. Ms J said she tried to contact the agent repeatedly on his mobile phone. We do not have details of how many times

she called. But the Council does not dispute the following transcript of the agent's voicemail message which Ms J provided to us:

- *"Hello, you are through to Mr [...] /Merton Enforcement voice message. At present, I am unable to take your call. Please note that my busy work schedule may not allow me to answer any voicemail or text messages that you leave although I will attempt to do so. Should you consider your situation in need of urgent attention please continue to try and make contact with me, as I will continue to take enforcement action even if you have left a message for me."*

35. Ms J said she also tried calling the Council enforcement service office but was told she needed to speak to the agent.
36. Ms J complained to the Council on 2 July 2018. She said the agent should not have taken her car as it was a 'tool of the trade'. Ms J explained that her job involved travelling throughout the UK meeting clients in their homes to undertake assessments. She gave an example of a forthcoming appointment she had some 95 miles from her home address. She said *"I am unable to earn a living without my car"*. Ms J also explained her job was a source of income for her and her child, who would suffer by consequence if she could not retain employment.
37. Ms J also explained she owed another council tax debt to the London Borough of Sutton and was in a payment arrangement with a separate enforcement agent instructed by that authority to collect that debt. Ms J said she wanted to clear her other debts once she had finished paying that agent.
38. The Council says it was too late for Ms J to make a payment arrangement although she could have done so earlier had she responded to the notices sent to her from January 2018. On 2 July 2018 the Council confirmed to Ms J by email that she owed £623 including costs associated with debt number 1. The same email advised Ms J the Council was also collecting debt number 2 and she owed £1,237 (including costs) for that. It also advised her of the storage costs for the car (£20 a day plus VAT). It said it had removed her car in its recovery of debt number 1 only. The email said Ms J's car was not exempt from removal. It provided no reasons for this statement. In a reply to this email sent the same day Ms J again asked the Council to let her make a payment arrangement to clear her debts.
39. In general comments on the complaint, the Council has confirmed that it has no written policy for responding to requests for 'time to pay' debts or where debtors have multiple debts. It also says it would not combine recovery action to minimise enforcement fees where the debtor has not made a payment arrangement with it.
40. On 5 July 2018 Ms J made a complaint about the agent's actions. This included a complaint about discussing debt number 1 with her brother. Ms J also said notices pushed through the door had not been in envelopes and so also compromised her privacy. She asked the Council to explain why it did not consider her car a tool of the trade.
41. Ms J also appealed the original penalty charge notice giving rise to debt number 1. On 9 July 2018 the Council recorded it would keep the case on hold to await the appeal but a note dated 20 July said the auctioneer was *"authorised to sell on 30 July 2018"*. The Council recognises this was an error. Ms J's appeal was not decided until 23 July 2018, when it failed. The Council separately recorded taking the hold off recovery of the debt on 25 July. We have not seen any record of the Council communicating to Ms J when it took recovery of debt number 1 off hold.

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42. On 27 July 2018 Ms J raised the funds to release her car from the auctioneer's including the storage costs. This involved her paying off debt number 1, but debt number 2 remained unpaid.
43. On 30 July 2018, Ms J volunteered to make a payment arrangement of £100 a month. The Council accepted this offer and sent Ms J a schedule of payments, with the first payment being due on 14 August 2018. It explained the arrangement applied to debt number 2 only. Ms J failed to make any payments in accord with this arrangement.
44. In between, on 16 July 2018, the Council had obtained a warrant for another penalty charge notice Ms J incurred in February 2018. We will call this debt number 3. They sent a letter to Ms J advising this and added the £75 compliance fee to the debt.
45. The agent returned to Ms J's home on 21 September 2018 and seized her car in respect of debt number 3. They again took it to an auctioneer. They left a "*notice that goods have been removed for storage or sale*" with Ms J. The notice gave details of the auction house where they took the car. It also added £110 describing this as an expense for a 'tow truck'. It said the total charge owing was £623 and included details of ongoing storage charges at £20 per day (plus VAT).
46. Council records show Ms J made a complaint about the agent's actions on 21 September 2018. Her complaint covered most of the matters summarised in paragraph 1, although Ms J did not raise at that time the allegation the agent had 'blocked in' her car on the driveway of her home in June 2018.
47. The auctioneer sold Ms J's car on 8 October 2018. The sale raised £550. The Council wrote to Ms J with these details on 12 November 2018. It also said that she still had a debt of £858. The Council provided no breakdown of this amount. Before this, Ms J received no notice advising her of the date of the proposed sale of her car. She also received no estimate of the car's value. Separately the Council has said that Ms J still owes £535 in respect of debt number 2. Ms J says the London Borough of Sutton adjusted the debt while the Council was seeking recovery, which explains why this reduced.
48. On 9 October 2018 the Council replied to Ms J's complaint. Among other matters it said:
- it did not consider the agent's voicemail unhelpful; saying it could not take a view on this;
 - the agent "*had to pass on*" details of Ms J's debt to her brother as he was the only person at home on 29 June 2018;
 - it accepted the loss of Ms J's car would have "*adverse effects*" for her and for her child, but she could do her job using public transport instead;
 - the notice left by the agent on 29 June "*would have advised*" of the storage costs; and
 - the Council would not consider entering a payment plan with a debtor once it seized a vehicle for sale. It said had Ms J contacted it earlier it may have considered a payment arrangement.
49. The letter concluded saying the Council considered "*correct procedures have been followed*".
50. In January 2019 Ms J made a separate complaint about the seizure and sale of her car in September 2018. Ms J said the Council had failed to give her notice of

time and place of the sale of her car. It had also failed to send her notice of the valuation of her car. Ms J pointed out these were requirements of the Taking Control of Goods Regulations.

51. In its reply the Council said it had sent Ms J a notice of when the sale of her car would take place. It did not answer the point that it did not provide her with a valuation but subsequently commented in reply to our enquiries that; *“legislation does not prescribe the valuation to be provided to the charge payer”*. However, the Council has since reconsidered this point and now accepts this was wrong. It agrees that it should have provided valuations to Ms J in this case.

Findings

52. This complaint reveals a catalogue of failings by the Council which showed insufficient regard for the Regulations which govern how its enforcement agents should collect debts as well as good practice. We set these out in the sub-paragraphs below.
- The ‘important notice’ the agent posted through Ms J’s door in February 2018 in respect of debt 1 was not required by Regulation. But it was left incomplete. The agent failed to leave any contact number. That was fault.
 - We note the difficulties Ms J encountered in contacting the enforcement agent. We cannot say how often Ms J tried to contact the enforcement agent or if she contacted the Council’s service direct and could not speak to anyone about her case. We do not have any evidence to show Ms J made the calls stated and the Council has no notes to confirm this. But the Council does not dispute the agent had a voicemail message in the terms Ms J described. That was unacceptable. Their voicemail suggested they were frequently uncontactable and would not routinely return calls. This would be a breach of the National Standards. These expect agents to give information ‘promptly’ to debtors when required. We consider that must include calling someone back if unavailable or providing an alternative contact number. Not doing so here was fault.
 - The Council cannot demonstrate that it served proper notice on Ms J of debt number 2 which the London Borough of Sutton asked it to collect on its behalf. It has not shown that it served a valid notice either at the compliance stage or when it added enforcement fees. Ms J says she received no such paperwork and the Council has not provided copies of the same. It is fault if the Council cannot provide an audit trail showing it has served the correct notices.
 - We note that by the time the agent attended in June 2018 to clamp and then remove Ms J’s car they were collecting two debts (numbers 1 and 2 referred to above). Regulation 11 of the Fees Regulations places an expectation on the Council to limit costs to debtors when agents collect multiple debts wherever practicable. The point is also explained in the national standards. It was clearly practicable here for the Council to charge only one enforcement fee as after 12 March 2018 it collected both debts 1 and 2 simultaneously. The same agent carried out the same visits at the same time. Yet the Council chose to add another enforcement fee when it began collecting debt number 2. We consider that practice wrong and it justifies another finding of fault.
 - When the agent visited Ms J’s home on 29 June 2018 Ms J’s brother would understandably want to know the reason for his interference with his sister’s car. We consider the agent could reasonably explain that he was collecting a debt. However, we do not consider the agent should have given Ms J’s brother details of the debt. Their notes show they did this. They should also have put

their notices in envelopes. Their actions did not respect Ms J's privacy and so did not comply with the national standards. That was fault.

- We note the confusing notice left with Ms J after the agent seized her car. It combined debts numbered 1 and 2. But later the Council said the seizure was in respect of debt number 1 only. We also note the Council provided contradictory amounts of how much Ms J owed in the notice left on 29 June and in the information it gave her on 2 July. That was fault.
- The notice left with Ms J after the agent seized her car also failed to identify the storage costs associated with seizure. Ms J learnt of these in her contact with the Council over the following days but they should have been on the notice. That was a breach of the Regulations and fault.
- After the Council seized Ms J's vehicle, she contested it had no right to do so arguing it was exempt from seizure as 'a tool of the trade'. We consider Ms J made a strong case her car was essential to her job. We accept the Council may have reasonably wanted more details about Ms J's use of the car. But the evidence shows it was immediately dismissive and provided no reasons for not considering it a tool of the trade. That was fault.
- We also note the law provides for a hearing in Court for a ruling on the question of whether an agent has seized exempt goods. The Council would know this. But there is no suggestion Ms J knew of the procedure. So, when Ms J challenged the Council on the removal of her car it should have signposted her to that procedure. Its failure to do so was fault. It also justifies us taking a view on these matters as it would be unreasonable for us to expect Ms J to have used the 'alternative remedy' of proceedings in the county court to challenge the agent's seizure of her car.
- We have not seen any evidence the Council undertook a valuation of Ms J's car in June 2018 or sent a copy of that to her as required by the Taking Control of Goods Regulations. That was fault.
- By early July 2018 the Council knew Ms J had multiple debts. Not only the three debts it was collecting but a fourth debt that Ms J made it aware of. We accept that Ms J could have done more up to that point to engage with the Council, even if frustrated in contacting the agent. But we consider that at whatever stage a debtor contacts a Council good practice is to consider seriously any offers to repay a debt even if this will take time. Government guidance reinforces this approach. The Council does not have to take any 'time to pay' offer at face value. It can reasonably ask for more information about a debtor's circumstances such as their income and expenses. It can reasonably have a policy which seeks to balance the needs of the creditor with the debtor. But the Council had no such policy in this case. That was fault.
- We note the Council did ultimately accept a 'time to pay' proposal made by Ms J on 30 July 2018, having previously said it would not. We do not find fault in the Council failing to check the affordability of that arrangement as Ms J made the proposal. Although the Council could have chosen to do so, given its knowledge Ms J had multiple debts, including debt 3 which it was also collecting. We do not see any reason why the Council should have excluded debt 3 from the arrangement and the Council further compounded Ms J's debt problems by adding another enforcement fee in respect of debt 3. We have explained above why we consider the Council was at fault for combining the enforcement fees on debt numbers 1 and 2. Once Ms J had cleared debt 1 a

similar consideration applies for the Council's simultaneous collection of debts 2 and 3. The Council could have combined the enforcement fees for these debts also; leaving her to pay two enforcement fees overall. Failing to combine in this way was again fault.

- The Council was also at fault for taking a hold off recovery of debt 1 on 20 July 2018 before Ms J's appeal against her PCN had been heard. It was also fault for the Council not to have kept a record of telling Ms J it had taken the account off hold.
 - After Ms J recovered her vehicle it was taken a second time this time in respect of debt number 3. The Council again failed to give Ms J its valuation of her car. That was again fault.
 - The Council failed to give Ms J notice of when the vehicle would be sold. This is a requirement. Failure to serve such a notice was fault.
 - It is evident from the Council's records Ms J complained about the seizure of her car before it was sold. The reply she received to that complaint was inadequate. It did not pick up on the various failures to follow regulations or national standards we have highlighted above. It did not provide an evidence based assessment for why Ms J could use public transport to do her job. The reply suggested a failure to look objectively at Ms J's complaint. That was fault.
 - After sale of the car, the Council failed to give Ms J adequate explanation of the costs it recovered and how it apportioned those. The letter it sent to Ms J on 12 November 2018 is insufficient in understanding how a debt of £623 at the point of the notice for sale increased to £1408 (as there is still £858 outstanding). The failure to provide Ms J with a proper breakdown of costs was another breach of the Regulations and merits another finding of fault.
 - When Ms J pursued her complaint about the second seizure of her car the Council again offered an inadequate reply. It is particularly worrying that even when pointed by Ms J to Regulations it clearly did not follow, the Council failed to recognise this. We recognise that it has since accepted it did not provide a valuation of Ms J's car as required. But that was still fault.
53. This case also shows how, as a matter of good practice, agents should use body cameras given to them which can later provide irrefutable evidence about their conduct. It is unfortunate in this case the agent had a camera but did not use it. We cannot say therefore whether they put any pressure on Ms J's brother to pay her debt. But we accept at the time these events took place the agent was under no requirement to have their camera switched on as there was no local or national guidance requiring this. We stop short therefore of saying this was fault.
54. We also make no finding of fault in response to the complaint the agent parked across Ms J's driveway as stated by her brother. There is not enough evidence to make this finding as the account of Ms J's brother and the Council's agent do not agree. However, we note it would be fault if the agent acted as described. We consider it would be unlawful under the Protection of Freedom Act 2012. As an agent's lawful authority to seize a vehicle does not include this method of restricting its movement.
55. It is noted that without a satisfactory explanation for why Ms J still owes the amounts quoted on debt number 3 we cannot say if there is any further fault in that calculation.

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56. We have gone on to consider the consequences of these faults to Ms J. We consider she has been caused injustice by the Council's actions as follows.
- It added at least one enforcement fee of £235 to her debts that it did not need to do (once debt 1 was settled it could have added a second fee in collection of debts 2 or 3 which remained outstanding).
 - It denied Ms J the right to argue that removal of her car was unlawful as an exempt 'tool of the trade' by failing to signpost her to the Court procedure to argue such cases. We consider on balance it is likely that Ms J's car was a 'tool of the trade' and worth less than £1350. So it would not have been seized had Ms J been signposted to appeal.
 - It caused Ms J unnecessary distress through its agent's message discouraging contact and their conduct in discussing the detail of her debt with her brother.
 - It has put Ms J to considerable unnecessary time and trouble through its poor quality notices, confusing notices and failure to serve notice where applicable. Its poor record keeping will have contributed to that.
57. We set out below what we consider will be a fair and proportionate remedy for this injustice. In doing so we have taken account that in all cases where enforcement agents become involved in collection of debt there is an inherent distress caused to the debtor. Also that with prompter action Ms J may have been able to limit some of the distress caused in this case by raising her circumstances sooner with the Council, which may have led it to look upon a time to pay arrangement more sympathetically.
58. In considering the remedy to this complaint, we have also taken account that since we issued a draft of this report the Council has acknowledged many of the criticisms made above. We welcome this and that it has drawn up a service improvement plan and shared a copy of that with us. This says it will introduce, or is in the process of introducing:
- a policy for considering payment arrangements at all stages of the enforcement process;
 - a more comprehensive procedure to cover the removal and sale of vehicles, including having an adequate audit trail to show it has served all proper notices;
 - improved technological support for its agents, such as mobile printers and scanning tools to show it has served proper notices;
 - refresher training for its enforcement agents and complaints staff to ensure greater awareness of where debtors can use Court procedures to challenge seizures of goods said to be exempt (for example, where they are considered a tool of the trade or said to belong to a third party);
 - a new policy for the use of body worn cameras; and
 - improved quality checks of enforcement agents' actions, especially cases where they have clamped or seized vehicles.
59. The Council also says that it will implement a 'more formal policy' on how it will collect multiple debts in future; including those owed to different creditors.

Agreed action

60. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
61. In addition to the requirement above, to remedy the injustice identified in paragraph 56, the Council has agreed that within three months of a final report on this case it will:
 - provide an apology to Ms J accepting the findings of this investigation;
 - provide a financial remedy to Ms J worth £1,050. This is comprised of an amount of £500 to reflect Ms J's distress, time and trouble. A further £550 reflects the value of her car when sold at auction. The Council has said it will write off all sums owing on debt 3, which total £574. So, this will leave it with a balance to pay Ms J of £476. The Council has indicated it will offset this against a further outstanding debt owed to it by Ms J, which has not been the subject of this investigation. We agree to this approach subject to the Council providing Ms J with a clear record showing how it has offset the debt;
 - provide a clear breakdown of the sum still owing on debt 2 and allow Ms J to put forward a payment plan to clear the debt. The Council can reasonably take instructions from London Borough of Sutton and ask for evidence in support of any proposals Ms J makes. This would include asking her to detail her income and expenses or other debts she may have;
 - provide a further update on its implementation of its service improvement plan. This should include details of its policy explaining how it will treat requests to its enforcement service from debtors requesting 'time to pay' at whatever stage they are made in its process. Also, its new policy for the use of body worn cameras; and
 - provide an update on its proposals to introduce a new policy for collection of multiple debts referred to in paragraph 59 above.

Final decision

62. We find fault by the Council causing injustice to Ms J. The Council has agreed to take the action described in paragraph 61 to remedy that injustice. This will provide a satisfactory remedy to the complainant.
63. Notwithstanding this remedy, we have published this report because we consider it in the public interest to do so, given the injustice caused to the complainant.