

## Recycling of Liability Orders

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Under the new regulations it allows for recycling of Liability Orders for Council Tax and we are aware the Tender process for contracts is a faceless exercise, which doesn't give you a real experience of a company and the professional approach and high collection rates it can achieve, it's a case of not always the biggest is the best.

We have a department which can help Local Authorities collect revenues owed where other companies have failed to collect and the Liability Order returned, the service costs nothing and an increase of revenues of up to 36% have been achieved in some cases.

In every case we are proud that we have been contracted to the Local Authority under a Service Level Agreement to not only collect second referrals but due to our success in this field, we have also been retained to collect current years work.

Below is an article by one of the most experienced legal experts in the field of Enforcement and Enforcement Agents Legislation and Procedures.

#### **John Kruse: E Enforcement Agent Bulletin 37 E Dated July 2015 Recycling warrants**

There has been some discussion in the enforcement sector about the possibilities for 'recycling' all forms of warrants of control that is, reissuing a warrant that has been returned un-executed to another firm of enforcement agents.

The new Act is not clear on the legality of this, but let us examine the background to the practice under the former law. Under the old common law the basic rule was that there could never be attempts to re-levy after a previous levy there could be no 'second distress' except in very highly circumscribed situations. The case law was discussed at length in Law of seizure of goods 10.7.

It was within this legal context that the old law was devised. It is stated clearly in the local tax enforcement regulations that councils may switch between their different remedies in any order they wish and as many times as they wish (reg.52(2) of the CT (Admin & Enforcement) Regulations 1992). This was surely developed in part with distress warrants in mind and the regulation will now include warrants of control. The justification for this regulation appears to be that the common law prohibited such repeat levies and only by a statutory provision could they be made lawful. This provision for council tax was the only one of its kind under the old law.

The council tax provision remains the only explicit provision on recycling under the new law. Nothing in the new Act or regulations directly contradicts it. However, there have been some changes in the wider context. One is that the duration of an instruction under the Taking Control of Goods Regulations has

been defined; a warrant lasts for 52 weeks from the date of the enforcement notice. If it expires without any goods being taken into control or without any payment being received, then the agent's right to

recover ends. If a new instruction (warrant/ liability order etc.) were to be issued by the creditor, then a new enforcement notice would have to be produced and a new 52 week duration would arise.

In temporal terms at least, there may be scope for repeated efforts to enforce.

Separate from this is the question of whether a creditor can reissue the instruction to another agency. As stated, this remains clearly permissible in the local tax enforcement regulations. To determine whether 'recycling' is allowable for road traffic debts, we must refer to the Civil Procedure Rules. There is no specific power to reissue a repeat warrant of execution in Part 75 and the former power to renew a warrant after 12 months has been deleted, which seems to leave it in doubt that this may now be done.

Taking all of the above in to account, it appears that the safest course of action will be to assume that repeat warrants are still not permissible except for council tax. Until we have a clear indication to the contrary, it is perhaps best to assume that the common law rules continue to apply.