

Collection Manual

Guidelines for Sheriff Enforcement

Updated June 2016

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Guidelines for Sheriff Enforcement

1. Summary

1.1. The following is a summary of the main points covered in this instruction/guideline:

- There are 16 Sheriffs appointed by government to carry out debt collection for Revenue.
- Sheriff enforcement is quick and cost effective.
- If a taxpayer does not respond to a Final Demand, the caseworker can proceed immediately with Sheriff enforcement if it is the most appropriate option.

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[...]

- A warrant is a legal document conferring authority on the Sheriff to enforce collection of Revenue liabilities, if necessary, by seizing goods.
- All warrants should specify both the tax and the interest on late payment (ILP), as appropriate and the accrued interest.

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[...]

- Manual warrants must be signed by a duly authorised Higher Executive Officer.
- A warrant is valid for 12 months. However, if the Sheriff fails to collect any of the liability within 3 months, the certificate must be returned to Revenue.
- Managers should check for Sheriff Seizure Clearance requests on a daily basis. Seizure Clearance, issued on the request of the Sheriff, is only valid for 2 working days from the date it is received by the Sheriff ([See Paragraph 9](#))
- The taxpayer must deal directly with the Sheriff in relation to liabilities specified on a warrant.
- The Sheriff has the authority to negotiate a payment arrangement, not exceeding 2 years, with the taxpayer.
- Goods considered 'available for seizure' under Sheriff law must be the sole unencumbered property of the taxpayer and generally must be saleable.
- All ICM Enforcement Procedures are set out under [Appendix 1: Enforcement Procedures](#). Sheriff Nulla Bona/Seizure Reports etc. must be dealt with as per instructions at the end of [Appendix 2](#)
- Contact details for all Revenue Sheriffs are at [Appendix 6: Sheriff Contacts](#)

2. Introduction

- 2.1 A key aspect of successful caseworking is early identification of the action that is most likely to impact on the taxpayer to secure payment of the tax debt. If a taxpayer fails to respond to an estimate/Final Demand, i.e. does not submit payment or negotiate an acceptable arrangement to pay by Phased Payment Instalment the caseworker should initiate enforcement action without delay.
- 2.2 Many taxpayers will respond positively to the caseworking contact(s) from Revenue by regularising their tax affairs. However some will not respond in a positive way and an effective enforcement strategy is crucial in such circumstances. The caseworker should select the most appropriate enforcement option based on the current circumstances of the case. At this stage the three options available are Sheriff, Solicitor or Attachment. The chosen option may differ from the default enforcement agency assigned to the case at registration.
- 2.3 Sheriff Enforcement is the most effective Revenue Enforcement option in cases where the taxpayer fails to respond to a demand/warning notice. It is the process whereby the caseworker refers the outstanding Revenue debts to the Sheriff for collection and if necessary, seizes certain assets from the defaulter on foot of a warrant.
- 2.4 Issues for consideration prior to initiating Sheriff action are set out in **Paragraph 6**. It should be noted that the threat of Sheriff seizure is a very effective collection enforcement tool.

3. Scope

- 3.1 This instruction is for all staff engaged in Debt Management caseworking.

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4. Warrants

- 4.1 A warrant is a legal document conferring authority on the Revenue Sheriff to collect outstanding amounts of tax and interest payable to the Collector-General and/or to seize goods/assets in lieu of payment.
- 4.2 Warrants are generally issued to the Sheriff's office through the ICM system and should provide the caseworker's name and direct line phone number. Managers must therefore ensure that all caseworkers' details are correct in the ICM system. In certain circumstances it may be necessary to issue a Manual Warrant. (ref: **Manual Warrants**)
- 4.3 We cannot amend upwards the amount on a warrant. Therefore if the amount is to be increased, the warrant will either have to be withdrawn and re-issued or alternatively a manual warrant may be issued for the additional amount not specified on the original referral. The individual case circumstances will determine the most appropriate option, e.g. if the warrant has issued quite recently it may be more appropriate to withdraw the original warrant and re-issue a new warrant with the amended amount. The amount on a warrant can be amended downwards online and details of the changes will be transmitted to the Sheriff's office overnight.

5. Sheriff

- 5.1 Appointed by Government, the sixteen Sheriffs carry out debt collection on a professional basis for Revenue. As Officers of the Court, Sheriffs are accountable to the Court for their actions in the area of enforcement. Their debt collection activities are generally covered by the Enforcement of Court Orders Act, 1926, as amended, while the execution of Revenue warrants is specifically provided for in Section 960L of the Taxes Consolidation Act, 1997 and the Code of Practice for Sheriffs introduced on 1st November 2005 - **Code of Practice for Revenue Sheriffs**
- 5.2 Under the Court Officers Act, 1945, the Sheriff is empowered to seize assets only within his/her Bailiwick and cannot seize outside of it. Therefore, if a caseworker is unsure of the Bailiwick in a particular case it is advisable to verify with the relevant Sheriff prior to referral.

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6. Consideration prior to initiating Sheriff Action

- 6.1 The threat of Sheriff action may not be effective if the taxpayer does not have assets that can be seized. While local knowledge may assist in determining the suitability of Sheriff enforcement, it is the Sheriff's role to determine what is seizable.
- 6.2 It should be borne in mind that the Sheriff has to take all the relevant circumstances into account to determine the possibility of seizure. Therefore the caseworker should accept that it might not be possible to recover the full liability within a specified timeframe.
- 6.3 Goods considered 'available for seizure' must be the sole unencumbered property of the taxpayer and must generally be saleable. Goods, vehicles or equipment leased, or held under 'Retention of Title' by the taxpayer, cannot be seized.

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6.5 Enforcement of debt where a VAT repayment claim has been made:-

If a VAT repayment claim has been made by a taxpayer and it is the subject of an open work item, BEFORE enforcing any outstanding tax the caseworker should:

Contact the relevant district to confirm whether the VAT repayment is available for offset

- If the repayment is available for offset and if it will be set against the outstanding tax then only the remaining debt should be enforced
- If the repayment is not available for offset then, prior to sending the tax to enforcement, the caseworker should contact the taxpayer stating that the repayment is not available for offset against outstanding taxes

In some cases where the VAT repayment claim is being held pending receipt of additional information, the caseworker should make it clear to the taxpayer that if the

information requested is not provided within a defined period (1-2 weeks) then the outstanding tax will be enforced

- 6.6 The caseworker may also consider other enforcement options for cases that regularly default rather than continuously referring the same cases to Sheriff, even if this action is successful. Compliance is also encouraged by other actions such as withholding repayments or refusing a tax clearance certificate.

7. Initiating Sheriff Enforcement

- 7.1 The caseworker will initiate enforcement action where a Final Demand has issued and payment was not received or a satisfactory agreement was not reached.
- 7.2 As a general guide, Sheriff enforcement should be pursued where the defaulter has seizable assets, as it is a quick and cost effective method of enforcement.
- 7.3 All warrants issued to the Sheriff should specify the tax/ILP and the accrued interest.
- 7.4 When referring partnership cases for Sheriff enforcement the names of the individual partners together with the details of the trading name and business address must be included on the referral. The Sheriff cannot act in these cases unless this information is provided.

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[...]

- 7.5 Electronic copies of the warrants are transmitted to Sheriffs offices after close of business daily. The transfer of information, including warrants/certificates, in electronic format is legislated for in Section 960L (2) of the Taxes Consolidation Act 1997. Manual warrants must be sent by registered post to the relevant Sheriff's office. Ref: [Procedures for electronic warrants](#).
- 7.6 Any taxpayer who contacts a caseworker following a Sheriff referral must always be instructed to deal directly with the Sheriff's office, as this is part of Revenue's agreement with the Sheriffs. On receipt of the warrant, the Sheriff normally issues a letter to the taxpayer stating that s/he is now pursuing the outstanding liabilities and that s/he may seize goods if the liabilities are not paid as a matter of urgency. Unless the outcome of these dealings results in payments being received and/or the warrant being withdrawn the Sheriff will proceed to make arrangements for a seizure.

8. Enforcement of Irish Cases

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9. Seizure / Seizure Clearance

- 9.1 A warrant is valid for 12 months from the date of issue. It is acknowledged that the Sheriff may seize assets at his own discretion. However in practice the Sheriff will continue to seek and obtain Seizure Clearance from Revenue.

- 9.2 The Sheriff's office may also seek prior confirmation of clearance for substantial seizures in advance of committing to the expense of the seizure arrangements such as bailiffs, trucks and/or security. The caseworker should carefully check the taxpayer's records to confirm that Sheriff seizure is appropriate in that case. On receipt of confirmation that it is in order to proceed, the Sheriff will make arrangements to execute the seizure without delay.
- 9.3 Seizure Clearance, issued at the specific request of Sheriff, is valid for 2 days from when the sheriff receives the notification of clearance. Caseworkers should therefore ensure that the Seizure Clearance arrives at the Sheriff's office not more than two days before the proposed seizure. When a warrant has been issued manually, the Seizure Clearance request must be sent by registered post to the relevant sheriff - (see also 7.5 above).
- 9.4 Managers should check for Seizure Clearance requests on a daily basis. If they receive requests that are no longer proper to their area they should ensure that they are forwarded to the correct manager(s) immediately. Nominated Team Leaders should be in place in each Debt Management area to check for requests for their own team in the manager's absence.

10. Sheriff Time Limits

- 10.1 If the Sheriff fails to collect any of the amounts owing on a warrant within 3 months s/he will return such warrants to the caseworker. However, if any payment is received within 3 months the Sheriff has the authority to pursue collection of the remainder amount over a 12-month period, i.e. the validity of the warrant.
- 10.2 In addition to the right to seize assets, the Sheriff also has the authority to negotiate a phased payment arrangement with the taxpayer. Any such arrangement will be for the shortest possible period not exceeding 2 years.
- 10.3 Revenue may, if considered necessary, request that a limited number of specified warrants be given priority attention. Caseworkers must seek approval from their Team Leader/ Manager before prioritising a case.

11. Notification regarding changes on Warrants issued

- 11.1 Electronic Sheriff warrants are amended on-line through ICM and details of the changes will be forwarded to the Sheriff's office overnight.

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12. Withdrawal of Sheriff's Warrant by Revenue

12.1 A caseworker must always advise the Sheriff's office of the reason for withdrawal of a warrant. The vast majority of cases are withdrawn from Sheriffs as a result of payment of the liabilities or submission of a return(s) resulting in a nil balance.

12.2 The following is a list of the main reasons for withdrawal of a Sheriff warrant:

➤ **Payment made directly to Revenue**

The taxpayer makes payment directly to this office after a warrant has been referred to Sheriff. The Sheriff must be advised of the payment when the warrant is being withdrawn. [Subject to Sheriff Fees – Paragraph 15]. The caseworker should input the amount of payment and date of payment as a note in ICM as this determines what fees will be payable to the Sheriff.

Note: The warrant should not be withdrawn if the payment was made after enforcement as the taxpayer must pay interest and Sheriff's fees

➤ **Returns Received/Liability displaced**

This may occur subsequent to a warrant, based on estimates, being issued to the Sheriff. The taxpayer may submit returns for the relevant periods that may show a net claim, a nil, or a liability accompanied by full payment.

➤ **Ceased**

If a company has ceased trading the caseworker should contact the Sheriff to establish if there are any goods available for seizure

➤ **Deceased:**

When a person is deceased the case should be forwarded to the local Revenue District to finalise all aspects of caseworking

➤ **Offsets/Overpayments**

A claim or overpayment may arise and become available for offset against the liability referred to Sheriff. Ensure the offset has covered the full liability referred to Sheriff before withdrawing the warrant. [Subject to Sheriff Fees – Paragraph 15].

➤ **Liquidation/Receivership/Bankruptcy**

Sheriff warrants should be withdrawn immediately.

➤ **Change of Address/Bailiwick**

The Sheriff will advise the caseworker if the taxpayer moves premises. However where the taxpayer resides in the bailiwick of another Sheriff the warrant should be withdrawn and referred to the relevant Sheriff.

➤ **Conflict of Interest**

The Sheriff cannot act in a case where s/he has an existing professional relationship (e.g. solicitor/client) with the taxpayer. This will only become known after referral when the Sheriff notifies Revenue of the relationship. An alternative enforcement option (solicitor or attachment) will be required.

➤ **Alternative Enforcement being pursued**

Occasionally, in high risk cases, Revenue may decide that exemplary enforcement measures (e.g. liquidation, bankruptcy, forced sale) are necessary to recover very high liabilities and may therefore decide to withdraw warrants in order to include all liabilities in judgment proceedings. The Team Leader/Manager will be involved in such cases.

➤ **Appeal**

In certain circumstances a taxpayer may appeal a liability that may have arisen as a result of a Revenue audit on the company/individual by their local Revenue officer. Tax under appeal should never be enforced until the appeal is finalised and the officer who raised the liability confirms that it is in order to pursue collection.

➤ **Phased Payment Arrangement with Revenue**

If the caseworker is prepared to consider a taxpayer's proposal for a phased payment arrangement to discharge all liabilities, including those referred to Sheriff, the caseworker must contact the Sheriff's office to request their agreement. Revenue will not entertain requests from taxpayers for a phased payment agreement until all Sheriff fees and expenses are paid in full directly to the Sheriff's office. The taxpayer must produce a receipt as proof of payment of Sheriff's fees and expenses before any phased payment arrangement can be agreed. Caseworkers should **not** withdraw the relevant warrant(s) from the Sheriff until they have confirmed with the Sheriff's office that all fees and expenses have been paid.

➤ **Issued in error**

It is possible for a payment to be received at the same time that a liability is referred to Sheriff, e.g. if payment is received within one working day of the Sheriff referral. In these circumstances the referral should be withdrawn.

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13. **Warrant Returned by Sheriff**

The following is a list of the main reasons why a warrant will be returned to a caseworker by the Sheriff:

➤ **Returns Received/Liability displaced**

The Sheriff has succeeded in receiving the taxpayer's outstanding returns with full payment or the returns show a nil liability.

➤ **Offsets Available to Cover Full Liability Referred**

The Sheriff has received outstanding tax returns showing a claim amount that covers the full liability referred. **[Subject to Sheriff Fees – Paragraph 15]**

➤ **Incorrect Bailiwick**

If the taxpayer has moved premises or resides in another bailiwick the Sheriff will advise the caseworker and return the warrant for re-issue to the appropriate Sheriff.

➤ **Dead Letter Office (DLO)**

The warrant will be withdrawn if the taxpayer is no longer operating from the stated address.

- **Ceased**
The Sheriff will withdraw the warrant quoting “ceased trading” and “no goods available for seizure”
- **Deceased**
The Sheriff will withdraw the warrant and the case should be referred to the relevant Revenue District to finalise outstanding caseworking
- **Client/Conflict of Interest**
The Sheriff cannot act in a case where s/he has a professional relationship (solicitor/client) with the taxpayer.
- **Warrant Expired**
A warrant is valid for 12 months and when this period has elapsed no further enforcement action can be pursued by Sheriff.
- **Nulla Bona**
This warrant will be returned by Sheriff accompanied by a report on failure to collect, e.g. retention of title - assets/vehicles/equipment are leased by the taxpayer or that there were no goods of value for seizure.
- **Liquidation/Receivership/Bankruptcy**
Warrants must be withdrawn under any of these circumstances.
- **Hardship**
The warrant should be withdrawn if the Sheriff is satisfied that a written submission from the taxpayer, detailing grounds of hardship, is bona fide.

14. Payment Processing in RES2

- 14.1 The current Revenue electronic system, RES2, allows Sheriffs to view details of transactions on periods that are currently subject to enforcement with their office. They can only access cases proper to their own office and can only view activities after the date of referral. For example, if a payment was received in Revenue prior to the date of referral but did not update until after the date of referral, then this payment will not be visible to the Sheriff in RES2. RES2 is updated from ICM on a nightly basis and details of critical transactions will show as ‘pending’ transactions on the system.
- 14.2 The Sheriff’s office will record details of each payment received by them on a daily basis – a ‘payment received’ indicator (outcome code) along with the customer’s registration number and the warrant number to which the payment relates will be forwarded online to ICM on a nightly basis. This will indicate to the caseworker that a payment has been received by the Sheriff.

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15. Sheriff Fees/Expenses

- 15.1 The Sheriff is entitled to collect fees and expenses in relation to collection of payment and/or seizure of goods. The Sheriff will usually collect their fees first from any payment made and then collect tax followed by interest. The current fee structure came

into effect on 1 November 2005 and is set out in the Sheriff Fees and Expenses Order 2005

The main fee items are as follows:

- Lodgment Fee €19
- Poundage, 5% for the first €5,000 and 2.5% of the balance
- Travel expenses of €32 for the execution of an order
- €40 payable on execution of an order
- Any necessary expenses incurred in relation to seizure and sale of goods

Revenue cannot entertain any queries in relation to Sheriff fees and expenses. All queries in relation to fees and expenses must be addressed by the taxpayer to the Sheriff's office.

15.2 In the event that payment of a liability is made directly to Revenue after the referral, the fees remain payable to the Sheriff by the taxpayer.

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Appendix 1 - Procedures when using Sheriff Enforcement to pursue Tax Liabilities

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

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Appendix 2 – Outcomes

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Appendix 3 – Information Sharing Template to Revenue Sheriffs

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Appendix 4 - List of Alphabetical Characters used with Warrants/Referrals

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Appendix 5 – Final Demand Letter

The following material is either exempt from or not required to be published under the Freedom of Information Act 2014.

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Appendix 6 – Sheriff Contacts

Sheriff Name & Address	BW No	Counties	E-mail/Telephone/Fax	Contact Name	My Enquiries/TLS
Frederick Binchy Nelson St, Clonmel, Co. Tipperary	09 17 20	Laois Offaly Tipperary	stobin@binchylaw.ie mregan@binchylaw.ie jpmcgrath@binchylaw.ie Tel: 052 6124124 Fax: 052 6125027	Siobhán Tobin Majella Regan John Paul McGrath	TLS Domain@binchylaw.ie e.g. stobin@binchylaw.ie
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