

Title:

Bailiffs & Council Tax - Know Your Legal Rights

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Summary:

Many of us do not know how bailiffs work to collect arrears. Basically, bailiffs are private personnel hired by the local council to handle Council Tax and Poll Tax.

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Article Body:

Many of us do not know how bailiffs work to collect arrears. Basically, bailiffs are private personnel hired by the local council to handle Council Tax and Poll Tax. Anything that they get from you is auctioned as a way of paying your existing debt. This process of taking your goods, selling them, and paying your debt is called "distraining" or "levying".

Since October of 1998, the County Court ruled that bailiffs must carry a certificate with them as a proof that they have been hired by the local council. Any complain about a bailiff not following this order can be brought to the attention of the court immediately.

Since April of the same year, a process involving bailiffs and debts has also been at work. This process states that you, as a debtor, must get a letter from the Council which contains the details of your credits. The same notice would bear the warning that if ever you fail to pay your financial obligation within 14 days, bailiffs will be sent to your aid. You may contact a member of the local council within the period for your concerns. You can also make suggestions to the council about the most convenient payment scheme that you can afford. If the council approve of your suggestion, they will ask the bailiffs to stop calling you and save you extra fees in the long run.

DO I HAVE TO LET THE BAILIFFS IN?

One thing that you must know about bailiffs is that you do not have the responsibility to take them in whenever they come. In fact, you can choose not to let them inside your home. If the bailiffs have never been into your home,

they have no right to come in at anytime of the day. It is also unlawful for them to break in.

As a form of precaution, avoid the following scenarios:

- Do not open your doors to the bailiffs. Once you entertain them, they will have the power to push past you. If they get inside, they will have the right to enter again and take more of your goods.
- Do not leave your doors and windows unlocked because bailiffs can easily take advantage of any kind of opening. As they cannot ask the police to help them break in, your carelessness is their only ticket.
- Do not fall to any kind of trap. Bailiffs can make several bluffs like asking to use the toilet or the telephone just so they can lure you towards letting them in.
- Do not leave your valuables lying around. Bailiffs can easily take away anything valuable that they lay their eyes and hands on. Make sure that your cars are always shielded from view.
- Do not make transactions inside your home. If you have a certain amount to pay the bailiffs out for your debt, do so but make sure that you transact outside. Do not forget to take a receipt as well.
- Do not sign anything that the bailiffs ask you to. The bailiffs do not have the right to make you sign any sort of document, whether it was left posted in your door or handed out to you personally.

THE BAILIFFS HAVE ALREADY BEEN INSIDE MY HOME

If you allowed the bailiffs go inside your home at once, you are in for a more serious situation. Once bailiffs are let inside, they will have the right to come back again. If you choose not to let them in the second time, they will have the right to break in. What you can do to repair this problem is to get in touch with your local council immediately or make the necessary arrangements with the bailiffs. You can ask your local councilor for help or you can devise a specific payment scheme that you can afford and present it to the bailiffs. If they agree on your terms, you can prevent them from coming back and take any more of your things. Also make sure that you take a receipt of your every payment to be on the safe side.

WHAT THINGS ARE THE BAILIFFS ALLOWED TO TAKE?

Most of your valuables can be legally taken by the bailiffs except for the following:

- Anything that was rented or hired.
- Items or equipments that are necessary for your personal and professional use.

- Your basic daily needs such as clothing, bedding, and furniture.

You will notice that exemptions are not really item specific. The bailiffs may have different interpretation of which items they can take legally or not. If you feel that what they have taken away should have been exempted, you can file an appropriate complaint in your local council.

CAN THE BAILIFFS TAKE THINGS WHICH ARE NOT MINE?

It has been clearly established by the law that the bailiffs can only take what are legally yours. This include items that you co-own with your partner. If the bailiffs attempt to take anything that you do not own, politely tell them about the item's ownership by showing receipts or proofs of purchase that will indeed tell them that it is not yours. Also, the owner of the goods can make a sworn statement or a statutory declaration about the real ownership of the items.

Other things that bailiffs cannot take are the ones that are rented or hired. Make sure that you keep a copy of your agreement with the real owner so the bailiffs will not take them away.

WHAT IF I HIDE THINGS OR GIVE THEM AWAY?

It is legal to hide your valuables if the bailiffs have never been inside your home. Once they step in, however, they will list all the items they intend to take. If you try to hide any of those things elsewhere other than your home, you will be committing an offence that is punishable by the law. If you are able to keep the items discreetly out of sight, the bailiffs can rightfully search for them on visits.

BAILIFFS PROCEDURES

The good news is that bailiffs cannot break inside your home just like that. They are also covered by certain laws and procedures that they must adhere to including the following:

- Bailiffs must bring with them a written authorization or a certificate from the local council.
- Bailiffs must hand you a copy of the "Enforcement Regulations" which contain information on what they are only allowed to do.
- Bailiffs must also bring with them a statement of charges that they can take with each visit. They should never make additions to blow up your debts.
- Bailiffs must also bring with them a "Walking Possession" agreement duly signed by you. This agreement contains the list of items that they have warned to take right from their first visit.

HOW DO I STOP THE BAILIFFS?

The most effective measure to stop the bailiffs from taking away your things is to make an arrangement on how you can pay your debt. Devising an effective installment plan will be beneficial for you especially if the bailiffs have never been into your home. Offer only what you can afford to pay to prevent any form of misunderstanding to take place.

The bailiffs cannot send you to prison. If they fail to break into your home, their most appropriate action is to pass your debt back to the council. If this happens, it would be much easier to settle the problem. You better take this as a priority debt because if you do not act on it immediately, the council will find another way to recover the money. They can file an Attachment of Earnings Order, which will take out money from your earnings or other form of order that will summon you to pay your financial obligations dutifully.

In some instances, the council may agree to exempt your case from bringing it to the bailiffs' attention. The council allow direct payment schemes for those who are on Income Support, Pension Credit, and Job Seekers' Allowance. Better yet, ask the council whether they can take back your case from the bailiffs so you can deal with them directly. Your local councilor can help you make the deal with the council. Explain your reasons and whatever difficulty it will bring you in case the bailiffs break into your home and take your things to stand a chance for a consideration.

HOW DO I COMPLAIN?

There are Enforcement Regulations that the bailiffs must adhere to. However, the National Standards for Enforcement Agents issued by the Lord Chancellors Department is quite tricky. Although it provides specific guidelines on bailiffs' behavior in carrying out their duties, mentioning these standards in your complaint may be or may not be beneficial to you. You can look out for the standards yourself through the Department for Constitutional Affairs website

(www.dca.gov.uk/enforcement/agents02.htm).

The law concerning the bailiffs is complex but you can start learning it through by reading the law yourself and trying to understand every bit of technicalities in it. Your personal effort, however, may not be sufficient. If you can, it would be best to get a legal advice on what you can do against what you feel is unlawful action of the bailiffs.

Since October 1998, the bailiffs need to act with a certificate at hand. This

certificate to collect Council Tax must be granted by the court. Filing a complaint against the bailiffs can have their certificate withdrawn and their right to enter your house forfeited. To file a complaint, you can write a formal letter to the Court Manager so he can administer a hearing. Once the court find substance in your complaint, it can rule out to cancel the bailiffs' certificate, order compensation as well as return of the surrendered goods. Some cases acted favorably to the complainants where their debts have been written off due to the bailiffs' illegal acts. This is one of the reasons why you should not take your complaint sitting down. Once you discover an irregularity, you must rush to the Magistrates Court to file a complaint.

The bailiffs report directly to the council and it would be ideal to bring your case there. Once it receives your complaint, it must order the bailiffs to change their procedures. If this do not work, you can call the attention of your local councilor or your local government Ombudsman to look through your case.

BAILIFFS CHARGES

If the bailiffs are asking for excessive charges, you can use it as a case for complaint. You can make a written notice to the council telling them that what has been taken from you may be way too much. You can also seek advice from the County Court regarding the appropriate fines the bailiffs can charge you.

Your common sense and your knowledge on local processes can also be useful in determining what amount of fine is reasonable and what is not. If, for example, the bailiffs charged you £80 for attendance with a van and hiring a van costs only £40, you are obviously charged unfairly. When such circumstance takes place, you can instantly call the attention of the bailiffs. Warn them that you will take further action for your complaint to be recognized if they refuse to follow the regulated schedule.

Submit a written complaint to the council so they know how the bailiffs are illegally carrying out their duties. Other than that, you can also apply for a "Taxation" in the County Court. This kind of application will ask the court to look through your complaint within 12 months after which they should submit a decision whether the bailiffs charges have been excessive or not. If the court decides against you, you will be held liable for the bailiffs' firm's court costs. That's why you must be careful in taking such action. Please remember, however, that making complaints is worth your every effort especially when you are loaded with evidences that will prove that the bailiffs stepped out of the line.

USEFUL LINKS

The Secretary
Association of Civil Enforcement Agencies
Kensington House
33 Imperial Square
Cheltenham
Glos
Tel: 01242 241456
Website: www.acea.org.uk

The Secretary
Enforcement Services Association (ENSAS) (formally The Certificated Bailiffs Association)
Ridgefield House
14 John Dalton Street
Manchester
M2 6JR
Tel: 0161 839 7225
Website: www.bailiffs.org.uk

Local Government Ombudsman (England)
Millbank Tower
Millbank
London SW1P 4QP
Advice Line: 0845 602 1983
Monday to Friday, 9.00 am - 4.30 pm
Website: www.lgo.org.uk
Note: There are a total of three local government Ombudsman offices for England.
You may check whom to send a complaint by calling the Advice Line.

Local Government Ombudsman (Wales)
Derwen House Court Road Bridgend
CF31 1BN
Tel: 01656 661 325
Website: www.ombudsman-wales.org