

Dealing with bailiffs and enforcement agents

The *VERY* basic guide for your home

The information in this leaflet was prepared in December 2014. As with everything, information can get out of date. It deals with your home and not business premises.

We therefore recommend that you check your specific circumstances with a Licensed Insolvency Practitioner before you do anything based on this leaflet.

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Who are they?

Bailiffs and Enforcement Agents are pretty much the same thing. They are sometimes appointed to collect debts when all other attempts have failed. They may be part of the same firm as a debt collector you were dealing with, but they have far more power.

They are also the people usually instructed by a landlord to evict people or by an financial company to take back assets under hire purchase or a conditional sale agreement.

If you have been told to make a payment by the court (normally under a County Court Judgment – ‘CCJ’) and do not pay the Court will send one round.

They are allowed to take your possessions, sell them and give the money to your creditor to pay back the debt you owe after they have deducted their own fees.

What can I do if I receive a notice to say a bailiff is coming to my house?

If you have received notification telling you a bailiff is going to call at your house, you may be able to negotiate some sort of repayment to the lender (or whoever they may have sold your debt to) before they call. You may otherwise be able to apply to the court to stop them attending, but this is quite rare.

If you know a bailiff is going to call, try to have a witness there and make sure you write down everything that is said or any of the powers they say they have.

What should I do when they get there?

We assume that you do not want them to come in (though this will add to the costs, but if you are looking at proposing an Individual Voluntary Arrangement to your creditors you should be trying to treat everyone fairly).

- Don't open your door to them - use the door chain if you have one.
- Don't leave your windows or doors open when you know they are coming.
- Tell anyone else in the house not to let them in - this would count as peaceful entry.

They may make an effort to enter, but they are not permitted to force their way past you (although they may as a last resort if collecting unpaid criminal fines, Income Tax or VAT).

If you do refuse to let them in then they will be sure to return at some other time. This is a problem that will not just go away, and so in the long term you may want to seek help.

What will happen if I am not home?

If you are not home then a bailiff will attempt to gain peaceful entry if someone else is in, and may force entry if collecting unpaid criminal fines, VAT or if they have been before.

If it is their first visit and they are unable to force entry, they may look through your windows to make a list of goods they intend to seize and will leave a letter to say they have attempted a visit.

Can they force their way in?

They must normally give you at least 7 days' notice of their first visit.

In general, you do not have to let the bailiffs into your home or business, and they cannot come into your home between 9pm and 6am. They cannot use force to gain entry into a property on their first visit - they can only use "peaceable entry". So, the first time they come they can enter in any way you would usually walk in (you would go through the door rather than climb through a window, for example).

They must not enter your home if only children or vulnerable people are present.

What happens after they've gained peaceful entry?

Once the bailiff is inside your house after entering peacefully, they will look around your home. They will not usually take items on their first visit, but will make a list of what they intend to take and sell.

Once they are in your house they have the right of access to all rooms and can use force to gain access into other parts of the property.

They can call again at a later date and enter your house without your permission to remove your goods. However, they can only take goods to cover the debt and their fees, nothing more. Bear in mind, however, that assets sold at an auction of seized goods will sell for far less than you think they are worth. After seizing goods they must leave the premises safe.

When can a bailiff force entry?

If they are collecting an unpaid CCJ and this is their first visit, then they cannot force entry. There are however certain situations where bailiffs can force entry, including collecting unpaid fines (as a last resort they can force entry, whether they have been in your home before or not, if they have a Magistrates court warrant); if they have gained peaceful entry before; if they are collecting income tax or VAT with permission from the court; or if they seized goods which have since been moved

What rights do I have?

You cannot be sent to prison for not co-operating with a bailiff. You do not have to let them into your house and you should seek advice as soon as possible.

A bailiff must not threaten you illegally, force entry to your home (unless this is within their right because of the type of debt or if this is their second visit) or use offensive language.

You can ask to see appropriate written authority; for example, a warrant issued by a court or, in some cases, a creditor. They do not need to present written proof of the court order, but will almost certainly have this with them, and you should ask them for this if you plan to pay them or let them into your house

If you are concerned about a bailiff's behaviour, you can complain either to the creditor or to the court that sent them.

What if I can pay the bailiff?

The obvious point is pay the debt before they arrive!

If you have the money there is the option to pay the bailiff on the doorstep, and in this case, you still don't have to invite them into your home. Make sure to get a receipt to prove you have paid what you owe and make sure you ask to see proof of their identity and proper paperwork with a breakdown of their charges.

What if I can't pay the bailiff?

If you do not have the money to pay straight away, you can still speak to the bailiff about how you could pay the owed money back. It could be that you offer to pay a sum you can realistically afford in weekly or monthly payments but they do not have to accept your offer.

What and whose items can be taken?

In theory, a bailiff can take pretty much anything with a resalable value.

They can take items that belong to the person who owes the money, even if they are jointly owned by the debtor and another person but if these goods are eventually sold, they must pay the other person their share of the money.

What goods can't a bailiff take?

There are some exceptions to what can be taken from your home.

A bailiff acting on a County Court Judgment cannot seize clothing, bedding, furniture, household equipment, fixtures and fittings, or other goods necessary to meet basic domestic needs.

In general, they cannot seize tools, books, vehicles or equipment necessary for personal use in employment, business or vocation. However, a bailiff acting for Council Tax, VAT and Income Tax may be able to do so.

They cannot seize goods belonging to anyone other than the person named on the warrant. You should therefore try to have receipts handy if you are stating the goods are someone else's – you must prove it is not yours.

They cannot seize goods subject to a hire purchase or rental agreement unless that is specifically why they have been sent.

What is a Controlled Goods Agreement

Goods may be taken away immediately, but what will usually happen is that you and the bailiff agree a 'Controlled Goods Agreement'.

This is a formal arrangement between you and the bailiff that gives you time to repay what you owe. This means you are allowed to keep and use items listed on the Controlled Goods Agreement, but you must not sell them because these items have been agreed to be owned by the bailiff until the debt is dealt with – this saves the bailiff the costs of storage and lets you still use them.

A Controlled Goods Agreement can only list items once the bailiff has been inside – it also needs to be signed. It provides a short time agreed repayment schedule.

What if I have other questions?

The questions above are just the common ones we are asked. If you have any others, please phone us. If you have '01' numbers included in your telephone call plan, our '0845' number goes to 0161 883 0480 and 01303 647 480.

Remember that we don't just work office hours – you will often catch one of us on 0845 652 4357 when we are not in the office.

Our web site at www.carmichaelsinsolvency.co.uk also has a lot of information, or try the Insolvency Service (part of the Department for Business, Innovation and Skills) one at www.gov.uk/government/organisations/insolvency-service.