



Official guidance for POLICE OFFICERS attending the scene of bailiffs

1. POLICY AND AUDIT IDENTIFICATION

1.1 This policy has been drafted and audited in accordance with the principles of Human Rights legislation and the Race Relations (Amendment) Act 2000. Under the Freedom of Information Act 2000, the document is classified as OPEN.

2. POLICY STATEMENTS/INTENTIONS

2.1 This document is designed as a reference point for officers when dealing with bailiffs and other officers of the court legally authorised to collect a debt on behalf of a creditor.

2.2 The policy gives officers guidance on their role when attending premises with bailiffs, and for their information also provides summaries of the rules bailiffs should follow when lawfully conducting their business.

2.3 Policy Contents:

3. Introduction

4. Procedures

5. Determining Criminal Liability

6. Review

7. Appendix A Range of Bailiffs and Enforcement Officers

8. Appendix B Bailiff Rules: Gaining Entry to Premises

9. Appendix C Bailiff Rules: Inside Premises

3. INTRODUCTION

3.1 The law relating to bailiffs and their powers is extremely wide. Using legal authorisation, they may collect debts for any number of creditors. This can sometimes be a difficult experience for both debtor and bailiff, which is why officers may be called to attend.

3.2 The usual authority of a bailiff is a warrant issued by a County Court

to recover goods or monies owed, or goods to the value of monies owed, from a debtor. The alternative authority officers will likely experience is a distress warrant or liability order issued by a Magistrates' Court.

3.3 The Constabulary's involvement with regard to the policing of bailiffs as with any other civil dispute - is to prevent a breach of the peace from occurring, or to attend an incident when a specific criminal offence has occurred or is likely to occur.

3.4 These instances will largely be confined to: disputes by debtors over a bailiff's entry to their premises when executing a warrant or liability order; the lawful conduct of the bailiff when entering and inside the premises; and any criminal/illegal activity committed by either a bailiff or debtor.

3.5 Further Guidance on Bailiffs is available in the Appendices, and: **The National Standards for Enforcement Agents, which are advisory and not mandatory** minimum standards for bailiffs. Available [here](http://www.dca.gov.uk/enforcement/agents02.htm#part10) and archived here <http://www.dca.gov.uk/enforcement/agents02.htm#part10>

4. PROCEDURES

4.1 When first called to a scene, or if attending a scene with a bailiff by prior arrangement, a constable should be satisfied of:

a. The bailiff's identity and status,

b. The authority on which the bailiff has or seeks to enter the premises; including any relevant documentation which gives the bailiff the power to enter the premises, The fact that the bailiff has located the correct premises or correct debtor.

4.2 Advice for bailiffs is that they **should always, upon request, produce relevant identification**, such as a badge or ID card, together with a written authorisation to act on behalf of the creditor.

4.3 **If a bailiff or court officer is unable to provide evidence of identity**, status, authority or power, and is causing a breach of the peace or committing an offence, **the police constable should prevent the bailiff from entering the premises**, or if already on the premises, should remove the bailiff/court officer at once.

4.4 If the documentation is in order, the **constable should remind the bailiff that entry must be obtained without force**, except in the circumstances highlighted in Appendix B. N.B. Bailiffs can take goods from outside the premises such

as a debtor's vehicle on a driveway **(if they have a clamping order)**, or garden equipment.

4.5 Constables should be aware of their duty to keep the peace. If there is a sufficiently real and imminent threat of a breach of the peace, the constable should be very careful when determining who is acting unlawfully, then act accordingly by arresting the prime culprit of the potential breach, or using his/her discretion to diffuse the situation. **It is vital to remain impartial to determine whose conduct is unlawful.**

4.6 However, **it is not the responsibility of the Officer to act as an arbitrator between the bailiff and the debtor**, nor to determine the rights and wrongs of the issue, and **in no way should the officer assist in the seizure of any goods.**

5.0 DETERMINING CRIMINAL LIABILITY

5.1 When determining that there is a sufficiently real and imminent threat of a breach of the peace, which justifies an arrest, the officer must decide whose conduct is causing that breach.

5.2 If the bailiff were hindered in any way whilst acting lawfully and reasonably in the course of their duties, **then that would constitute a breach of the peace by those causing the obstruction.**

5.3 If a debtor is present when a bailiff is entering and levying distress, he/she could face arrest and criminal liability if:

a. They forcibly exclude the bailiff from his/her premises should they have gained peaceful entry. N.B. This could result in subsequent forced re-entry by the bailiff, as outlined in Appendix B.

b. They conceal or remove goods that have been allocated as the subject of distress during an earlier visit (this is known as walking-possession'). N.B. in other cases a debtor is well within his/her rights to conceal or remove goods in order to avoid distress.

5.4 However, **should the bailiff be acting unreasonably or unlawfully** whilst gaining entry, whilst inside the premises, or so to provoke the debtor, then **that will be considered unlawful on their part.**

5.5 Police constables should also be aware that in very rare cases a bailiff's **persistent** and **frequent** actions or demands for payment **may constitute harassment under Sec. 40 of the Administration of Justice Act 1970.**

5.6 If other elements exist, such as a **bailiff threatening or using violence** to gain entry, or assault or criminal damage by either party, **then other powers of arrest should be used.**

6.0 REVIEW

6.1 The contents of this guideline will be reviewed annually by the Commander,
Criminal Justice Department.

7.0 APPENDIX A RANGE OF BAILIFFS AND ENFORCEMENT OFFICERS

7.1 County Court Bailiffs:

Enforce money owed under county court judgment debt.

Power: can Seize and sell goods, effect and supervise the possession of property and the return of goods under hire purchase, and serve court documents.

7.2 High Court Enforcement Officers:

Enforce money owed under high court judgment, or judgment transferred from county court.

Power: Can seize and sell goods, & enforce and supervise the possession of property and the return of goods.

7.3 Civilian Enforcement Officers (CEO's are employed by HMCS):

Enforce Magistrates' Court Orders, fines and community penalty notices.

Power: can Seize and sell goods to recover amount of money owed under a fine and community penalty notice. Under certain statutes, have the power of ARREST, committal, detention and distress.

7.4 Certificated Bailiffs:

Enforce debts on behalf of a variety of organisations, including magistrates' courts and local authorities.

Power: They can seize and sell goods to cover the amount of debt. They hold a certificate, which enables them (only) to levy distress for rent, road

traffic debts, council tax, non-domestic rates, and debts of Child Support Agency, Inland Revenue, Customs & Excise (VAT), and Magistrates Court Fines. They cannot enforce monies owed under High/County Court Orders.

7.5 Non-Certificated Bailiffs:

Enforce debts owed to a variety of organisations.

Power: are only entitled to seize the goods that are subject to the particular debt being pursued, e.g. a vehicle bought on credit when the payments have not been made.

7.6 The above list is not substantive, and there are a few other people/organisations that have similar powers to bailiffs. These include Landlords enforcing rent and Collectors of Taxes who enforce unpaid Income Tax and National Insurance.

8.0 APPENDIX B BAILIFF RULES: GAINING ENTRY TO PREMISES

8.1 The actions of a bailiff lawfully entering a premises and seizing and selling goods to cover monies owed by the debtor, including the bailiff's fees, is called 'levying distress'. The term 'distress' used on its own generally means the procedure for bailiffs just to seize goods; this may not necessarily involve removing and selling the goods.

8.2 The basic rule for Bailiffs is that entry should be without force, thus they have the right to peaceful entry only. There is no legal requirement by a debtor to let a bailiff into their home.

8.3 To gain peaceful entry, the bailiff can walk through an open door, open an unlocked door, climb through an open window, and even climb over a wall or fence, provided no damage is caused in so doing.

8.4 The bailiff cannot, however, break open a closed but unfastened window or door, open a closed latched window, or use a locksmith to open a door. Use of a landlord's key is also illegal. They cannot force their way past someone at a door, or wedge their foot in a doorway to prevent the door being closed. The protection against forced entry extends to all buildings physically attached to the living premises.

8.5 Reasonable Force may be used to gain entry in these circumstances only:

a. A bailiff is executing a magistrates distress warrant for non-payment of fines.

b. A bailiff has once previously entered a debtor's home peacefully, or was forcibly ejected by the occupier after gaining lawful entry, and is returning to levy the good

c. The officer is a High Court Enforcement Officer and the premises to be entered with force are separate non-domestic premises, which are not connected to the living accommodation, e.g. a workshop or barn. Or, the premises are a third party's house where goods have been taken to avoid seizure by a bailiff. A demand for entry should always be made first.

d. More rarely, a Landlord has a County Court Possession order to evict a tenant, or requires entry to a stranger's premises and has an oath sworn by the Magistrates to the effect that there are grounds for believing goods have been fraudulently removed to those premises.

e. Or, an Inland Revenue Collector enforcing income tax for HMRC has a warrant to force entry.

N.B. A County Court Bailiff must always obtain the permission of a District Judge before a forced entry to separate non-domestic premises, stranger's premises, or when returning for a second time to remove a debtor's goods.

8.6 With regard to time of calling, only bailiffs collecting rent are obliged to call after sunrise and before sunset. There are no restrictions for when a levy of distress shall commence in respect of unpaid fines, costs and compensation. N.B. The **National Standards for Enforcement Agents, which are advisory and not mandatory**, highlight that enforcement should only commence at a reasonable time between 6am and 9pm, or during trading hours, excluding Sundays and Public Bank Holidays, unless the court specifically orders otherwise or legislation permits it.

Applies to England and Wales