



FACT SHEET NO. 2

BAILIFFS AND COUNCIL TAX

This fact sheet is about bailiffs who may call trying to collect Council Tax or Community Charge (Poll Tax) arrears. If a bailiff has contacted you to collect another sort of debt the law might be different, **phone us for advice**.

Council Tax and Poll Tax are usually collected by private firms of bailiffs on behalf of your local council. They try to take your goods away and sell them, usually at auction, to raise money to pay the debt. The process they have to follow is called 'distraint' or 'levying'.

From **October 1998** bailiffs who call must be 'certificated'. This means they must have a certificate from the county court allowing them to act as bailiffs. You can complain to the county court about a certificated bailiff.

WARNING Check that the bailiff is certificated and see the section on 'How to complain'.

From **April 1998** you should get a letter from the council telling you how much you owe and warning you that a bailiff will call if you do not pay the debt within 14 days. It will also tell you who to contact at the council if you have a query. Contact the council and try to make an arrangement to pay what you can afford immediately. If the council agrees then they can stop bailiffs being called out and save you extra fees.

DO I HAVE TO LET THE BAILIFFS IN?

REMEMBER

If the bailiffs have not been into your home before to collect this debt, they have no right to come in. They cannot break in. You can choose not to let them in.

- Don't open the door to them as they may try to push past you. If they get inside, they may have the right to enter again and may break in to take your goods.
- Don't leave windows open or doors unlocked – bailiffs can legally get through these.

INFORMATION

Bailiffs cannot get the police to help them break in.

WARNING

Some bailiffs may leave you a phone number, and arrange to come round to 'have a chat'. Don't let them in, even if they say it's only to use the toilet or make a phone call.

- Bailiffs may try to break into sheds, garages, greenhouses etc. even though this is illegal. Keep valuables safe. They may be able to take cars, motorbikes and other vehicles parked near your home.
- Politely but firmly refuse to let the bailiffs in. Offer what you can afford to pay. If the bailiffs accept your offer, ask them to return to their car and go out and pay them. Make sure you get a receipt.



WARNING

Don't sign anything. If the bailiff leaves papers for you to sign and return, you do not have to do this. You don't have to sign agreements posted through your door either. **Phone us for advice.**

THE BAILIFFS HAVE ALREADY BEEN INSIDE MY HOME

This is more serious. If you have let them in before, then bailiffs have the right to return to your home and if you don't let them in they are allowed to break in.

- Contact the bailiffs straight away and make an offer to pay the debt in instalments. Show them a copy of your personal budget sheet so they can see you are offering as much as you can afford. You will need to treat this as a priority debt as bailiffs could come back and take any goods they have listed if you don't pay. Get a receipt for any payments you make.
- Contact your council and ask them to take the debt back.



ADVICE

Ask your local councillor for help.



WARNING

If you have let bailiffs in when they are collecting for council tax you owe under a particular liability order, this does not give them the right to come into your home and take goods for a different council tax bill. The bailiffs have to start at the beginning and try to get entry into your home for the new debt separately. You can refuse them entry, see 'Do I have to let the bailiffs in?'

WHAT THINGS ARE BAILIFFS ALLOWED TO TAKE?

There are some things that the bailiffs are not allowed to take at all, such as goods that are rented or hired. The regulations also say that the following items are exempt and cannot be taken:

- “such tools, books, vehicles and other items of equipment as are necessary for use personally in employment, business or vocation”;
- “such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying basic domestic needs of the person and family”.

This list is not very specific so you may find that bailiffs have a different idea of what items are necessary for you to keep and what can be taken. You can complain about what the bailiffs take if you feel the items should have been exempt. **Phone us for advice.**

CAN THE BAILIFFS TAKE THINGS WHICH ARE NOT MINE?

The bailiffs can only take goods belonging to you if you are named on the liability order. This means that if the Council Tax debt is just in your name, the bailiff should not take goods which are owned jointly with someone else. If they want to take goods that belong to someone else (your children, partner, lodgers, etc.) explain that the goods do not belong to you. If you can, show a receipt or note as proof. The owner of the goods may have to provide a sworn statement in the form of a 'statutory declaration' to say this is the case.

INFORMATION

They cannot take goods which are rented or hired. This includes goods on hire purchase agreements. Show them a copy of your credit agreement if you can. If the bailiffs insist on taking the goods **phone us for advice**.

WHAT IF I HIDE THINGS AWAY?

If the bailiffs haven't yet been in, you can hide things or take them somewhere else. If the bailiffs have already been in, you are committing an offence if you remove goods that they have said they will take. If you hide them on your premises the bailiffs can search for them. However, if the bailiffs have listed exempt goods on a walking possession agreement, the agreement may be invalid as it applies to these goods.

ADVICE

You may be able to remove the exempt goods **only**. If you are unsure whether some items that the bailiffs have listed are exempt, **phone us for advice**.

BAILIFF PROCEDURES

If the bailiffs are distraining for Poll Tax or Council Tax there are certain procedures that they have to follow.

They must have with them:

- written authorisation from the council for them to call. They should show you this if you ask.

They must leave you a copy of:

- the law setting out their powers and what they can and cannot do. These are the 'enforcement regulations';
- the charges the bailiffs are allowed to make for each visit;

INFORMATION

You should check they have not added too much on to your debt. See the schedule at the end of this fact sheet.

- any agreement you have actually signed. This will be called a 'walking possession' agreement and includes a list of goods the bailiffs have warned you they may take.

HOW DO I STOP THE BAILIFFS?


REMEMBER

Bailiffs cannot send you to prison.
Don't let the bailiffs in.
Don't sign anything.
Keep your vehicle parked away from home or locked in a garage.

- You can try to make an arrangement to pay the debt back at a rate you can afford. You can offer the money directly to the bailiffs, although it is easier to get them to accept your offer if they have never been into your home. Always get a receipt for any money you pay.
- If you have not let the bailiffs in and they will not let you pay what you can afford, you could try to deal directly with the council instead. Send a letter to the bailiffs' firm to tell them you intend to make your payments directly to the council.

- Start paying what you can afford to the council. Send them a letter with your personal budget sheet and ask them to accept regular payments. Make the payments anyway even if they refuse your offer. They will add these payments to your account and it shows you are willing to pay.

WARNING

 Include the council tax reference number, the liability order number and the council tax year the debt relates to each time you make a payment. **Make sure you keep a record of all payments you make.**


- If you have made regular payments to the council and can show that you are paying the arrears off, you could ask the council to take the account back from the bailiffs.
- It is very important to make an arrangement to pay the council or they may try other ways of recovering the money, such as taking money out of your wages or your benefits.
- If you refuse to let the bailiffs in they can only charge for two visits. The charges are in the table at the end of this fact sheet. Usually, the bailiff firms have a contract with the council to say they will only try to recover the debt for a set period and then the debt is returned to the council.

WHAT HAPPENS WHEN THE DEBT GOES BACK TO THE COUNCIL?

- The council may then issue a committal summons in the magistrates' court and add costs to the bill. Contact the council immediately and ask if you can keep making the same payments you have been paying. If they still refuse your offer you will now need to go to the committal summons hearing. **Phone us for advice.**

- Go the hearing and take proof of your payments and copies of your letters to the bailiffs and the council where you have tried to negotiate an arrangement.
- The court is unlikely to send you to prison if you have not paid because you don't have enough money to pay. The court can look at sending you to prison if it decides you have 'deliberately refused' or 'neglected' to pay your council tax.
- If you are on Income Support, Pension Credit or Jobseeker's Allowance, some councils have a policy for not using bailiffs and will accept an offer from you or agree to accept direct payments from your benefits. Ask your council if they are willing to take the debt back from the bailiffs so you can pay them directly.
- If the council won't help then contact your local councillor and ask them to take it up with the council for you. Explain what hardship you will be in if the bailiffs come to your home and take your belongings.

INFORMATION

 It has been a long time since the bailiff came into your home and you have not had any contact with them during this time, the future action they can take against you may be limited. **Phone us for advice.**

HOW DO I COMPLAIN?

The Department for Constitutional Affairs (formerly the Lord Chancellor's Department) has issued national standards for enforcement agents. These good-practice guidelines set out general rules for how bailiffs should behave and what procedures they should follow. You can mention these standards in your complaint **but** the standards are not enforceable by law.



INFORMATION

We can send you details of the standards or they may be found at the Department for Constitutional Affairs website:

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



INFORMATION

You can ask the Local Government Ombudsman to look at your complaint if the council refuses to help you. See the section on 'Useful addresses' for contact details for the Local Government Ombudsman.



WARNING

Get advice first, bailiff law is very complex, and even if you think what they have done is unfair, they may still be acting within the law.

- From **October 1998** bailiffs have to have a certificate granted by the court to collect Council Tax. A complaint from you can help get the certificate withdrawn. Ask your local county court if they have a form for making a complaint. If not, write to the court manager with details. The court will hold a hearing and can cancel the bailiff's certificate, order compensation and order return of the goods. A bailiff can be fined for collecting without a certificate. However, even if the bailiff's certificate is cancelled, it continues to have effect for any previous possession agreement unless the judge orders otherwise.
- You can complain to the magistrates' court and there have been cases recently where the debt has, in effect, been written off when it has been proved that bailiffs have acted illegally. This is done by making a complaint and asking for a hearing. The court can order return of the goods or compensation.
- You could complain to the council as the bailiffs are acting as their agent. They can ask the bailiffs to look at your complaint and change their procedures. If the council won't help you, you could talk to your local councillor who may be prepared to take your complaint up with the council.

BAILIFFS' CHARGES

You may be able to complain about bailiffs' charges. The amounts they are allowed to charge for Council Tax and Poll Tax are set out in the schedule at the end of this fact sheet. If you feel you have been charged too much you can complain in writing to the council and the bailiffs. You may be able to ask the county court to look at the charges for you. See below or **phone us for advice**.

You can find out what is 'reasonable' by making enquiries locally. For example, if you have been charged £80 for attendance with a van and you find out you could hire a van for a morning for £40 this is clearly unreasonable, especially as it is likely that bailiffs will be visiting several properties at once, and many companies own their own vans.



INFORMATION

The bailiffs should only charge the fee for entering into a walking possession agreement if the person named on the original liability order signs the agreement.

- In the first instance, complain to the bailiffs themselves. You can tell them you think their charges are excessive and that you will be taking further action if the charges are not reduced to the levels shown in the schedule.

- You can then complain to the council as the bailiffs are acting as agents of the council. There have been recent cases that have been taken back in front of the magistrates' court over these issues, with the result that the councils have been forbidden to take any further recovery action, or in other words, the debt has been written off. So it is worth complaining.
- You can apply to the county court for the costs to be checked. An application for a detailed assessment of the charges needs to be made within three months of receiving the bailiffs' bill. They will decide if the charges are excessive or not. There is a fee to pay to the court for this application.



WARNING

If the court decides not to reduce the bill by at least 20%, you can be liable for the bailiffs' firm's court costs. You need legal advice first. **Phone us for advice.**

- Some private firms of bailiffs belong to the 'Association of Civil Enforcement Agencies' or the 'Enforcement Services Association'. You can complain to a trade association as well as the council. Both trade associations follow a set complaints procedure. Before complaining find out which association your bailiff firm belongs to.

USEFUL ADDRESSES

The Secretary
Association of Civil Enforcement Agencies
 Kensington House
 33 Imperial Square
 Cheltenham
 Gloucester
 GL50 1QZ
Tel: 01242 241456
www.acea.org.uk

The Secretary
Enforcement Services Association (ESA)
 (formerly the Certificated Bailiffs Association)
 Park House
 10 Park Street
 Bristol
 BS1 5HX
Tel: 0117 907 4771
www.ensas.org.uk

Local Government Ombudsman (England)
 Millbank Tower
 Millbank
 London
 SW1P 4QP
Advice Line: 0845 602 1983
 Mon – Fri 9:00am – 4:30pm
www.lgo.org.uk

There are three Local Government Ombudsman offices for England. Please contact the advice line to check where to send any complaint.

Local Government Ombudsman (Wales)
 Derwen House
 Court Road
 Bridgend
 CF31 1BN
Tel: 0165 666 1325
www.ombudsman-wales.org

BAILIFFS' CHARGES FOR COUNCIL TAX AND POLL TAX FROM APRIL 2007

EVENT	COUNCIL TAX CHARGES	POLL TAX CHARGES
For a visit to your home where no entry is made and a list of goods is not made (i.e. a levy is not made)	£24.50 for a first visit £18.00 for a second visit No further charges for further visits	£15 for a first visit £12.50 for a second visit No further charges for further visits
For making a levy (i.e. where the bailiffs gain peaceful entry and make a list of goods)	£24.50 for the first £100 or less 4% for the next £400 2.5% for the next £1,500	£15 or 15%
For entering into a 'walking possession' agreement	Flat fee of £12	10p per day
For a 'close possession' agreement (e.g. bailiff stays with the goods)	£15 per day	10p per day
For one attendance with a vehicle with a view to recover goods after the levy has been made under this heading	Reasonable costs incurred (N.B. only one charge can be made.)	
For the removal and storage of goods	Reasonable costs incurred	
For various items relating to sale or proposed sale of the goods (e.g. auctioneers' fees etc)	Various fees and expenses	

Remember: You can always contact us for advice about any difficulty you have in dealing with your debts.

Freephone 0808 808 4000 Website www.nationaldebtline.co.uk

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