



County Court bailiffs

Fact sheet no. BDL07 BDL EW County court bailiffs

November 2016

This fact sheet tells you about the powers county court bailiffs have if they are collecting an unpaid county court judgment.

- find out what county court bailiffs can and can't do;
- apply to court to stop county court bailiff action and make an offer of payment; and
- complain about the way a county court bailiff has behaved.

Information:

changes to bailiff law

On **6 April 2014**, the law on bailiffs changed. The information in this fact sheet is based on our understanding of the new rules. Some bailiffs may interpret the new rules differently. It is not yet clear how the new rules will be applied in practice. If you are unsure whether a bailiff's actions are legal, contact us for advice.

Bailiffs are also commonly known as enforcement agents. In this fact sheet we use the term bailiff.

> What are county court bailiffs

This fact sheet is about county court bailiffs. County court bailiffs can be used when you have a county court judgment that you have not paid as the court has ordered. In some situations, High Court Enforcement Officers may also collect unpaid county court judgments. However, the rules about other types of bailiffs are different and are not dealt with in this fact sheet. Contact us for advice.

See our fact sheet:
Claims in the County Court.



See our fact sheet:
Debts in the High Court.



County court bailiffs work for Her Majesty's Courts and Tribunals Service. They are responsible to the delivery manager of the County Court hearing centre that they work for.

Bailiffs will visit your home or business premises and try to make a list of your goods. This is known as a 'controlled goods agreement'. The bailiffs will then demand that you pay them the money owed. You may be able to come to an arrangement to pay what you owe by instalments. If you do not pay, they can return to remove the goods listed on the controlled goods agreement. They must have followed the correct procedures to be able to do this.

Instead of making a controlled goods agreement, county court bailiffs may also remove your goods straight away or, as a last resort, lock them up in a room on your premises.

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In this fact sheet we explain the main rights of county court bailiffs and some of the important procedures they should follow.

> Warrant of control

If you have a county court judgment for a debt and do not pay as the court has ordered, the creditor can apply to the court for a 'warrant of control'. This warrant authorises a county court bailiff to try to take control of your possessions to encourage you to pay what you owe. The bailiff should give you **seven clear days'** notice that they are due to visit you. This is often called the 'enforcement notice'. 'Clear days' do not include Sundays, Christmas Day or bank holidays. It is often possible to stop bailiff action. See the later section **Can a warrant of control be suspended?**

When the warrant of control is issued, the bailiffs have a right to try to take control of your goods. This applies even if you move the goods or give them to someone else at any time, even if this is within the **seven clear days'** notice period.

Bailiffs should show you their identification and a copy of the warrant of control if you ask for it.

Bailiffs can usually act on any day of the week, but only between **6am** and **9pm** (unless your business is open outside those hours).

> Can bailiffs force entry to my premises?

You do not have to let the bailiffs into your home. The bailiffs should not force their way into your home unless:

- you have let them in on a previous visit;
- they took control of your goods;
- you have broken any agreement you made with the bailiffs; and
- they have given you **two clear days'** notice.

Information:

INFO

bailiffs' entry rights

Bailiffs can only enter your premises by a normal method of entry, such as a door. They should not enter by a window and they are unlikely to be able to use ladders to get over gates and fences.

If you have not let the bailiffs in before, keep your doors locked. It is also a good idea to keep windows closed.

A bailiff can take control of goods outside your home, so if you have a vehicle, keep it in a locked garage. If you park the vehicle on your drive, the bailiffs could clamp and possibly remove it.

You could park the vehicle away from your property, but if you park it on a public road and the bailiff finds it, they could clamp and possibly remove it. **Contact us for advice.**



Information:

INFO

changes to bailiff law

This is our understanding of the new rules on bailiffs from **6 April 2014**. Some bailiffs may argue that under the new rules, they can go anywhere they like to take control of your goods. They may say that this allows them to come into your home even if they have not been in before and that you should not refuse them entry. If a bailiff says things like this to you, **contact us for advice**.

Warning:



business premises

The law is clear that bailiffs can break into your business premises even if they have not been in before.

> What goods can bailiffs take?

County court bailiffs should not take:

- clothing, bedding, furniture and basic household items that are necessary for the basic domestic needs of you and your family;
- tools, books, telephones, computers, vehicles and other items of equipment that you need to use personally in your job, business or education (up to a total value of **£1350**); and
- items you or someone else is physically using where taking the goods straight away is likely to lead to a breach of the peace.

This means that items of equipment that you need to use in your business or education that are worth more than **£1350** are not exempt.

Extra advice:



exempt goods

The goods that bailiffs are not allowed to take include the following.

- A cooker or microwave.
- A refrigerator.
- A washing machine.
- A dining table and chairs for you and your household.

This is not a complete list of goods that bailiffs should not take. If you are unsure whether an item is exempt or not, **contact us for advice**.



Can bailiffs take goods belonging to someone else?

The bailiff should not take goods that belong to other people. If they threaten to do this, explain that the goods do not belong to you. Show a receipt or credit agreement as proof. If the owner hasn't got a receipt, they can provide a sworn statement called a 'statutory declaration' instead. **Contact us for advice.**

If a bailiff takes goods belonging to a third party, the third party should write to the bailiff to show that they own the goods. The bailiff should pass this information onto the creditor. The creditor should then decide whether to accept or reject the third party's claim. If the creditor rejects it, the third party can apply to court to get the goods back. However, they will need to pay the court a deposit. The size of the deposit depends on the value of the goods that have been taken. **Contact us for advice.**

Bailiffs can take goods that are jointly owned by you and your partner, but they are only entitled to your share of the goods.

Can bailiffs take goods on hire purchase or conditional sale?

There are different legal views about whether bailiffs can take control of goods on hire-purchase or conditional-sale agreements. If a bailiff threatens this, **contact us for advice.**

What if there are no goods to take?

If the bailiffs come into your home, they may decide that your goods are not worth enough to cover the cost of them coming with a van to remove and sell them. If this is the case, the bailiff may return at a later date to try to take control of your goods. They have **12 months** from the date of the enforcement notice to take control of your goods. If you made a payment arrangement with the bailiff after they sent you the enforcement notice, the **12 month** period starts from when you broke the terms of the repayment arrangement.

What if bailiffs cannot gain entry or there are not enough goods for them to take?

Bailiffs may try to visit your premises and take control of your goods more than once. However, if they are unable to do this, or there are not enough goods for them to list, they will usually return your case to the court. The creditor will be told about this and may decide to try other types of enforcement action. **Contact us for advice.**



What if I have already let the bailiffs into my premises?

If you have already let a county court bailiff into your home or business premises, it is important to bear in mind the following points.

- The bailiff will not usually take away goods on their first visit.
- They may ask you to sign a 'controlled goods agreement'. This allows you to keep using the items listed on the agreement. However, if you break the terms of the controlled goods agreement, the bailiff can return and take the goods by breaking in if necessary. If you don't sign the agreement, the bailiffs may remove the goods straight away. They could also lock up the goods on your premises, but this is less likely. **Contact us for advice.**

Extra advice:

complaints

If you want to complain about a bailiff, **contact us for advice.**



A bailiff may not be able to take goods that are worth more than you actually owe. If they threaten to do this, **contact us for advice.**

> What fees can bailiffs charge?

County court bailiffs can charge you the following fees if they start the type of action described.

- **£75** for being instructed by the creditor, carrying out initial checks and investigations and receiving payments.
- **£235** to cover visiting and entering premises and taking control of your goods.
- **£110** to cover removing your goods, valuing them and arranging for them to be sold.
- The cost of storing goods which the bailiff has removed from you.
- The cost of hiring a locksmith, if one is needed.

If your debt is over **£1500** or if your goods are sold, further fees can be charged. **Contact us for advice.**

In practice, county court bailiffs use a different set of fees. For example, they are likely to charge 'reasonable expenses' for removing your goods and certain percentage fees for valuing and selling them. There is no definition of what 'reasonable expenses' means. The bailiffs should give you information about how much you owe before and after they visit you. If you are unsure whether they have charged you the correct amount, **contact us for advice.** If they have charged you too much, you may be able to challenge the fees through the County Court.

> When can bailiffs sell goods that they have removed?

After bailiffs have removed goods that they have taken control of, they may sell them at public auction. However, at least **seven clear days** must have passed before they can do this. In some situations, bailiffs may ask the court for permission to sell the goods privately. **Contact us for advice.**



> What paperwork should bailiffs give me?

Under the law, bailiffs have to leave you paperwork telling you what they intend to do or what they have done. For example, when they intend to visit you, when they have taken control of your goods and when they intend to re-enter your premises after entering before. There are strict rules about the information this paperwork must contain. If the bailiffs do not give you the correct paperwork, you can complain or consider taking legal action against them. **Contact us for advice.**

> Can the warrant of control be suspended?

You can apply to the court that issued the warrant of control to suspend it and make an offer of payment based on your **budget**. You can make this application at any time after the issue of the warrant of control. Use court form **N245**. There is a fee to pay with the application.

See our fact sheet:
County court – stopping
bailiff action.



If a bailiff has already taken control of your goods and you want to apply to suspend the warrant, **contact us for advice.**

> How can I complain about county court bailiffs?

If you are unhappy with the way bailiffs have acted, write to the delivery manager of the County Court hearing centre they are working for. This will usually be your local County Court hearing centre. Include your name and address, the case number and warrant number and explain what your complaint is about.

The delivery manager should investigate your complaint and tell you in writing about any action they will take. If you are not happy with the delivery manager's response, you can ask for your case to be reviewed. Once you have been through all the stages of the court's complaint procedure, you may be able to take your complaint to the Parliamentary and Health Service Ombudsman. See **Useful contacts** at the end of this fact sheet.

HM Courts and Tribunals Service produce a leaflet **EX343 – Unhappy with our service – what do I do?** You can find this leaflet on the HM Courts and Tribunals website www.justice.gov.uk/about/hmcts.

Alternatively, you can make a court claim against the bailiff for any loss you have suffered. If you are considering this option, **contact us for advice.**

> What are the 'Taking Control of Goods: National Standards'?

The 'Taking Control of Goods: National Standards' are good practice guidelines that set out general rules on how bailiffs should behave and what procedures they should follow. You can mention these standards in support of your complaint but the standards are not enforceable by law.



We can send you a copy of the '**Taking Control of Goods: National Standards**'. Alternatively, you can find them on the HM Courts and Tribunals Service website by going to www.justice.gov.uk/about/hmcts.



> Useful contacts

Parliamentary and Health Service Ombudsman

Millbank Tower

MillbankLondon

SW1P 4QP

Phone: 0345 015 4033

www.ombudsman.org.uk

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Business Debtline endeavour to keep our fact sheets as up-to-date as possible, however, we cannot be held responsible for changes in legislation or for developments in case law since this edition of the fact sheet was issued.

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