

NATIONAL DEBTLINE

Bailiffs & 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.

Council Tax and Poll Tax are usually collected by private firms of bailiffs. 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 to say they want your goods 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. Check that the bailiff is certificated and see 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 calling out and save you extra fees.

Do I Have To Let The Bailiffs In?

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 have a right to enter again and may break in to take your goods.
- DON'T leave windows open or doors unlocked - bailiffs can legally get in through these. **Bailiffs CANNOT get the police to help them break in.**
- BEWARE! 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, motor-bikes 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.

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.

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 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. Ask your local Councillor for help.

What Things Are The 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 can't 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.

Can The Bailiffs Take Things Which Are Not Mine?

The bailiffs can only take things which belong to you **and/or** goods which are jointly owned by you and your partner. 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.

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.

What If I Hide Things Or Give Them 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. You can hide them on your premises but the bailiffs can search for them.

Bailiffs 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. 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?

- You can try to make an arrangement to pay the debt back at a rate that 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.
- **Bailiffs cannot send you to prison.** If the bailiffs have never been into your home and they will not accept your offer, all they can do is to pass your debt back to the Council. It is 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.
- If the bailiffs refuse your offer it is important to put the money you have offered aside so you can pay it to the Council as soon as the debt is passed back to them.

Write to the bailiffs and the Council telling them you are saving the money up as the bailiffs have refused to take your payments.

- If you are on Income Support or Job Seekers Allowance, some council's 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.

How Do I Complain?

GET ADVICE FIRST. Bailiff's law is very complex, and even if you think that 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 a 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 in 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.
- 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 should 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 could talk to a local councillor who may be prepared to take your complaint up with the Council.

Bailiffs Charges

You may be able to complain about bailiff's charges. 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 Court to look at the charges for you.

You can find out what is 'reasonable' by making enquiries on a local basis. For example, if you have been charged £80 for attendance with a van, and local enquires indicate you could hire a van for a morning for £20 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.

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

- 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.
- Some Private firms of bailiffs belong to the Certificated Bailiffs Association or the Association of Civil Enforcement Agency. The details are below. You can complain to one of these as well as Council

The Secretary
Association of Civil Enforcement Agencies
Chesham House
150 Regent Street
London W1B 5SJ
0207 432 0366

The Secretary
The Certified Bailiffs Association (CBA)
Ridgefield House
14 John Dalton Street
Manchester M2 6JR
Tel: 0161-8397225

Before complaining, find out which association your bailiff firm belongs to.

BAILIFFS' CHARGES FOR POLL/COUNCIL TAX FROM APRIL

1998

<u>EVENT</u>	<u>CHARGES</u>
"For a visit to a debtor's home where no entry is made and a list of goods is not made (i.e. a levy is not made).	a) £20 for a first visit (£15 for poll tax) b) £15 for second visit (£12.50 for poll tax) c) No further charges for further visits
For making a levy (i.e. where the bailiffs gain peaceful entry and make a list of goods).	a) 20% for the first £100 or part of: (e.g. £20) (15% or £15. for poll tax) b) 4% for the next £400; c) 2.5% for the next £1,500
For entering into a "Walking Possession" agreement	Flat fee of £10 (10p a day for poll tax)
For a "Close Possession" agreement e.g. bailiff stays with the goods	£12.50 a day (£10 a day for poll tax)
For one attendance with vehicle with a view to recover goods after the levy has been	Reasonable costs incurred NB only one charge can be made made under this heading.
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 📞 Phone us for advice about any difficulty you are having in dealing with your debts.

0808 808-4000

© Copyright National Debtline 1994 (revised April 2001)

Whilst we endeavour to keep our factsheets as up to date as possible, National Debtline cannot be held responsible for changes in legislation, or for developments in case law since this edition of the factsheet was issued.