The rules around debt collection

The differences between Debt Collectors and Bailiffs

Debt collectors don’t have the same powers as bailiffs. They can’t enter your home or take your possessions. They can only write, phone, or visit your home to talk to you about paying back the debt.

A bailiff has different powers and may visit a person’s home if they don’t pay their debts – such as a Council Tax bill, parking fine, court fine or county court judgment.

However, bailiffs can’t enter your home:
- by force, for example by pushing past you
- if only children under 16 or vulnerable people are in the property
- between the hours of 9pm and 6am
- through anything except the door.

It’s important to know that bailiffs are allowed to force their way into a home to collect unpaid criminal fines, Income Tax or Stamp Duty, but only as a last resort.

Remember – Bailiffs are now technically called Enforcement Agents: don’t let it confuse you, this means the exact same as ‘bailiff’.

How to deal with them

If you don’t let a bailiff in or agree to pay them:
- They are allowed to take things from outside your home, like your car.
- You could end up owing even more money as they can add charges and fees to your debt.

If you do let a bailiff in but don’t pay them they may take some of your belongings. They could sell the items to pay debts and cover their fees.

How to check a bailiff’s identity

Before you let a bailiff in to take your things or pay them, ask to see:
- Proof of their identity, like an ID card or enforcement agent certificate.
- Which company they’re from – call this to check they’re genuine, but don’t use a number they give you, get one online or from directory enquiries.
- A detailed breakdown of the amount owed.
What bailiffs can and can’t take

If you let a bailiff into your home, they may take some of your belongings to sell.

Bailiffs can take:
- luxury items, such as a TV or games console.

They can’t take:
- Things you need – such as your clothes, cooker, or fridge.
- Work tools and equipment which together are worth less than £1,350.
- Another persons belongings, for example your partner’s computer. The difficult part here is that you’ll have to prove that someone else’s goods don’t belong to you.

The rules governing what bailiffs can and can’t take – and how they can enter a property – are governed by the Control of Goods Act.

What laws apply to Debt Collectors?

Section 40 of the Administration of Justice Act says:

1. A person commits an offence if, with the object of coercing another person to pay money claimed from the other as a debt due under a contract he:
   a. harasses the other with demands for payment which, in respect of their frequency, or the manner or occasion of making any such demand, or of any threat or publicity by which any demand is accompanied, are calculated to subject him or members of his family or household to alarm, distress or humiliation;
   b. falsely represents, in relation to the money claimed, that criminal proceedings lie for failure to pay it;
   c. falsely represents himself to be authorised in some official capacity to claim or enforce payment; or
   d. utters a document falsely represented by him to have some official character, or purporting to have some official character which he know it has not.

2. A person may be guilty of an offence by virtue of sub-section (1) (a) above if he concerts with others in the taking of such actions as is described in that paragraph, notwithstanding that his own course of conduct does not by itself amount to harassment.
Guidance for debt collection guidance

1. “It is unfair to communicate, in whatever form, with consumers in an unclear, inaccurate or misleading manner.”
This means that debt collectors should not mislead debtors with documents which look as though they have been issued from the court, give false information, or mislead the debtor into thinking that they are bailiffs. This includes the use of confusing legal terms.

2. “Those contacting debtors must not be deceitful by misrepresenting their authority and/or the correct legal position.”
This means that debt collectors can't give the impression that they work for a court, or imply that action will be taken when it will not.

3. “Putting pressure on debtors or third parties is considered to be oppressive.”
This means that debt collectors are not allowed to pressure you into selling goods, use multiple trading names, ignore disputes, force you to make payments that you cannot afford, or make verbal or physical threats.

4. “Dealings with debtors are not to be deceitful or unfair.”
This means that debt collectors are not allowed to send letters that are not addressed correctly because they are unsure of the debtors details, refuse to deal with appointed third parties or refuse to suspend action if the debt is being disputed.

5. “Charges should not be levied unfairly.”
This means debt collectors are not allowed to add any unreasonable charges or claim collection costs where this is not appropriate.

6. “Those visiting debtors must not act in an unclear or threatening manner.”
This means that debt collectors should give you full details about when they will visit, leave the property when asked and not visit at inappropriate locations such as the workplace.

Statute Law Database,