BAILIFF AT DOOR

Within the United Kingdom Corporation Jurisdiction, debt enforcement agents, court-appointed bailiffs and enforcement officers are regulated by legislation to ensure they act fairly and within legal boundaries.

These agents are only authorised to collect certain debts depending on ***registration***, ***licensing***, ***certification*** and ***authorisation*** by the relevant authority that regulates said debt type.

In general, their regulation is primarily governed by the ***Tribunal, Courts and Enforcement Act 2007*** (TCEA 2007) and associated regulations, along with the ***Taking Control of Goods Regulations 2013*** and the ***Financial Conduct Authority*** (FCA).

Key Points Enforcement Agents are obligated to undertake in the UK:

Information they must bring and, upon your request, produce:

1. ***Enforcement Authority Documentation:***
    - Enforcement agents must carry evidence of their authority.
    - Judicial instrument such as a liability order, warrant, or other order issued by the court must be given to you.
    - A warrant card and identity card issued by their organisation.
    - Certification proving authority to collect the debt.
    - Licence proving permission to collect the debt.

2. ***Notification of Debtor's Rights:***
    - They must provide information about the alleged debtor's rights (Ens Legis).
    - An order of enforcement from a court, explaining the debt and how to appeal the judgement must be given to you.
    - Full details on who the creditor is and how to contact them.
    - A full breakdown of the exact amount owed.
    - All documentation requested by the alleged debtor before the visit.

<u>Note:</u> ***"debtors rights"*** are contractual rights between ***the state*** and the ***Ens Legis*** operating in commerce, and ***not*** rights of the ***"living breathing"*** man or woman.

It is the ***Ens Legis*** (all caps name) that is the ***debtor***, and ***not*** the ***"living breathing"*** man or woman.

Your rights and that of the ***Ens Legis*** should ***not*** be conflated, as they are different: your rights are yours, if you want them, and are ***not*** found within the legal system.

<u>Note:</u> before calling, the agent must inform the alleged debtor about their rights and request a reasonable time before enforcement actions are taken.

What Enforcement Agents Are Allowed to Do

1. ***Visit the Debtor's Premises:***
    - Seize goods to settle debts, provided they follow all legal procedures.
    - Comply with all requests from the debtor for documentation.
    - Have documented evidence of their right to claim the alleged debt.
    - Be directly authorised by the right governmental agency to collect the debt.

- Have the correct judicial instrument that supports their claim and actions.

2. ***Visiting time:***
    - Debt collectors and enforcement agents are generally permitted to visit a debtor's home between 6:00 am and 9:00 pm.
    - Visits are typically allowed on any day, including weekends and public holidays, within the permitted hours.
    - While there are no restrictions on visiting homes on Sundays or bank holidays, enforcement agents are advised to exercise discretion and avoid causing undue disturbance.

3. ***Request Payment or Arrange Payment Plans:***
    - They can discuss options for settling the debt.

4. ***Take Control of Goods:***
    - Under the ***Taking Control of Goods Regulations 2013***, agents can seize goods to be sold to recover the debt, however they must follow strict rules.

5. ***Enter Business Premises (if permitted):***
    - Under certain conditions, such as if authorised by the court through a judicial instrument or if the premises are open to the public.
    - If a judicial instrument issued by the court allows for entering the premises, then a police presence is also required.

6. ***Use Reasonable Force:***
    - Only when necessary and legally authorised by a judge, however said action would be undertaken by police officers and ***not*** enforcement agents themselves.

What Enforcement Agents Are Not Allowed to Do

1. ***Enter Residential Premises Without Permission:***
    - They cannot forcibly enter a home or business premises unless they have the debtor's consent or a warrant with the assistance of the police.

2. ***Use Violence or Threats:***
    - Under the ***Criminal Law Act 1977***, violence or threats are prohibited.

3. ***Harass or Coerce Debtors:***
    - They must not intimidate, harass, or use aggressive behaviour.

4. ***Ignore Debt Disputes:***
    - They cannot ignore disputes or evidence that the debt has been paid, is incorrect, or a counterclaim has been made with the court.

5. ***Seize Essential Items:***
    - They cannot seize items necessary for basic living needs such as clothing, beds, or essential household items.

6. ***Visits at Prohibited times:***
    - Visits before 6:00 am or after 9:00 pm are not permitted under UK legislation.

When they come knocking

Enforcement agents in the UK must carry proper identification and documentation that allows them to act within the scope of legislation and respect debtor rights.

They are only allowed to seize goods if they have the correct paperwork and they must follow strict procedures. They are prohibited from entering homes forcibly, using violence, or harassing debtors.

When they call, you are under no obligation to open your door or engage with them, however it may be beneficial to engage if you know what to say.

If you choose to engage, go with caution and consider the following:

1. ***Do not let them in:*** you are not required to let them into your home.
2. ***Ask for proof of ID:*** you can ask them to put the ID through the letterbox or show it at a window.
3. ***Verify their identity:*** if they cannot—or refuse to—prove their identity you can terminate the conversation.
4. ***Tell them to leave:*** if they cannot prove who they are, you can tell them to leave.

The following is a general script that you can use with all enforcement agents who call at your home.

<u>Note:</u> a professional court-appointed officer with the correct paperwork will have no problem with you asking these questions—a scammer will object to answering for obvious reasons.

The person you are directing the questions at may try and evade answering, therefore you must ask each question a minimum of three times.

If they still do not answer, state on your recording that they have ***refused*** to answer.

You are **not obligated** to answer any of ***their*** questions.

Script:

1. **<u>Statement:</u>** ***this conversation is being recorded whereby your answers shall be reviewed by my legal team.***
    - It is always advisable to record any encounter before you start your questions.
    - The answers given shall be used to construct your counterclaim at a later date.

2. ***Who are you?***
    - Never assume the identity of anyone, even if they are wearing a uniform.

3. ***Are you formally identifying yourself as an enforcement officer?***
    - You must get them on the record making a formal claim that they are an enforcement officer or agent.

4. ***What kind of enforcement agent are you?***
    - Depending on what type of agent they are determines the following:
        - The authority they are acting under.
        - What licensing they require.
        - What certification they need.
        - What regulations they must follow.
        - The type of debt they are allowed to collect.

    - The limitations of the actions they can take.

5. ***Do you have proof in the form of an ID card displaying your full name?***
    - An ID card does ***not*** automatically mean they have authority from the court.
    - ID cards can be private and issued by the company the agent is working for, and therefore has ***no official authority*** to act.
    - If the ID does ***not*** have a full name, or it is just a number, it has ***not*** been issued by a court and therefore has ***no legal standing***.
    - ID cards are issued to civilians and employees for general identification only.
    - You have the right to physically inspect any identity card presented.
    - You have the right to record the information from any identity card presented.

6. ***Do you have a Warrant Card or Certification?***
    - A warrant card serves as ***official identification***, proof of their granted authority and status.
    - A warrant card proves court authority and is issued to court agents such as the police, court-appointed bailiffs and judicial officers.
    - Some agents are certified by their employing organisation, which is a ***certificated*** enforcement agency authorised by the ***Ministry of Justice***.
    - If they do ***not*** have a warrant card or certification, they do ***not*** represent a court or governmental agency.
    - A warrant card or certification is required confirming their authority to enforce court orders.

7. ***Are you a certified enforcement agent registered with the Ministry of Justice?***
    - If they say **no**:
        - You now know their powers are extremely limited.
        - It is also extremely unlikely they have genuine judicial instruments with them.
        - It is highly probable they have no connection with any court.
    - If they say **yes**:
        - Inform them that you wish to pause your questioning while you check with the government website.
        - If they are working for the court, they will have no problem with this as it is standard protocol.
        - See ***Relevant Acts and Statutes*** below for the link.

8. ***Which company do you work for?***
    - If they are appointed by a court, then the name of the court will be given.
    - If the name of a private business is given, then this information confirms they do not work for a court.
    - You require the company's full details for the record, such as address and phone number.

9. ***Did your company purchase the alleged debt?***
    - If they purchased the debt they will need to show you proof.
    - If they purchased the debt but ***not*** the right to claim, they have effectively paid off the debt for you because they have ***no right to claim***.
    - They ***cannot*** purchase the debt without either a novation agreement or deed of assignment.
    - If they did ***not*** purchase the debt, then they have limited authority:

    - They require official documentation to be able to act as an agent.
    - They have no right to claim and cannot make a direct demand for payment.

10. ***Are you making a direct demand for payment?***
    - A demand means a bill that is payable immediately upon presentation.
    - A direct demand for payment requires supporting legal documentation to be valid, namely proof of order, a contract and invoice.
    - Only the ***creditor*** or ***authorised agent*** can make a direct demand for payment.

11. ***Do you have FCA Part 4A Permission?***
    - If they say yes, then they are regulated by the FCA and must follow their protocols.
    - If they say no, then they have no authority to claim most debts, such as:
        - Credit and store card debt.
        - Personal loans.
        - Overdrafts.
        - Hire purchase and motor finance.
        - Statutory tax debt.
    - If they say no, then it is most likely they can only collect private debt.
    - If they say no, they do ***not*** represent HMRC or the CSA.

12. ***Have you brought evidence of your licence?***
    - Most types of debt collection require a licence, such as Statutory tax debt.
    - If they do not have a license, they are limited to only collecting ***private debt***.

13. ***Is the alleged debt enforceable within FCA rules?***
    - If the debt is enforceable within FCA rules then the agent will need ***FCA Part 4A Permission*** to collect.
    - If the debt collector states that the alleged debt is ***not*** enforceable within FCA rules, but it is later found to be enforceable, the agent has carried out an illegal act.

14. ***Are you a member of the CSA?***
    - The CSA requires members to comply with statutory legislation and adhere to its Code of Practice on authorised debt collection.
    - If the agent states they are a member, they have revealed that they are bound by the CSA's rules and protocols.
    - If the agent states they are not, their ability to collect debt is limited to ***private debt*** only.

15. ***Is the alleged debt regulated by the CSA?***
    - If the debt is regulated by the CSA and the agent is ***not*** a member of the CSA, they have ***no authority*** to collect.
    - If the debt collector states that the alleged debt is not regulated by the CSA, but is later found to be so, the agent has carried out an illegal act.

16. ***Are you authorised by HMRC to collect tax debts?***
    - If the agent states they are not, they ***cannot*** collect any form of tax debt.
    - If they are found to be attempting to collect a tax debt without authorisation by HMRC, they are committing a criminal act.

17. ***Are you only able to collect private debt?***

- If they say yes, they have admitted their lack of authority, limitations and ability to collect.
- If they say no, they must provide written evidence, such as a licence or certification, to be able to collect other forms of debt.

18. ***Are you making the claim that the alleged debt is private and for service rendered?***
    - Private debt must be supported and governed by a contract whereby consideration is agreed upon.
    - When claiming private debt, proof of contract and evidence of service supplied must be produced to support any claim of the alleged debt.
    - If the agent makes a claim of a private debt, which then turns out to be a tax debt, they have made an illegal claim.

19. ***Do you have the full name and contact details of the principal creditor?***
    - A principal creditor is the primary party to whom a debt is owed and if the agent cannot provide you with this information, it is unlikely that there is one.
    - If there is no principal creditor, then there is no authority for the debt collector to operate.
    - If there is no principal creditor, then it is likely the debt collector has just bought information regarding an alleged debt and is attempting to defraud you.

20. ***Do you have written proof of the original offer of service from the principal creditor, including the name of the offeror and on what date?***
    - If the name of the principal creditor is given, then documented evidence must be supplied to you upon request, which would include the following:
        - Details regarding the original offer made by the principal creditor.
        - Copy of the accepted contract detailing the goods or service and the cost.
        - Proof that the goods or service was provided, usually in the form of an invoice.

    - If the principal creditor has already stated to you that they do not have a contract or do not need one, then the information given by the debt collector may now be incorrect.

21. ***Do you have written proof of acceptance of service from the principal creditor, detailing on what date and by whom?***
    - If the claim of debt is based on private debt for goods or service rendered upon order, then proof of said order must be supplied.

22. ***Do you have the original copy of the contract obligating the alleged debt?***
    - If the debt is private the proof of contract must be supplied upon demand.
    - If the debt is pursuant to statute, then the underlying contract that ratified the statute coded must be supplied upon demand.
    - If they have no contract, then there is no proof of debt.
    - If they make a statement that they do not need a contract, this is legally untrue and can be taken as a threat.

23. ***Do you have a copy of a novation agreement?***
    - A novation agreement authorises the original debtor's obligation to be legally transferred to a new creditor.

- A debt collector acting as agent for the new creditor must have this document to prove they now possess the right to claim.
- If you have already served notice on the debt collection agency requesting said document, you must have it in your possession before any visit.
- Novation agreements must be signed by the debtor allowing transfer of the debt.

24. ***Do you have a copy of a deed of assignment?***
    - A deed of assignment is a legal document that formally transfers debt rights, usually the right to claim, from the creditor to an agent obligated to collect the debt.
    - The equitable title and controlling interest usually stays with the creditor, with only the right to claim being transferred to the debt collector agent.
    - It serves as legal proof that the right to collect the debt has been assigned, which is essential in legal proceedings or negotiations.
    - Once the assignment is in place, the assignee can take legal action or enforce the debt without needing further approval from the original creditor.
    - A deed of assignment can only be created if the original contract allowed for it.
    - If you have already served notice on the debt collection agency requesting said document, you must have it in your possession before any visit.

25. ***Have you brought written proof of a court-issued liability order, signed by a justice of the peace?***
    - If the debt collector makes a claim they hold a liability order, they must provide written evidence of this.
    - If they make claim, they do not need one, this is legally untrue and can be taken as an attempt to defraud.
    - A liability order is a judicial instrument and must be signed by a judge.
    - Images on electronic devices, such as mobile phones and tablets, are ***not*** written proof and could also be in violation of GDPR.
    - If they make claim to this document, and it is later determined they do not have it, then all actions from the moment you requested it are illegal with grounds to sue.

26. ***Do you have the full name of the justice of the peace who authorised the liability order and on what date?***
    - If they make claim to hold a liability order, then they would also know the name of the justice of the peace who signed it and when.
    - If they cannot give you this information then it is extremely unlikely they have a liability order.

27. ***Do you have details of the memorandum of entry that supports the alleged liability order?***
    - A ***Memorandum of Entry*** (MOE) is a legal document used to record the entry of a liability order with the court records.
    - It serves as an official record that a ***liability order*** has been issued against a debtor and that the amount owed has been acknowledged and recognised by the court.
    - If there is ***no*** MOE then there is ***no*** liability order.

28. ***Do you have a case number issued by the court that relates to the alleged liability order that I can verify by calling the court?***
    - A case number serves as a unique identifier for a specific legal case, including the proceedings that led to the issuance of the liability order.
    - A case number must accompany a Memorandum of Entry (MOE) and any court order.

- If you are given a case number, pause your questioning while you check with the court that the case number is real.
- If they attempt to pass off a ***"private case number"*** or ***"claim number"*** as a genuine court case number, this can be seen as an attempt to defraud.
- If there is ***no*** case number, then there can be ***no*** MOE and ***no*** liability order.

29. ***Are you claiming that the paperwork you rely on is a judicial instrument?***
    - The difference between ***administration paperwork*** and a ***judicial instrument*** is as follows:
    - Admin paperwork just covers routine court operations, record-keeping, scheduling and internal processes with no legal authority, such as:
        - Docket sheets
        - Filing receipts
        - Case management records
        - Notices of hearings or adjournments
        - Internal memos
    - A judicial instrument is a formal document, signed by a judge and issued by a court, that carries legal authority and effect, such as:
        - Judgments and decrees
        - Warrants of arrest
        - Summonses
        - Orders of execution
        - Writs, such as a writ of habeas corpus.
        - Liability orders or memorandum of entry.

<u>Note:</u> historically, judicial instruments would have a court seal in red, whereas admin paperwork would be stamped in black.

If the agent holds nothing more than admin paperwork, then they have ***no authority*** to act. If they intentionally attempt to pass off admin paperwork as a ***judicial instrument***, this is a criminal offence.

30. ***Are you aware that council tax is a statutory tax?***
    - If the debt collector is making a claim of private debt and then makes reference to council tax, this could be in error.
    - If you inform them of this, and they continue with their claim, it is no longer done in error, but has become intentional.

31. ***Are you aware that a debt collector acting as an agent cannot gain FCA part 4a permission from their client, and attempt to collect a tax debt?***
    - Debt collectors will often claim they get ***"legal authority"*** to act via their client—however this is incorrect.
    - Being granted authority to act on behalf of a client does ***not*** legally extend the client's licensing or certification to the agent.
    - This means the agent ***cannot*** gain ***legal authority*** supported by government agencies, and therefore ***cannot*** rely on the client's permission to use said legislation, codes or policies.
    - While the tax debt is not regulated, HMRC approved debt collection agencies must be registered with and regulated by the FCA to operate legally.

<u>Transcript and Serve notice</u>

Once the encounter is over, you must serve written notice on the agency that made the claim upon you and sent an employee to your door.

With the recording you made, you are now in a position to turn the audio into a transcript and use this to continue further questioning regarding the many mistakes, errors, omissions and deficiencies the agent made during the visit.

Digital Devices

If the debt collector attempted to offer fake documentation on a tablet, which you should have recorded when engaged with your list of questions, serve notice on them and ask:

Question: ***"Where is the provision within the Electronic Communications Act 2000 that allows for digitally generated and unsigned judicial instruments such as liability orders, warrants and writs?"***

If they are unable to provide you with this information, then they have now attempted to pass off digital images as judicial instruments, which would constitute a crime.

Note: if it is found the debt collectors had no right to claim the debt, they are also now in violation of GDPR protocols, as they had no right to hold your personal data on their private devices.

Judicial instruments, or court orders, must be signed by a judge and sealed by a courthouse.

However, although the modern UK court system is becoming more digital, with ***"wet ink"*** signatures becoming less common, an electronic signature with a pre-printed name and court seal incorporated into the document is being trialled.

Regardless of how the document is processed within the court, you still have the right to receive the printed version, on paper, that shows the judges name, signature and court seal.

The following are Judicial Instruments that require a Judge's Signature:

- ***Liability Orders:*** these demand payment for council tax or business rates and are issued by a Magistrates' Court and must be authenticated with the justice's name and court seal to be valid.
- ***Warrants of Control/Arrest/Commitment:*** warrants that compel a person to attend court, prison, or allow for the seizure of goods must be signed by a justice of the peace.
- ***Writ of Control:*** a High Court enforcement document, typically used after a County Court Judgment (CCJ) is transferred up.
- ***Committal Orders:*** orders for imprisonment, for example: for contempt of court for ***"non-payment"*** of debt.
- ***Injunction Orders:*** including Anti-Social Behaviour Injunctions (N16) and orders under the Protection from Harassment Act 1997.
- ***Charging Orders:*** an order placing a charge on a debtor's property.
- ***Consent Orders:*** while agreed upon by parties, these must be drawn up, signed by the legal representatives or the parties themselves, and sealed by the court to be made by a judge.
- ***Attachment of Earnings Orders:*** an order that directs an employer to make deductions from an employee's earnings.

Note: if these documents are not signed, then they have no legal standing.

Relevant Acts and Statutes

Tribunal, Courts and Enforcement Act 2007 (TCEA 2007): provides the overarching legal framework for enforcement procedures.

Link: https://www.legislation.gov.uk/ukpga/2007/15/contents

Taking Control of Goods Regulations 2013: details control of goods procedures, including rights and restrictions.

Link: https://www.legislation.gov.uk/uksi/2013/1894/contents

Criminal Law Act 1977: prohibits violence and threats.

Link: https://www.legislation.gov.uk/ukpga/1977/45

Consumer Protection from Unfair Trading Regulations 2008: ensures fair treatment.

Link: https://www.legislation.gov.uk/uksi/2008/1277/contents

The Consumer Rights Act 2015: protects consumer rights, including debt collection.

Link: https://www.legislation.gov.uk/ukpga/2015/15/contents

Bailiff Register

The Certificated Enforcement Agent Register or ***Bailiff Register*** is the official ***Ministry of Justice*** database used to verify if an enforcement agent in England and Wales has a valid certificate to take control of goods.

You can search by the agent's name, employer, or the court that issued the certificate.

Note: certificates must be renewed every two years

Link: https://certificatedbailiffs.justice.gov.uk/

Bailiff Identification

Tribunal and Courts Enforcement Act 2007, Schedule 12, Part 2, Paragraph 26

26 (1) The enforcement agent must on request show the debtor and any person who appears to him to be in charge of the premises evidence of—

a) his identity, and
b) his authority to enter the premises.

(2) The request may be made before the enforcement agent enters the premises or while he is there.