

Ask the Bailiff the following questions:

Ask the caller to formally identify themselves - with card credentials. Without this, proceed no further - no further contact can be permitted.

- ✚ Do NOT sign any document offered to you by the bailiff. Do not accept any paperwork.
- ✚ Do NOT confirm your name, identity or date of birth.
- ✚ Do NOT admit the “debt”.

Questions / Statements

- What is their bailiff's certificate number?
- Which County Court certificated them?
- What their business name and address is?
- Ask for a full breakdown of their fees.
- Ask to see their warrant and **take a photograph of it**. Make a note of whether the warrant/order has a court stamp and/or the signature of an agent of the court. Remember - Court warrants do not show Bailiff fees - these are usually placed on a re-printed version of the warrant which is **not lawful**.
- Ask if they have a Walking Possession Order; if so, ask them to hold it for you while you **take a photograph**. (Again, do not accept it if he offers it to you! Just holding it is consent!)
- If their warrant did not have either a court stamp, the signature of a court official, or both, then tell them politely and kindly that the warrant is invalid, and why.
- Ask them to complete and sign for your records, the template letter confirming their attendance on your property. When completed, post it through your mailbox.
- Take a photograph of the bailiff with your front door in the background.
- Ask if they saw the notice at the front gate - the Notice of Removal of Implied Right of Access.
- Tell them politely and kindly that they have committed the statutory offence of trespass, because they have failed to comply with your notice and you will be pursuing damages in court.
- As they depart go with them and take photographs of them leaving your property (ideally with the notice in the background).

You then have the evidence to pursue them in the County Court and need to take a small claim against them. In the UK, follow this link for more information www.moneyclaim.gov.uk

Ask the Bailiff the following questions:

Here is the Case Law that goes with it (also note that a Bailiff CANNOT remove the "tools of your trade" OR "your means of transport" UNLESS it is the verdict of a Jury):

A debtor can remove right of implied access by displaying a notice at the entrance [see [the link, above](#)]. This was endorsed by Lord Justice Donaldson in the case of Lambert v Roberts [1981] 72 Cr App R 223 - and placing such a notice is akin to a closed door but it also prevents a bailiff entering the garden or driveway, Knox v Anderton [1983] Crim LR 115 or R. v Leroy Roberts [2003] EWCA Crim 2753

Debtors can also remove implied right of access to property by telling him to leave: Davis v Lisle [1936] 2 KB 434 similarly, McArdle v Wallace [1964] 108 Sol Jo 483

A person having been told to leave is now under a duty to withdraw from the property with all due reasonable speed and failure to do so he is not thereafter acting in the execution of his duty and becomes a trespasser with any subsequent levy made being invalid and attracts a liability under a claim for damages, Morris v Beardmore [1980] 71 Cr App 256.

Bailiffs cannot force their way into a private dwelling, Grove v Eastern Gas [1952] 1 KB 77

Otherwise **a door left open is an implied license for a bailiff to enter**, Faulkner v Willetts [1982] Crim LR 453 likewise a person standing back to allow the bailiff to walk through but the bailiff must not abuse this license by entering by improper means or by unusual routes, Ancaster v Milling [1823] 2 D&R 714 or Rogers v Spence [1846] M&W 571

Ringing a doorbell is not causing a disturbance, Grant v Moser [1843] 5 M&G 123 or R. v Bright 4 C&P 387 nor is refusing to leave a property causes a disturbance, Green v Bartram [1830] 4 C&P 308 or Jordan v Gibbon [1863] 8 LT 391

Permission for a bailiff to enter may be refused provided the words used are not capable of being mistaken for swear words, Bailey v Wilson [1968] Crim LR 618.

If the entry is peaceful but without permission then a request to leave should always be made first. Tullay v Reed [1823] 1 C&P 6 or an employee or other person can also request the bailiff to leave, Hall v Davis [1825] 2 C&P 33

A debtor can use an equal amount of force to resist a bailiff from gaining entry, Weaver v Bush [1795] 8TR, Simpson v Morris [1813] 4 Taunt 821, Polkinhorne v Wright [1845] 8QB 197. Another occupier of the premises or an employee may also take these steps: Hall v Davis [1825] 2 C&P 33.

Also wrongful would be an attempt at forcible entry despite resistance, Ingle v Bell [1836] 1 M&W 516

Bailiffs cannot apply force to a door to gain entry, and if he does so he is not in the execution of his duty, Broughton v Wilkerson [1880] 44 JP 781

A Bailiff may not encourage a third party to allow the bailiff access to a property (ie workmen inside a house), access by this means renders the entry unlawful, Nash v Lucas

Ask the Bailiff the following questions:

[1867] 2 QB 590

The debtor's home and all buildings within the boundary of the premises are protected against forced entry, *Munroe & Munroe v Woodspring District Council* [1979] *Weston-Super-Mare County Court*

Contrast: **A bailiff may climb over a wall or a fence or walk across a garden or yard provided that no damage occurs**, *Long v Clarke & another* [1894] 1 QB 119

It is not contempt to assault a bailiff trying to climb over a locked gate after being refused entry, *Lewis v Owen* [1893] *The Times* November 6 p.36b (QBD)

If a bailiff enters by force he is there unlawfully and you can treat him as a trespasser. *Curlewis v Laurie* [1848] or *Vaughan v McKenzie* [1969] 1 QB 557

A debtor cannot be sued if a person enters a property uninvited and injures himself because he had no legal right to enter, *Great Central Railway Co v Bates* [1921] 3 KB 578

If a bailiff jams his boot into a debtors door to stop him closing, any levy that is subsequently made is not valid: *Rai & Rai v Birmingham City Council* [1993] or *Vaughan v McKenzie* [1969] 1 QB 557 or *Broughton v Wilkerson* [1880] 44 JP 781

If a bailiff refuses to leave the property after being requested to do so or starts trying to force entry then he is causing a disturbance, *Howell v Jackson* [1834] 6 C&P 723 - but it is unreasonable for a police officer to arrest the bailiff unless he makes a threat, *Bibby v Constable of Essex* [2000] *Court of Appeal* April 2000.

if the debtor strikes the bailiff over the head with a full milk bottle after making a forced entry, the debtor is not guilty of assault because the bailiff was there illegally *Vaughan v McKenzie* [1969] 1 QB 557, likewise *R. v Tucker at Hove Trial Centre Crown Court*, December 2012 if the debtor gives the bailiff a good slap.

If a person strikes a trespasser who has refused to leave is not guilty of an offence: *Davis v Lisle* [1936] 2 KB 434

License to enter must be refused BEFORE the process of levy starts, *Kay v Hibbert* [1977] *Crim LR* 226 or *Matthews v Dwan* [1949] *NZLR* 1037

A bailiff rendered a trespasser is liable for penalties in tort and the entry may be in breach of Article 8 of the European Convention on Human Rights if entry is not made in accordance with the law, *Jokinen v Finland* [2009] 37233/07

If a police officer arrests a debtor after throwing a bailiff off the premises who had refused a request to leave, the officer is guilty of false arrest because no offence has been committed and the bailiff was there illegally: *Green v Bartram* [1830] 4 C&P 308.

A police officer must arrest a bailiff for breach of the peace if he places the debtor in fear of violence or harm if that offence is made in the presence of that officer: *R v Howell (Errol)* [1982] 1 QB 427.

Ask the Bailiff the following questions:

A person performing certificated work without a certificate commits an offence. Section 63(6) of the Tribunals Courts and Enforcement Act 2007.

A person not a certificated bailiff conducting levy is trespass, Hawes v Watson [1892] 94 LT 191 ;[1890] 29 LJ 556; contrast Varden v Shread [1890] 36 EG 449 or 25 LJ 363, Harker v Browne [1890] 36 EG 59, [1892] 40 EG 402, Thomas v Millington [1894] 2 PMR 472, Bray v Naldred [1894] 2 PMR 227 and Rodgers v Webb [1912] 20 PMR 186, Bray v Naldred [1894] 2 PMR 227

The constable must check the bailiff's certificate and his Warrant and if he is unable to show both documents then the constable is required to remove the Bailiff from site under section 125b of the County Courts Act 1984 or for a Traffic related debt, arrest him under Section 78(7) of the Road Traffic Act 1991 or Section 2 of the Fraud Act 2006 as he is required to carry them in an intelligible form when attending a debtors address. Buller's Case [1587] 1 Leonard 50 or Andrews v Bolton Borough Council [2011] HHJ Holman, Bolton county court, June 2011