



## Worried about... debt?

### What action a creditor can take

If you've stopped paying your bills or repaying your debts, a creditor might take legal action to try and retrieve the money you owe them.

You should seek help immediately, Citizen Advice is able to help and support you with your debts. You can find your local Citizen Advice and contact them.

The following explains the different ways you can be ordered to pay back the money through county court judgments and using bailiffs. There are other ways creditors can recover money including deductions from benefits and earnings which do not require a county court judgment or involve bailiffs. For more information, you can read the guide 'What happens if I can't pay my debts.'

### Bailiffs

One of the ways a creditor can retrieve their money is by using a bailiff.

A bailiff, also known as an 'enforcement agent', is someone who will visit your home if you fail to pay your debts. **These debts include things like:**

- Council Tax bills
- County court judgment
- High court judgment
- Family court judgment
- Parking fines
- Court fines

If you haven't paid a debt you might be sent a letter from bailiffs (called a notice of enforcement) saying they will visit your home to collect payment. Bailiffs must usually give you at least 7 days' notice before they do their first visit.

### There are different kinds of bailiffs, known as:

- certificated enforcement agents (also known as civil enforcement agents)
- high court enforcement officers
- county court bailiffs
- bailiffs who enforce magistrates' court fines and warrants for arrests (either 'civilian enforcement officers' or 'Approved Enforcement Agents')

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A bailiff might also visit your home for other reasons such as delivering or serving a court document or giving notices and summons.

## **Check the notice of enforcement is valid**

You should first make sure your notice of enforcement includes the right information. If it doesn't, you can complain to stop the bailiffs from coming until a new notice is sent.

For your notice to be valid it must:

- show your correct name and address
- show what debt you owe and state the correct amount
- explain that you have 7 days' notice before the bailiffs can visit
- come from a registered bailiff, not a debt collector - you can check on the Bailiffs Register on the Justice website
- be sent to you by letter - either by post, fax, email, by being fixed to your front door if you don't have a letterbox or by being given to you
- be written in a certain legal style - see an example of a notice of enforcement on GOV.UK

## **Work out what day the bailiffs will visit on**

After sending you the notice of enforcement, the bailiffs have to wait 7 full days before they can visit you. This doesn't include the day you get the notice, the day of the visit or Sundays and bank holidays.

For example, if you get your notice on Monday, the bailiffs can't visit you until the Wednesday of the next week.

## **If your notice of enforcement is from a debt collector**

Your notice of enforcement won't be valid if it's come from a debt collector. They don't have the same powers as bailiffs - they can't come to your home to collect a debt. You can send them away if they do.

Even if you send the debt collector away, if you owe the debt, you'll still need to make arrangements to deal with it. Find out how to deal with debts.

If you think your notice of enforcement has come from a debt collector and you're worried about dealing with them, contact your nearest Citizens Advice.

## **Preparing for a bailiff visit**

If you haven't been able to pay your debt or set up a payment arrangement and the bailiffs are coming to your home, you don't have to let them in.

You can stop them from getting in and from taking your belongings by:

- telling everyone in your home not to let them in
- not leaving any doors open (they can enter through an open door)
- parking or locking your car in a garage away from your home

## **Bailiffs visiting your home**

Bailiffs visiting your home can be a stressful experience but you have rights.

- Bailiffs are only allowed to try to come into your home between 6am and 9pm.
- They cannot use force to enter your home, for example pushing past you. The only exception is when they come to collect criminal fines, Income Tax or Stamp Duty but they will only use this as the last resort.
- Bailiffs can only enter your home through a door or other usual means of entry. This

might include an unlocked garage door. They are not allowed to climb over gates or fences or through windows.

- They're also not allowed to enter if the only people in your home are under the age of 16 or vulnerable adults.

Where possible, you shouldn't let a bailiff into your home - it's always best to try to sort out your debt by keeping them outside and speaking through the door or over the phone.

Make sure your doors are locked and your windows are closed - bailiffs are allowed to come in through unlocked doors. If you have a porch with a lockable door you should lock this too.

***Call 999 if you're being physically threatened by a bailiff.***

**Before you speak to bailiffs, check the extra rules they should follow if you:**

- are disabled or seriously ill
- have mental health problems
- have children or are pregnant
- are under 18 or over 65
- don't speak or read English well
- are in a stressful situation like a recent bereavement or unemployment

You might be able to get more time to deal with the notice of enforcement.

## **Get proof of who they are**

The first thing to do when a bailiff arrives is to ask for proof of who they are and why they're visiting.

If they say they're a 'debt collector' tell them to leave. They don't have the same powers as bailiffs and they have to go if you ask them to.

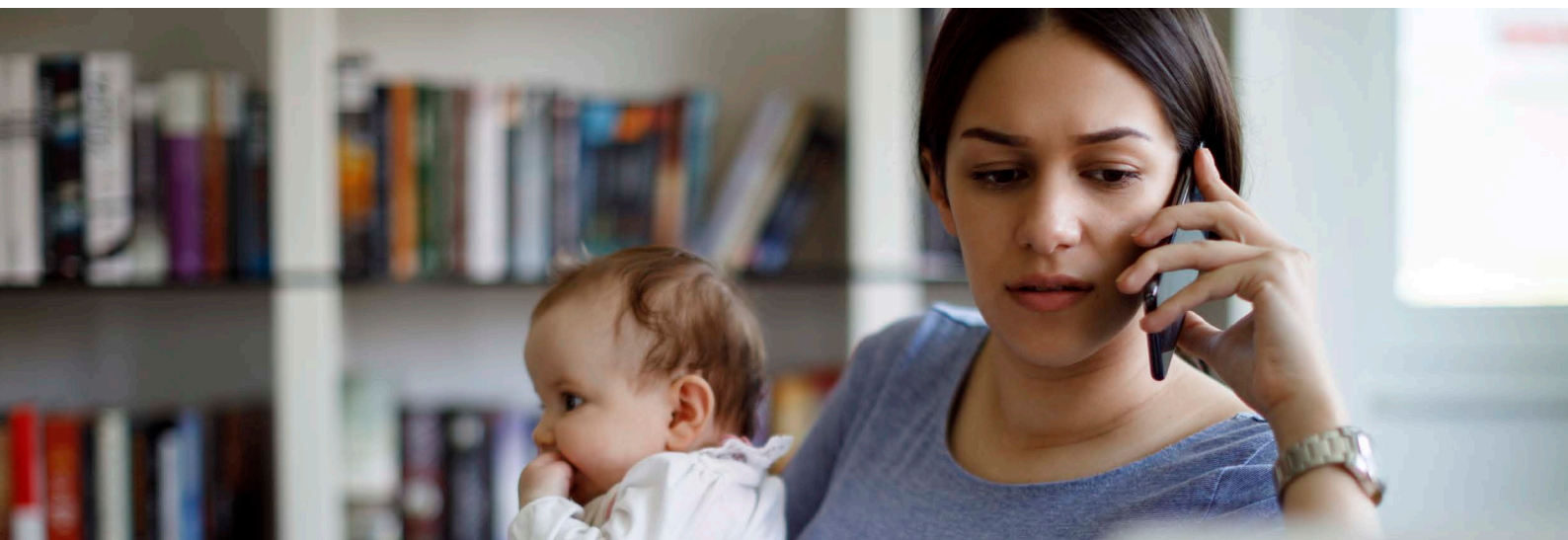
If they say they're a bailiff or enforcement agent, ask them to show you a badge, ID card or 'enforcement agent certificate'. All registered bailiffs have to carry proof of who they are.

They'll also need to tell you which company they're from and give you a telephone contact number for the head office.

Tell them to pass the documents through your letterbox or show you at a window. Their proof of identity will show their name and what kind of bailiff they are.

**To check their identity you should either:**

- check the certificated bailiff's register - if they say they're a certificated enforcement agent
- check the directory - if they say they're a high court enforcement officer
- contact the court that sent them - if they say they're a county court bailiff, family court bailiff or a civilian enforcement officer



Tell them to leave if they can't prove who they are. Say you'll report them to the police if they don't go. If they won't leave you should call 999.

## **Check if bailiffs can take property from your home**

**Bailiffs need to follow extra rules if they're collecting the following types of debt:**

- your local council - for example council tax or a parking fine
- court fines you owe
- child maintenance

**Even though the bailiffs can't take property from inside your home, they can still:**

- take your things from a road or driveway - like your car
- talk to you
- collect money
- give you documents

If bailiffs visited you when they shouldn't have or didn't follow the rules, you can check how to complain about bailiffs.

## **If bailiffs say they're evicting you**

If you get a letter saying bailiffs are going to evict you, find out how to deal with eviction by bailiffs on Shelter's website:

[https://england.shelter.org.uk/housing\\_advice/eviction/what\\_happens\\_when\\_bailiffs\\_evict\\_tenants](https://england.shelter.org.uk/housing_advice/eviction/what_happens_when_bailiffs_evict_tenants)

## **County Court judgment**

If you owe money and you don't pay it back your creditor might take you to court.

You should reply to the claim as soon as possible - usually within 2 weeks. If you disagree you owe the debt, mention this to your creditor in your reply.

You should also check your options for getting out of debt - you might be able to agree on a plan with your creditor instead of going to court.

If you're taken to court, a court order will be made. If you need to pay the debt, the court order will say how much you need to pay and when you need to pay by.

## **Check your creditor has sent you the right documents**

Your creditor has to send you the right documents before taking you to court. If they haven't, you might be able to challenge the claim.

When you borrowed the money you should have been asked to sign an agreement that says what you and your creditor agree to.

For most credit agreements, you'll be covered by the Consumer Credit Act. If you're not sure, find out if your credit agreement is covered by the Consumer Credit Act by visiting your local Citizen Advice.

If your agreement is covered by the Consumer Credit Act, your creditor must follow all 3 steps of the process before taking you to court for debt.

**Your creditor must send you a:**

- default notice
- letter of claim
- claim pack

If your agreement isn't covered by the Consumer Credit Act, your creditor might not send you a default notice - they might send you a 'final demand' or another document instead.



Your creditor still has to send you a letter of claim and a claim pack, even if your agreement isn't covered by the Consumer Credit Act.

If you feel your creditor hasn't acted properly, you might be able to challenge the claim against you. For example, if your creditor hasn't warned you of the debt or they've started legal action too quickly. You should contact your nearest Citizens Advice.

## 1. Default notice

The default notice includes details of what payments you missed and how long you have to pay. Your creditor has to give you at least 2 weeks to respond. After 2 weeks they can send you a letter of claim. If you make the missed payments, your creditor won't take any further action.

The default notice also includes a fact sheet from the Financial Conduct Authority which explains your rights.

At the top of the first page, it should say:

'Important you should read this carefully'

'Default notice served under section 87(1) Consumer Credit Act 1974'

## 2. Letter of claim

Your creditor will have sent you a 'letter of claim' because they want to start legal action. This gives you 30 days to reply.

The letter of claim should have come with:

- a 'reply form' - use this form to say if you agree you owe the debt or say you need more time
- a 'standard financial statement' - use this to make an offer of payment if you can't afford to pay the debt in full
- details of advice organisations
- an information sheet explaining how you and your creditor should act

## 3. Claim pack

If you and your creditor don't reach an agreement, they can start legal action against you.

If your creditor has started legal action, the court will have sent you a 'claim pack'.

You're given 2 weeks to reply to your creditor from the day you receive the claim pack.

You should always check the documents are genuine. The form name should be at the top and the form number in the bottom right corner.

**There should be 4 forms in the claim pack, which you can also download from GOV.UK:**

**'N1: Claim form'** - this tells you how much you owe and what the debt is:

<https://www.gov.uk/government/publications/form-n1-claim-form-cpr-part-7>



**'N9: Response pack'** - use this to tell the court you need 4 weeks to prepare your defence if you disagree with the debt:

<https://www.gov.uk/government/publications/form-n9-response-pack>

**'N9A: Admission (a specified amount)'** - use this to tell your creditor you agree to all or part of a debt, and make an offer to pay:

<https://www.gov.uk/government/publications/form-n9a-form-of-admission-specified-amount>

**'N9B: Defence and counterclaim'** - use this to defend a claim if you disagree with the debt, or make a counterclaim if you think your creditor owes you money:

<https://www.gov.uk/government/publications/form-n9b-defence-counterclaim-specified-amount>

## Once a county court judgment is made

If this is not paid within 28 days the creditor can have it enforced. This could be by:

- taking control of goods
- taking money from wages
- taking money from your bank account
- securing the debt on your home
- if more than £5000 is owed, applying to make you bankrupt

***If you are unable to pay, get advice as soon as possible.***

### Further help and information:

#### National Debtline

Telephone: 0808 808 4000 or webchat with an adviser: [www.nationaldebtline.co.uk](http://www.nationaldebtline.co.uk)

#### Stepchange

Telephone: 0800 138 1111 or webchat with an adviser: [www.stepchange.org](http://www.stepchange.org)

#### Payplan

Telephone: 0800 716 239 or web chat with an adviser: [www.payplan.com](http://www.payplan.com)



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Project funded and supported by:

